

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 JUNE 8, 2006

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 6:00 p.m. on Thursday, June
5 8, 2006, at City Hall, Commission Chambers, Owensboro,
6 Kentucky, and the proceedings were as follows:

7 MEMBERS PRESENT: Drew Kirkland, Chairman
Gary Noffsinger
8 Tim Miller
Irvin Rogers
9 Nick Cambron
Judy Dixon
10 Dr. Mark Bothwell
Stewart Elliott, Attorney
11 Madison Silver, Attorney

12 CHAIRMAN: I would like to welcome everybody
13 to the June 8, 2006, Planning Commission Meeting.
14 Everbody stand. Our invocation will be given by Mr.
15 Irvin Rogers.

16 (INVOCATION AND PLEDGE OF ALLEGIANCE)

17 CHAIRMAN: Our first item of business will be
18 to approve the minutes of our May 11th meeting. Are
19 there any additions, corrections or questions?

20 (NO RESPONSE)

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

23 MS. DIXON: Move to approve.

24 CHAIRMAN: Motion for approval by Ms. Dixon.

25 DR. BOTHWELL: Second.

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

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.

5 Next item, Mr. Noffsinger.

6 -----

7 ZONING CHANGES

8 ITEM 2

9 1916 James David Court, 0.12+/- acres
10 Consider zoning change: From R-4DT Inner-City
11 Residential to B-4 General Business
Applicant: L.H. Latham

12 MR. ELLIOTT: State your name please.

13 MR. HOWARD: Brian Howard.

14 (MR. BRIAN HOWARD SWORN BY ATTORNEY.)

15 PLANNING STAFF RECOMMENDATIONS

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

21 Condition:

22 Install a 10 foot landscape buffer with a six
23 foot high element and one tree every 40 linear feet
24 along the east property boundary where the lot abuts
25 residentially zoned property.

1 Findings of Fact:

2 1. The subject property is located in a
3 Business Plan Area where general business uses are
4 appropriate in limited locations;

5 2. The proposed rezoning is a logical
6 expansion of existing B-4 General Business zone to the
7 north, west and south and is proportional in scope;
8 and,

9 3. The zoning change should not overburden
10 roadway capacity and other necessary urban services
11 that are available in the affected area.

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

14 CHAIRMAN: Is anybody here representing the
15 applicant?

16 APPLICANT REP: Yes.

17 CHAIRMAN: Does anybody have any questions?

18 (NO RESPONSE)

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

21 MR. APPLEBY: Motion for approval based upon
22 Staff Recommendations with the condition as stated and
23 Findings of Fact 1, 2 and 3.

24 CHAIRMAN: Motion for approval by Mr. Appleby.

25 MS. DIXON: Second.

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

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.

5 Next item, please.

6 ITEM 3

7 713, 817 J.R. Miller Boulevard, 824, 826, 828
Crittenden Street, 2.574 acres
8 Consider zoning change: From I-1 Light Industrial,
R-4DT Inner-City Residential, B-4 General Business to
9 R-4DT Inner-City Residential
Applicant: Community Development Department, City of
10 Owensboro

11 PLANNING STAFF RECOMMENDATIONS

12 Staff recommends approval because although a
13 portion of the property is in compliance with the
14 adopted Comprehensive Plan, the majority of the
15 property is in an Industrial Plan Area where urban
16 low-density residential uses are generally not
17 appropriate. However, there have been changes of an
18 economic and physical nature to the subject property
19 that were not anticipated in the Comprehensive Plan
20 that supports an R-4DT zoning as more appropriate than
21 the current mixed zoning of the subject property. The
22 conditions and findings of fact that support this
23 recommendation include the following:

24 Conditions:

25 1. No access shall be permitted to J.R.

1 Miller Boulevard. Access shall be limited to
2 Crittenden Street and the east/west alley on the north
3 side of the four residential lots only; and,

4 2. Install required screening along the south
5 side of the property to include a ten foot landscape
6 buffer with a six foot high element and one tree every
7 40 linear feet.

8 Findings of Fact:

9 1. The subject property is partially located
10 in an Industrial Plan Area where urban low density
11 residential uses are not recommended and partially
12 located in a Central Residential Plan Area where urban
13 low density residential uses are appropriate in
14 general locations;

15 2. The portion in a Central Residential Plan
16 Area is in compliance with the requirements of the
17 Comprehensive Plan;

18 3. The Germantown Redevelopment Plan promoted
19 changes of a social, physical and economic nature to
20 the area that were not anticipated by the
21 Comprehensive Plan;

22 4. The Germantown Redevelopment Plan
23 encouraged the redevelopment of the subject property;
24 and,

25 5. The proposal promotes goals of the

1 Comprehensive Plan to provide a wide variety of
2 housing types to a wide range of people and to
3 concentrate urban development in the Urban Service
4 Area to help reduce urban sprawl.

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

7 CHAIRMAN: Is there anybody 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 MR. CAMBRON: Motion for approval, Mr.
16 Chairman, based upon Conditions 1 and 2 and Findings
17 of Fact 1 through 5.

