The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, July 13, 2006, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Drew Kirkland, Chairman
Becky Stone
Tim Miller
Irvin Rogers
Nick Cambron
Judy Dixon
Dr. Mark Bothwell
Scott Jagoe
Jimmy Gilles
Dave Appleby
Martin Hayden
Stewart Elliott, Attorney
Madison Silvert, Attorney

CHAIRMAN: I would like to welcome everybody to our July 13th Planning & Zoning Commission meeting. This happens to be Gayle and I thirty-second anniversary.

Everyone please stand while Nick Cambron gives our invocation and pledge of allegiance.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business is to consider the minutes of the June 8, 2006, meeting. Are there any additions, corrections?

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

PUBLIC HEARING

ITEM 2

Consider adoption of the updated "Statement of Goals and Objectives" of the Comprehensive Plan.

MS. STONE: These revised goals and objectives has been a process of work for several months. We've had several citizens meetings, work sessions with RWRA and legislative bodies. We've had meetings with various community agencies and organizations, as well as sending letters to all adjoining counties, planning commission and to GRADD.

We do have a Staff Report for their adoption and Brian Howard will read that into the record.

MR. SILVERT: State your name for the record,
please.

MR. HOWARD: Brian Howard.

(MR. BRIAN HOWARD SWORN IN BY ATTORNEY.)

STAFF RECOMMENDATION

With the adoption of the Goals and Objectives, the remaining elements of the Comprehensive Plan can be completed. The Planning Staff recommends adoption of the proposed Goals and Objectives as attached, based on the following findings.

1. Public and official input indicates that the currently adopted Goals and Objectives are still valid and will continue to work well to guide future decision making and should be adopted with changes and revisions that have been included during review.

2. Additions of economic objectives to promote regional economic development, to promote access to new technologies and to allow flexibility in placement of school or work training locations will promote enhanced competition in a changing environment of rapid technological changes and out-sourcing of jobs and opportunities.

3. Addition of land use goal to reuse existing brownfield will promote the redevelopment of properties where existing infrastructure is in place.
and assist in the reduction of urban sprawl.

4. Additions of objectives to encourage in-fill development, to encourage residential subdivision growth inside the urban service area and to encourage sanitary sewer extension or dry sanitary sewers for new residential subdivisions with new streets will discourage urban spraw and reduce demand for services provided outside of existing or reasonably extended infrastructure.

5. Additions of goals and objectives to allow flexibility in neighborhood development within cities and unincorporated rural communities will promote redevelopment and stability of existing neighborhoods and may result in innovative and sustainable designs for existing neighborhoods.

6. Additions of commercial objectives will assist in maintenance and rehabilitation of our commercial areas, encourage downtown redevelopment, help promote the central business district and the riverfront and encourage businesses to locate in downtown areas.

7. Addition of objective for public entities to adhere to local ordinances will aid in the perception that adopted regulations are consistent on private or public developments.
8. Addition of objectives to preserve existing natural features and to encourage measures to protect natural drainage areas will encourage sound environmental design and best management practices, will assist in maintaining adequate storm water disposal and clean water run-off and will enhance the quality of the appearance of our community,

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

CHAIRMAN: Are there any questions or comments?

(NO RESPONSE)

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

MS. DIXON: Move to approve based upon Staff Recommendations Findings 1 through 8.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

--------------------------------------------

ZONING CHANGE
ITEM 3

3175 Fairview Drive, 0.610 acres
Consider zoning change: From B-4 General Business
with conditions to B-4 General Business
Applicant: B.C.E. Properties, LLC

MS. STONE: This is part of property that was rezoned previously to B-4 with some access conditions. I'd like the attorneys to explain why it's back before you tonight.

MR. ELLIOTT: This property was rezoned in 1998 to B-4. At the time of the rezoning there was allowed one access point on Fairview Drive. That was enacted by the fiscal court and adopted our recommendation.

The applicant came back in 2004 and asked for an amendment to the development plan to allow a second access point on Fairview Drive. This board granted that.