18 CHAIRMAN: Motion for approval by Mr. Cambron.

19 MR. MILLER: Second.

20 CHAIRMAN: Second by Mr. Miller. All in favor
21 raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 Next item, please.

25 RELATED ITEMS:

1 ITEM 3A

2 Germantown Park, 2.574 acres
3 Consider approval of major subdivision preliminary
4 plat/final development plan.
5 Applicant: Community Development Department, City of
6 Owensboro

7 MR. NOFFSINGER: Mr. Chairman, the Planning
8 Staff has reviewed this application. We find the
9 application not to be in order in that there is an
10 issue regarding sidewalks along J.R. Miller Boulevard
11 and Crittenden Street. Once those two issues are
12 addressed regarding the sidewalks, then the plan may
13 be found in order and is ready for your consideration.

14 CHAIRMAN: Somebody here representing the
15 applicant?

16 MR. VOLK: Yes.

17 CHAIRMAN: Does the applicant have a
18 statement?

19 MR. VOLK: Yes.

20 MR. ELLIOTT: State your name, please.

21 MR. VOLK: My name is Mike Volk. I work for
22 the Community Development Department.

23 (MR. VOLK SWORN BY ATTORNEY.)

24 MR. VOLK: First I would like to enter some
25 exhibits, if I may.

26 Thank you for giving us the opportunity to
27 speak. I would like to take a minute, if I could, and

1 just give you a brief history on how this park was
2 development and what we hope to see come from it.

3 I would ask that you pay close attention to
4 the words and not the way they're delivered from the
5 speaker, if you don't mind.

6 One of the duties of the Community Development
7 Department is to use federally funded grant money to
8 redevelop neighborhoods. Old Germantown is one of the
9 such areas.

10 In the two and a half years we've been there,
11 there have been 27 new homes built. We've replaced
12 sidewalks, retaining walls and raised homeownership
13 rate from 32 percent to 60 percent. With a total
14 investment of nearly \$4.5 million. That's something
15 we're pretty proud of.

16 To assist our department the Old Germantown
17 Redevelopment Advisory Team was formed. This is a six
18 member panel made up of neighborhood residents. They
19 offer public opinion as to the indentation of our
20 plan. Their goal amongst others, as far as new
21 housing and infrastructure, was to have a park built
22 on the site that we're talking about.

23 CHAIRMAN: Mr. Volk, I don't mean to
24 interrupt, but I think there's two sidewalks and two
25 issues that are involved. That's really what this

1 commission has to address.

2 MR. VOLK: Correct. I was hoping to present
3 something that might make you understand where we're
4 coming from.

5 CHAIRMAN: Well, I understand you're spending
6 the money and I understand that, but the thing, the
7 two issues that we're interested in basically is there
8 are existing sidewalks along J.R. Miller and
9 Crittenden Street. Those are existing concrete
10 standard city sidewalks. Basically you want to remove
11 those sidewalks and put in an asphalt walking trail;
12 is that correct?

13 MR. VOLK: Actually what we hope to do is
14 remove those existing sidewalks and put in a concrete
15 walking trail that would blend in with the two, in
16 place of the two sidewalks that are currently there so
17 you give a person the opportunity to come down the
18 sidewalk, meander into the park and back out again.
19 The surface wouldn't change. That's going to be all
20 concrete.

21 CHAIRMAN: But you would be for removing the
22 existing sidewalk. Is that - -

23 MR. VOLK: Yes. We want to remove the
24 existing sidewalks and use a combination sidewalk
25 walking trail up into the park by approximately 20, 25

1 feet.

2 CHAIRMAN: I believe that is where the Staff's
3 problem is with the issue is, you know, removing the
4 existing concrete sidewalk and then putting the
5 sidewalk that would be further back into the park
6 which the pedestrian that was going between these
7 streets might be inconvenienced as far as their
8 walking would be concerned and it would not be the
9 code that we have set.

10 MR. VOLK: Well, what we're hoping to do is
11 create a park that would kind of be a gateway to
12 downtown as development in the future. We would like
13 to make it something special to where a person can go
14 up in the park and at least view it on their way to
15 some place else. We don't feel that the sidewalk,
16 proposed sidewalk would delay anybody by any length of
17 time or anything like that. It would just give them
18 an opportunity to, I don't know, get a breathe of
19 fresh air.

20 CHAIRMAN: I like the idea of the esthetics.
21 I think it is a good idea. You see where the
22 Commission or the Staff position is?

23 MR. VOLK: I do have an example that I think
24 precedence was set in the Heartland Subdivision where
25 you have a major street here being Byers Avenue and 15

1 to 20 feet away is the Greenbelt that doubles as,
2 meets the sidewalk requirements for that subdivision.
3 There is a dual usage there between the walkway,
4 Greenbelt and the sidewalk. We kind of look at that
5 as maybe the same instance here.

6 MR. NOFFSINGER: If I might say something.
7 Mr. Volk, is that along Byers Avenue?

8 MR. VOLK: Yes.

9 CHAIRMAN: In that particular case, the
10 developer actually provided right-of-way for Byers
11 Avenue and built Byers Avenue. The developer was not
12 responsible for installing the sidewalks on a major
13 street. You look out J.R. Miller Boulevard and
14 developers are not required to do that along J.R.
15 Miller Boulevard. In this case the sidewalk is
16 existing. You're talking about tearing it out.
17 You're assuming that that park is going to be the
18 destination point for everyone using the sidewalks in
19 that area, and I don't think that is the case. I
20 think it is a destination point and not the
21 destination point. You're going to have folks
22 utilizing this park and you're going to have folks
23 using this walking trail. They may be walking around
24 a circle for health reasons or what have you, but
25 you're going to have other folks that don't want to

1 get in that circle. They want to be able to go to
2 another destination. That creates the need for the
3 sidewalk along the major public street. The fact that
4 it's already there and you're proposing to tear it out
5 is different from what you have at the Heartlands.
6 Certainly we have used the Greenbelt system as that
7 sidewalk system, but the developer was not going to be
8 required to put sidewalks in on that major
9 thoroughfare because they were putting in the street
10 and needed that street for access. That's why you
11 have that there.

12 MR. VOLK: We were hoping that the extra width
13 that we've added to the walking trail would alleviate
14 any problems there may be with somebody walking around
15 the track and someone who is just going from point A
16 to Point B. Instead of just a standard sidewalk we are
17 using the wider width.

18 CHAIRMAN: How wide is your proposed?

19 MR. VOLK: Ten feet.

20 CHAIRMAN: What's the normal?

21 MR. NOFFSINGER: Four foot.

22 CHAIRMAN: Why would you not be able to
23 incorporate your walking path with the existing
24 sidewalk that's already there?

25 MR. VOLK: For one, and that's a good

1 question. We don't feel that the sidewalks that are
2 there are in that good of shape anyway. We had plans
3 with this development to come in anyway and remove all
4 the concrete apron entrances on J.R. and Crittenden
5 and replace all the curve along those two streets, as
6 well as replacing the sidewalks outside the scope of
7 this project between 9th and 7th. We don't feel like
8 the sidewalks are in that good of shape. So if we're
9 going to take them up, then we'd kind of like to
10 incorporate it into our design.

11 DR. BOTHWELL: Mr. Chairman, can I ask a
12 question, please.

13 CHAIRMAN: Yes, sir.

14 DR. BOTHWELL: My concern is you know human
15 nature. If they don't want to walk 75 feet in,
16 they're going to walk straight across the grass right
17 along the curb where the sidewalk picks up again. I
18 guess my concern is we're now forcing these people to
19 make a choice and maybe a bad choice to hike right
20 along the curb in the grass. You know as well as I do
21 they're going to wear a cow path right down through
22 there.

23 I don't know if maybe Mr. Noffsinger can
24 enlighten me. I understand that the sidewalks on
25 Crittenden are in terrible shape and I have no problem

1 with taking that out at all because that's got to be
2 replaced. It's my understanding that those sidewalks
3 on J.R. are fairly new and are in fairly descent
4 shape. Correct me if I'm wrong.

5 MR. NOFFSINGER: Well, based upon the
6 Germantown Plan that was adopted by the city, and I've
7 added that into the record as an exhibit. It states
8 that a major sidewalk improvement project was
9 completed by the city approximately five years ago and
10 this sidewalk along J.R. Miller Boulevard and
11 Crittenden Street did not show up on the list of
12 needing additional work. That they were satisfactory.
13 However, when Staff met with the Community Development
14 Department to discuss this proposal, Staff's
15 recommendation was that the sidewalks along J.R.
16 Miller Boulevard be retained. However, due to the
17 location of the sidewalk, proposed sidewalk, walking
18 trail on Crittenden Street, that they could remove, we
19 would recommend that they remove those sidewalks along
20 Crittenden Street since it was not a major street.
21 Although that could be questioned as to why Staff
22 might make that recommendations on Crittenden Street,
23 I would certainly want to stand by what the Staff
24 originally recommended. If the sidewalks are in worse
25 shape on Crittenden Street and this trail is closer to

1 Crittenden, then you might have a justification for a
2 compromise there.

3 DR. BOTHWELL: I guess my question, since
4 you've already met and discussed this issue is why is
5 this such a thorn about the sidewalks?

6 MR. VOLK: Well, I'm not sure we knew it was a
7 thorn until a few days ago.

8 DR. BOTHWELL: Fair enough.

9 MR. VOLK: We just have - -

10 DR. BOTHWELL: An uncompromising issue. How
11 about that?

12 MR. VOLK: We have a vision to all the people
13 in the neighborhood that we were going to create
14 something that although it will be people going from
15 one point to another, we would like to be made a
16 destination. So we want to give them something a
17 little special. We just think it's a really neat
18 design in the future to use. The walking trail at one
19 time was further over on the design than it is now.
20 We moved it over closer thinking that might help out.
21 It's a feature that we'd really like to see.

22 MR. CAMBRON: What's the theme of this park?
23 Just open space.

24 MR. VOLK: It is a passive park. It will be
25 heavily landscaped. We'll have a gazebo that can be

1 used for weddings or just viewing the park. There
2 will not be any spray park playground or anything like
3 that. It will allow a walking trail and landscaping.

4 MR. CAMBRON: Well lit?

5 MR. VOLK: It will be lit by the OMU furnished
6 acorn style street lights in a pattern that they
7 determined has enough coverage.