A lawsuit was filed in circuit court. The circuit court ruled that we were right in granting the second access point. It went to the court of appeals. The court of appeals held that in order for us to grant the access point it had to go back to fiscal court to have an amendment to the ordinance.

The court of appeals has reserved it and sent it back to us for consideration as to whether or not
the second access point should be allowed on Fairview Drive. That was in effect it would go back to the legislative bodies for their consideration and to see if they would approve our recommendation.

It came an ordinance so it has to go back to legislative bodies to have any change to that ordinance. So that's the reason it's back before us.

MS. STONE: We do have a Staff Report prepared for that.

PLANNING STAFF RECOMMENDATIONS

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

Conditions:

1. Maintain the existing driveway on Fairview Drive to the Fuel Center with no additional access to Fairview Drive permitted;

2. Provide a public access easement to the south property line; and,

3. Submission and approval of a final development plan and final plat for the subject property.

Findings of Fact:
1. The subject property is located in a Business Plan Area where general business uses are appropriate in limited locations;

2. The existing zoning for the subject property is B-4 General Business with conditions; and,

3. After weighing testimony at the February 12, 2004, OMPC meeting, with the minutes attached hereto as part of this staff report, the Planning Commission unanimously voted to approve the access point for the subject property as part of a development plan based on the potentially unsafe and inefficient flow of traffic on the site, the willingness of the applicant to provide an access easement to the property to the south for future interconnection and the commitment to extend the pedestrian sidewalk, curb and gutter as part of the new access point.

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

CHAIRMAN: Are there any questions or comments?

MR. KUEGEL: Yes.

MR. ELLIOTT: State your name, please.

MR. KUEGEL: Bruce Kuegel.

(MR. BRUCE KUEGEL SWORN BY ATTORNEY.)
MR. KUEGEL: Mr. Kirkland and Members of the Board, I'm before you tonight on behalf of the Clarks. They're adjacent landowners. We just want to express that we're in opposition to this action taking place until the nonconforming use has been abandoned and sealed off. It's my understanding that as of yesterday or the first part of the week there was some yellow tape possibly stretched across that. I don't think that would suffice as a closing of nonconforming use. Just for the record I would just voice that on behalf of my clients. Thank you.

CHAIRMAN: Thank you.

MS. STONE: There was a letter sent by our department to close that access after the court action occurred.

CHAIRMAN: Do we have somebody representing the applicant?

MR. WILSON: Yes.

MR. ELLIOTT: State your name, please.

MR. WILSON: Bill Wilson, Jr.

(MR. BILL WILSON SWORN BY ATTORNEY.)

MR. WILSON: Mr. Chairman, Members of the Commission, I was in this room back on the evening of February 12, 2004, when we discussed this matter in great detail that evening. I don't think any of us in
this room that evening thought we would be back with
the situation that Stewart Elliot just described to
you.

On that occasion we were up on an application
for an amendment to the final development plan. My
clients thought that's what it was. I think the Staff
thought that's what it was. I know this commission
thought that's what it was. The Daviess Circuit Court
ultimately thought that's what it was.

Well, the court of appeals told us two months
ago right now that we were all wrong. That it was the
amendment of an ordinance and it took the approval of
a legislative body.

So that's what we're back here tonight, to get
that role and to get that done so we can re-open the
access point.

We have the benefit now of something we didn't
have back at that time. We've got two and a half
years of history and use of that access point. I'm
not aware of a single accident that it has caused. I
think it has helped in distribution of traffic out of
a very busy area. I think it's been a benefit to the
traveling public as well as to the owners and the
other people that use that shopping center.

We're here tonight to ask you to, again, vote
in the same manner as before and it will now go before
the legislative body and there will be a formal
amendment and not merely the amendment of a final
development plan. You're going to be submitted with
some drawings later this evening that do that.

CHAIRMAN: Mr. Wilson, I think the question
was, has the access point been closed?