8 MR. CAMBRON: Safe to walk through at night?

9 MR. VOLK: Yes. I might add that the
10 landscaping in front of the track on J.R. Miller will
11 be such that the walker pedestrian will not be hidden
12 at any time. It's all low grown.

13 DR. BOTHWELL: I'd just like to say. I
14 commend what you're doing. I think it's a great
15 thing, but my concern again is the safety of the
16 pedestrians and the fact that knowing human nature
17 they're going to go straight more than likely.

18 MR. VOLK: I would like to add to that the
19 area that I just described on the track and the street
20 will be heavily landscaped and have a halt sign in the
21 middle of it. I understand what you're saying. I've
22 seen it all too many times. We're hoping with
23 landscaping and positioning of trees and so forth in
24 that space that we'll coerce people to use this. I
25 hate to use coerce because it's a park, but direct.

1 We would like to make it inviting to people to go this
2 route instead of just a straight shot.

3 MR. CAMBRON: I like the idea of the look.
4 Thinking outside the box. Doing something a little
5 different there.

6 Mr. Chairman, are we ready for a motion?

7 CHAIRMAN: Mr. Cambron, we're ready for a
8 motion, if nobody else has any questions.

9 (NO RESPONSE).

10 MR. CAMBRON: My motion is to allow them to do
11 the design that they're thinking of doing. I don't
12 know how to propose this motion. Is that all we would
13 need to say? To allow the Community Development
14 people to go on and do the sidewalks they're wanting
15 to do?

16 MR. NOFFSINGER: I would say you just
17 recommend the plan as is.

18 MR. CAMBRON: Yes, as is.

19 CHAIRMAN: The chair is ready for a second.

20 MR. MILLER: Second.

21 CHAIRMAN: There's a second by Mr. Miller.
22 All in favor raise your right hand.

23 (ALL BOARD MEMBERS PRESENT - TIM MILLER, DAVE
24 APPLEBY, NICK CAMBRON, JUDY DIXON, AND DR. BOTHWELL -
25 ALL RESPONDED AYE.)

1 CHAIRMAN: All opposed.

2 (ALL BOARD MEMBERS - DREW KIRKLAND AND IRVIN
3 ROGERS - RESPONDED NAY.)

4 CHAIRMAN: Motion carries. Five to two.

5 Next item.

6 ITEM 3B

7 Germantown Park, 2.574 acres
8 Consider approval of major subdivision final plat.
9 City of Owensboro project, no surety required
Applicant: Community Development Department, City of
Owensboro

10 MR. NOFFSINGER: Mr. Chairman, this plan has
11 been reviewed by the Planning Staff. Found to be in
12 order and ready for your consideration.

13 CHAIRMAN: Is there anybody representing the
14 applicant?

15 APPLICANT REP: Yes.

16 CHAIRMAN: Are there any questions of the
17 applicant?

18 (NO RESPONSE)

19 CHAIRMAN: If there are no questions, chair is
20 ready for a motion.

21 MS. DIXON: Move to approve.

22 CHAIRMAN: Motion for approval by Ms. Dixon.

23 MR. CAMBRON: Second.

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 Next item, please.

4 ITEM 4

5 800 Pleasant Valley Road, 4.817 acres
6 Consider zoning change: From I-1 Light Industrial to
7 B-4 General Business
Applicant: New Focus Community Church

8 PLANNING STAFF RECOMMENDATIONS

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

14 Conditions:

15 1. Access on Pleasant Valley Road shall be
16 limited to the southernmost access point and narrowed
17 to a maximum of 30 feet. The northern access near
18 East 8th Street shall be eliminated.

19 2. Install required screening along the west
20 side of the property to include a ten foot landscape
21 buffer with a six foot high element and one tree every
22 40 linear feet and install required vehicular use area
23 screening as required by ordinance.

24 Findings of Fact:

25 1. The subject property is located in an

1 Industrial Plan Area where general business uses are
2 appropriate in very-limited locations;

3 2. The proposed rezoning is a logical
4 expansion of a B-4 General Business zone located
5 immediately north of the subject property;

6 3. The 4.817 acre tract is proportional in
7 scope to the amount of surrounding B-4 zoning and is
8 not a significant increase in the extent of the zone
9 in the vicinity; and,

10 4. The expansion of the B-4 zone should not
11 overburden roadway capacity or other necessary urban
12 services that are available in the affected area,

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

15 CHAIRMAN: Is anybody representing the
16 applicant?

17 (NO RESPONSE)

18 CHAIRMAN: Does anybody have any questions?

19 (NO RESPONSE)

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

22 MS. DIXON: Move to approve based upon
23 Planning Staff Recommendations, Conditions 1 and 2 and
24 Findings of Fact 1, 2, 3 and 4.

25 CHAIRMAN: Motion for approval by Ms. Dixon.

1 DR. BOTHWELL: Second.

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

7 ITEM 5

8 3135 Settles Road, 5.630+/- acres
9 Consider zoning change: From A-U Urban Agriculture to
10 R-1C Single-Family Residential
Applicant: Lake Forest Community, LLC, George and
Glenda Thacker

11 PLANNING STAFF RECOMMENDATIONS

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

17 Condition:

18 Access to the subject property shall be from
19 interior subdivision streets only. No direct access
20 to Settles Road shall be permitted.

21 Findings of Fact:

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

25 2. The subject property will be incorporated

1 into the developing Lake Forest Subdivision;

2 3. The proposal will meet the criteria for
3 urban residential development; and,

4 4. Sanitary sewer service is available to the
5 subject property.

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

8 CHAIRMAN: Is anybody representing the
9 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. ROGERS: Motion for approval based upon
17 Planning Staff Recommendations with Findings of Fact
18 1, 2, 3 and 4 and one condition.

19 CHAIRMAN: Motion for approval by Mr. Rogers.

20 MS. DIXON: Second.

21 CHAIRMAN: Second by Ms. Dixon. 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 RELATED ITEM:

2 ITEM 5A

3 Lake Forest, Phase IV, 48.324 acres
4 Consider approval of amended major subdivision
5 preliminary plat.
6 Applicant: Lake Forest Community, LCC, George and
7 Glenda Thacker

8 MR. NOFFSINGER: Mr. Chairman, this plat is in
9 order and ready for consideration.

10 CHAIRMAN: Is anybody representing the
11 applicant?

12 APPLICANT REP: Yes.

13 CHAIRMAN: Do we have any questions of the
14 applicant?

15 (NO RESPONSE)

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

18 MS. DIXON: Move to approve.

19 CHAIRMAN: Motion for approval by Ms. Dixon.

20 DR. BOTHWELL: Second.

21 CHAIRMAN: Second by Dr. Bothwell. All in
22 favor raise your right hand.

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimously.

25 Next item.

ITEM 6

Portion of 1686 Wrights Landing Road, 0.197 acres
Consider zoning change: From A-R Rural Agriculture to

1 R-1A Single-Family Residential
Applicant: Terry and Sylvia Sweatt, Brad Cornell

3 PLANNING STAFF RECOMMENDATIONS

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

9 Condition:

10 Submission and approval of a division and
11 consolidation plat and amended development plan by the
12 OMPC.

13 Findings of Fact:

14 1. The subject property is located in a Rural
15 Community Plan Area where urban low-density
16 residential uses are appropriate in limited locations;

17 2. The subject property will be consolidated
18 with an existing lot within the Summit subdivision;

19 3. The proposal will meet the criteria for
20 urban residential development; and,

21 4. Sanitary sewer service is available to the
22 subject property.

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

25 CHAIRMAN: Anybody representing the applicant?

1 APPLICANT REP: Yes.

2 CHAIRMAN: Do we have any questions of the
3 applicant?

4 (NO RESPONSE)

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

7 MS. DIXON: Move to approve based upon
8 Planning Staff Recommendations, the Condition and the
9 Findings of Fact 1, 2, 3 and 4.

10 MR. CAMBRON: Second.

11 CHAIRMAN: We have a motion for approval by
12 Ms. Dixon. We've got a second by Mr. Cambron. All in
13 favor raise your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Next item, please.

17 RELATED ITEM:

18 ITEM 6A

19 Royal Summit Estates, 68.6 acres
20 Consider approval of amended major subdivision
21 preliminary plat/final development plan.
Applicant: Terry Sweatt, The Summitt, LLC

22 MR. NOFFSINGER: Mr. Chairman, this plat is in
23 order and ready for consideration.

24 CHAIRMAN: Anybody representing the applicant?

25 APPLICANT REP: Yes.

1 CHAIRMAN: Do we have any questions of the
2 applicant?

3 (NO RESPONSE)

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

6 MS. DIXON: Move to approve.

7 CHAIRMAN: Motion for approval by Ms. Dixon.

8 DR. BOTHWELL: Second.

9 CHAIRMAN: Second by Dr. Bothwell. All in
10 favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item.

14 -----

15 COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISIONS

16 ITEM 7

17 Westgate Plaza, 5.200 acres
18 Consider approval of major subdivision preliminary
19 plat/final development plan.
Applicant: Robert Wimsatt

20 MR. NOFFSINGER: Mr. Chairman, this plat is in
21 order and ready for consideration.

22 CHAIRMAN: Is anybody representing the
23 applicant?

24 APPLICANT REP: Yes.

25 CHAIRMAN: Do we have any questions of the

1 applicant?

2 (NO RESPONSE)

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

5 DR. BOTHWELL: Motion to approve.

6 CHAIRMAN: Motion to approve by Dr. Bothwell.

7 MR. CAMBRON: Second.

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries.

12 Next item, please.

13 -----

14 MAJOR SUBDIVISIONS

15 ITEM 8

16 River Crest Townhomes, 0.315 acres
17 Consider approval of major subdivision preliminary
18 plat.
19 Applicant: Homes by Benny Clark

20 MR. NOFFSINGER: Mr. Chairman this plat has
21 been reviewed by the Planning Staff. Found to be in
22 order. Ready for consideration.

23 CHAIRMAN: Anybody representing the applicant?

24 APPLICANT REP: Yes.

25 CHAIRMAN: Do we have any questions of the
applicant?

1 (NO RESPONSE)

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

4 MS. DIXON: Move to approve.

5 CHAIRMAN: Motion for approval by Ms. Dixon.

6 MR. CAMBRON: Second.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11 Next item, please.

12 ITEM 9

13 River Crest Townhomes, 0.315 acres
14 Consider approval of major subdivision final plat.
15 Surety (Letter of Credit) posted: \$13,189.00
Applicant: Homes by Benny Clark

16 MR. NOFFSINGER: Mr. Chairman, it's in order
17 and ready for consideration.

18 CHAIRMAN: Who is representing the applicant?

19 APPLICANT REP: I am, Mr. Chairman.

20 CHAIRMAN: Do we have any questions of the
21 applicant?

22 (NO RESPONSE)

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

25 MS. DIXON: Move to approve.

1 CHAIRMAN: Motion for approval by Ms. Dixon.

2 MR. CAMBRON: Second.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item.

8 ITEM 10

9 Westgate Plaza, 5.200 acres
10 Consider approval of major subdivision final plat.
11 Surety (Certified Check) posted: \$82,670.00
Applicant: Robert Wimsatt

12 MR. NOFFSINGER: Mr. Chairman, this plat is in
13 order and ready for consideration.

14 CHAIRMAN: Do we have somebody representing
15 the applicant?

16 APPLICANT REP: Yes.

17 CHAIRMAN: Do we have questions?

18 (NO RESPONSE)

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

21 MR. ROGERS: Motion for approval.

22 CHAIRMAN: Motion for approval by Mr. Rogers.

23 DR. BOTHWELL: Second.

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 Next item, please.

4 -----

5 MINOR SUBDIVISIONS

6 ITEM 11

7 3100 Block Bittel Road, 2.362 acres
Consider approval of minor subdivision plat.
8 Applicant: Owensboro-Daviess County Regional Airport
Board

9

10 MR. NOFFSINGER: Mr. Chairman, this plat has
11 been reviewed by the Planning Staff. It's found to be
12 in order. It is a piece of property that does not
13 meet the minimum requirements of the subdivision
14 regulations due to I believe lot frontage. However,
15 it is going to be incorporated into Greenbelt Park and
16 is ready for approval.

17 CHAIRMAN: Is anybody representing the
18 applicant?

19 APPLICANT REP: Yes.

20 CHAIRMAN: Does anybody have any questions of
21 the applicant?

22 (NO RESPONSE).

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

25 DR. BOTHWELL: Motion for approval.

1 CHAIRMAN: Motion for approval by Dr.

2 Bothwell.

3 MS. DIXON: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, please.

9 ITEM 12

10 7600 Boteler Road, 2.050 acres (Postponed at May 11,
2006 meeting)

11 Consider approval of minor subdivision plat.

12 Applicant: Robert E. Turner

13 MR. NOFFSINGER: Mr. Chairman, this plat has
14 been reviewed by the Planning Staff. It is found to
15 be a division of land that does not meet the minimum
16 requirements of the subdivision regulation in that it
17 is inadequate at the lot frontage. It creates what is
18 termed to be a flag-shaped lot.

19 The applicant has added notations on the plat
20 stating that with the approval of this division,
21 future building is limited to one dwelling unit on the
22 remaining acreage as recorded in Deed Book 261 Page
23 306. Also the subject property and parent tract shall
24 not be further subdivided to create additional
25 irregular shaped lots not meeting the requirements of

1 the subdivision regulations.

2 As I understand it, there is an existing home on
3 this particular piece of property. With that and with
4 those notations and the applicant having signed this
5 plat with those restrictions we would recommend its
6 approval.

7 CHAIRMAN: Is anybody here representing the
8 applicant?

9 MR. TURNER: Yes.

10 CHAIRMAN: Do we have any questions of the
11 applicant?

12 DR. BOTHWELL: I have one for Mr. Noffsinger.
13 Are you saying that they can still cut it
14 again one more time?

15 MR. NOFFSINGER: No. There would not be any
16 further divisions on either tract.

17 DR. BOTHWELL: On either tract. Thank you.

18 CHAIRMAN: Mr. Miller.

19 MR. MILLER: This would stay with the property
20 regardless of ownership?

21 MR. NOFFSINGER: Yes, sir.

22 CHAIRMAN: Do you all have a statement or
23 anything you want to make?

24 MR. TURNER: I've got a question.

25 MR. ELLIOTT: State your name, please.

1 MR. TURNER: Steve Turner.

2 (MR. STEVE TURNER SWORN BY ATTORNEY.)

3 MR. TURNER: I'm going to buy the remainder of
4 the farm. I do plan on building a house on the farm.
5 My question is: I have four children. Later down the
6 road, am I fixing to knock in the head of them ever
7 being able to build there?

8 MR. NOFFSINGER: Yes, sir.

9 MR. TURNER: Is there anything that I can do?
10 Land is getting harder and harder to get.

11 MR. NOFFSINGER: What you could do is extend
12 Boteler Spur. As I understand it, that is a public
13 right-of-way. You would have to extend Boteler Spur
14 as a public right-of-way through your property to
15 serve those additional lots. What that means is
16 extending the right-of-way as well as creating a curb
17 and gutter asphalt street to serve those residents.
18 You only have 44 feet of frontage on Boteler Spur.
19 That does not allow for the property to be further
20 subdivided over what it is today. If the Planning
21 Commission approves this this way, they are approving
22 it as an exception to the subdivision regulations and
23 allowing you to make this division for one existing
24 home on the property. Then you would be able to build
25 one additional home on the balance of the property,

1 unless you extend the road as a public road, meaning
2 public improvement standards.

3 MR. CAMBRON: Do you think is this something you
4 want to do?

5 MR. TURNER: Like I said my only concern is
6 later down the road if one of my children want to stay
7 around. I know land is getting harder and harder to
8 find. I'm just kind of passing the generation. That
9 was my only concern. If that's the only route I can
10 take to do that, I guess that's what has to be done.

11 CHAIRMAN: But you could do it, but just with
12 those criteria.

13 MR. TURNER: Right. I have to extend the
14 right-of-way of Boteler Spur.

15 CHAIRMAN: You're creating more frontage.

16 MR. TURNER: I have another question. They
17 have tried in the past to close that. What will
18 happen if they ever do that?

19 MR. NOFFSINGER: If that is a public
20 right-of-way, they would have to petition the Daviess
21 County Fiscal Court, I believe that's their road, to
22 close that roadway. At that time the court would have
23 to address that. If they do close that section of
24 Boteler Road, then you certainly wouldn't be able to
25 extend it for future divisions. Of course, you

1 couldn't further divide it now without extending the
2 roadway.

3 MR. ELLIOTT: State your name, please.

4 MR. BERRY: Ed Marksberry.

5 (MR. ED MARKSBERRY SWORN BY ATTORNEY.)

6 MR. MARKSBERRY: Question to him was I think
7 he's maybe misinformed. You could put one home per
8 ten acres. You just can't make a miner subdivision
9 with the type of road frontage it has, if I'm correct.

10 MR. NOFFSINGER: You can't transfer that
11 property.

12 MR. MARKSBERRY: Right. They can put a home
13 there, one per ten acres, I believe.

14 MR. APPLEBY: But he's going to build on the
15 ten acres himself.

16 MR. MARKSBERRY: But didn't he have 40 acres
17 on the farm.

18 MR. TURNER: Almost 70 acres.

19 MR. MARKSBERRY: What I'm trying to explain to
20 him, if he give the kids the land they can put the
21 home there. They just can't subdivide it, the way I
22 understand it. I just wanted to make sure he was
23 clear about that.

24 MR. TURNER: Yes.

25 DR. BOTHWELL: I don't believe that's correct.

1 MR. APPLEBY: Agriculture tract you've still
2 got to have 50 feet of frontage somewhere.

3 MR. MARKSBERRY: I think if you read back into
4 it, Mr. Appleby, that you can have up to one home per
5 ten acres.

6 Am I right, Mr. Noffsinger?

7 MR. NOFFSINGER: Yes.

8 MR. MARKSBERRY: If you've got 70 acres, let's
9 say, you can put how many homes?

10 MR. CAMBRON: How much road frontage do you
11 got?

12 MR. MARKSBERRY: One dwelling.

13 MR. NOFFSINGER: You can do seven dwelling
14 units, but you would not be able to transfer those
15 dwelling units out of the current landowner's name or
16 deed and you would have trouble financing. If your
17 pockets are deep enough to where you could go in and
18 pay cash and build homes on that property, then you
19 can do up to seven.

20 MR. MARKSBERRY: That's what I was just trying
21 to clarify with him.

22 MR. TURNER: Like I said, if one of my
23 children want to build there, I could give them the
24 land?

25 MR. NOFFSINGER: No, not according to the note

1 that's here. You can't give them the land. It's
2 yours.

3 MR. TURNER: It would be in my name, but I
4 could let them build.

5 MR. NOFFSINGER: Not according to this note
6 that's on this plat. By regulation you could and I
7 think - -

8 CHAIRMAN: Let's call Ms. Stone to the stand.

9 MS. STONE: Becky Stone.

10 (MS. BECKY STONE SWORN BY ATTORNEY.)

11 MS. STONE: One of the reasons the Staff could
12 recommend approval of this plat is because they have
13 noted on the plat and signed that they would restrict
14 further building development to one house on the
15 remaining property. So that would allow them to
16 divide a tract for the house existing there. Have one
17 additional house served by this 44 foot of frontage
18 and that restricts it from getting other building
19 permits whether or not they can divide the property.

20 MR. APPLEBY: That is unless he extends the
21 right-of-way and doesn't create irregular shaped lots?

22 MS. STONE: Exactly.

23 CHAIRMAN: The best option for you at the
24 present time, if you want to do this in the future to
25 ensure yourself t o have that opportunity, it seems

1 like to me would be to extend the spur. Then that way
2 you'll have frontage.

3 Is that correct, Mr. Noffsinger?

4 MR. NOFFSINGER: That is one opportunity.
5 You're looking at a significant expense to extend that
6 road.

7 CHAIRMAN: But presently with the deed being
8 set up the way it's going to be set up, then he would
9 not be - - he could do it, you know, as far as
10 financing the other things.

11 MR. NOFFSINGER: Right.

12 CHAIRMAN: Because you don't have the road
13 frontage to support other houses.

14 MR. TURNER: So like I said, in the future if
15 I did, the only way I would be able to is to extend
16 the right-of-way of the road, right?

17 CHAIRMAN: Yes.

18 Are there any other questions?

19 (NO RESPONSE)

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

22 DR. BOTHWELL: Motion for approval.

23 CHAIRMAN: Motion for approval by Dr.
24 Bothwell.

25 MR. APPLEBY: Second.

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

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.

5 Next item, please.

6 ITEM 13

7 9400-9500 Blocks, 9575 McCamish Road, 5.24 acres
8 Consider approval of minor subdivision plat.
9 Applicant: Geneva Lake and Joseph V. Howard

10 MR. NOFFSINGER: Mr. Chairman, this plat comes
11 before you as an exception to the subdivision
12 regulations in that it creates an odd-shaped lot.
13 However, it's putting the property back the way it was
14 a year ago. With that Staff is recommending it for
15 approval.

16 CHAIRMAN: Do we have somebody representing
17 the applicant?

18 MR. MARKSBERRY: Yes.

19 CHAIRMAN: Yes, sir.

20 MR. MARKSBERRY: Ed Marksberry.

21 What I'd like to say real quickly is Geneva
22 Lake actually has lived on the one acre lot now for
23 over 17 years. When they first had the opportunity to
24 buy the land behind them, their intentions were to put
25 a new home back there and eventually rent to a
relative the existing home. When we went to get the

1 permit, there were two deeds to this property
2 unbeknownst to me nor my clients. They couldn't get
3 an address and that's why we're here today. They
4 would have never bought the property if they knew they
5 couldn't put another home back there. I feel like you
6 all are in agreement that this can be - -

7 DR. BOTHWELL: Mr. Chairman, are we in favor
8 of this or is Staff recommending approval?

9 MR. NOFFSINGER: Yes, sir.

10 DR. BOTHWELL: Is the Chairman ready for a
11 motion?

12 CHAIRMAN: Are you finished?

13 MR. MARKSBERRY: Yes.

14 DR. BOTHWELL: Motion for approval.

15 CHAIRMAN: Motion for approval by Dr.
16 Bothwell.

17 MR. CAMBRON: Second.

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

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 Next item.

23 -----

24 NEW BUSINESS

25

1 ITEM 14

2 Consider collateral security agreement with J.P.
3 Morgan Chase Bank

4 MR. NOFFSINGER: Mr. Chairman, Staff has gone
5 over this with each Commissioner in terms of signing
6 the Security Collateral Agreement to secure deposits
7 made by the OMPC to Chase Bank. We would request that
8 you authorize the Secretary to sign that agreement and
9 to make the Vice Chairman, Chairman and Secretary to
10 authorize signators on that document and checks.

11 CHAIRMAN: Chair is ready for a motion.

12 MR. CAMBRON: Motion to approve the transfer.

13 CHAIRMAN: Motion for approval by Mr. Cambron.

14 DR. BOTHWELL: Second.

15 CHAIRMAN: Second by Dr. Bothwell. All in
16 favor raise your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries unanimously.

19 The chair would like to make one comment. Our
20 next meeting, which is I believe July 13th, we will be
21 changing from 6:00 to 5:30. I just want to make
22 everybody aware of that.

23 We want to recognize one of our Staff members
24 for some outstanding accomplishments.

25 Mr. Noffsinger.

1 MR. NOFFSINGER: Doug Lane has just recently
2 passed the American Institute of Certified Planners
3 testing requirements. That makes him an AICP, which
4 is a certified planner. So we're very proud of Doug
5 in that regard.

6 Doug has also passed the necessary testing to
7 become a level one building inspector. So we're
8 certainly proud of that. He's moving up the ladder in
9 terms of his credentials in the inspection program.

10 Secondly Kyle Trunnel who has served as a
11 building electrical inspector for the OMPC for a
12 number of years now has recently, well, today in fact
13 passed the testing and certification requirements to
14 become a plan reviewer. There are very few of those
15 folks in the State of Kentucky. Kyle has done a great
16 job studying. His work ethic and is coming along in
17 the codes program. We're certainly proud of him for
18 taking that test. It's a tough test. We have I think
19 two other individuals on Staff that have passed that
20 testing. Just one. One other and that's Bob
21 Childers. Now, Becky Stone, who is our certified
22 planner as well, was grandfathered in to the plan
23 reviewer she said. She's the third person on Staff to
24 be certified. We're certainly proud of the Staff's
25 accomplishments and their desire to further their

1 education and better themselves as well as better the
2 Planning Commission and the service that they do for
3 this community.

4 CHAIRMAN: All right. With that the Chair is
5 ready for one final motion.

6 MS. DIXON: Move to adjourn.

7 CHAIRMAN: Motion for adjournment by Ms.
8 Dixon.

9 DR. BOTHWELL: Second.

10 CHAIRMAN: Second by Dr. Bothwell. All in
11 favor raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: We are adjourned.

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