MR. WILSON: It is closed now, yes. It was
closed over the weekend. I think on the flooding two
days ago the barrels were placed up with tape were
washed away. I went out there this afternoon and
they're very secure. There are six of them across
there. It's closed off with a sign there that I told
them to put temporarily closed. We hope it's
temporary. That the fuel station is still open.
You've just got to go around the long way.

I've read in the transcript of that February
12, '04, hearing that was attached to the Staff Report
tonight, the transcript where we talk about that. You
know, there's more traffic now, of course, than there
was two and a half years ago. There was a vacant lot
left, six-tenths of an acre, that we didn't know what
was going to happen there. There are five individual
businesses in that one lot right now that just further
hit that Villa Point drive access.
At this point it's not harmed anyone. It's helped everyone in the area, I think. The court of appeals just didn't agree with the way all of us proceeded back two and a half years ago. The Daviess Circuit Judge thought we proceeded properly. So we're here to rectify that wrong and get it right.

I have a couple of the owners here tonight. The Belchers are here, David Conkright, a couple from Bryant Engineering. David and Jason are both here to address about any questions of that nature, but I believe those were probably addressed two and a half years ago and it's worked really well.

We would ask this commission to approve it so we can get rectify it.

CHAIRMAN: Mr. Wilson, the entrance has been closed?

MR. WILSON: Yes, sir.

CHAIRMAN: Thank you.

Does anybody have any other questions?

MR. WILSON: Mr. Chairman, I don't want to mislead you. There hasn't been a permanent structure placed there. Six 55-gallon drums. It's closed enough, yes, sir, until we find out we have the right to reopen.

CHAIRMAN: Thank you.
Yes, ma'am.

MR. ELLIOTT: State your name, please.

MS. HOWARD: Sandra Howard.

(MS. SANDRA HOWARD SWORN BY ATTORNEY.)

MS. HOWARD: It just seems that if you allow this entrance which doesn't meet, or it didn't in '99, '98, '99, whenever, it didn't meet the standard or the entrances, along other entrances. If you allow this, what's to say the other businesses couldn't or shouldn't come back and say, well, we want an entrance on this and, no, it doesn't meet the standards. It was B-4 general business with restrictions, but maybe we can get it rezoned to where there's no restrictions. What's to stop other businesses from doing this? Then you're going to have just blockages.

CHAIRMAN: Any business that wants to can come back and apply for a rezoning any time.

MS. HOWARD: Yes, but if the driveways and entrances are suppose to meet standards, why do you even have the standards if you're not going to go by them?

CHAIRMAN: The standards are set, but your question was what would restrict a business from coming back? Any business at any time can come back and ask for a rezoning. They can come back at any
time and ask for a rezoning.

MS. STONE: The Planning Commission would look at all of those individual cases on an individual basis. From the information and the testimony, they would make a decision on each.

MS. HOWARD: So the footages from driveway to driveway or entrance to entrance really has no bearing on anything?

MR. CAMBRON: It has a bearing on everything, but every situation is different. We just take each one as the case comes, but we do have standards we try to adhere to.

MS. STONE: If someone wants to vary from that standard, they would have to come before this board and make their case for why that should be allowed.

MS. HOWARD: Thank you.

CHAIRMAN: Are there any other questions or comments?

(NO RESPONSE)

MR. CAMBRON: Is chair ready for a motion?

CHAIRMAN: Chair is ready for a motion, Mr. Cambron.

MR. CAMBRON: Motion for approval, Mr. Chairman, based on Conditions 1 through 3 and Findings of Fact 1 through 3.
CHAIRMAN: We have a motion or approval by Mr. Cambron.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Items:

ITEM 3A

3175 Fairview Drive, 0.610 acres
Consider approval of amended final development plan
Applicant: B.C.E. Properties, LLC

MS. STONE: This item is in order and ready
ready for your consideration with the exception of it
does have an access point shown on the final
development plan and until the ordinance is completed
on the first item it should be postponed according to
the advice of our attorneys.

CHAIRMAN: Mr. Wilson, do you understand?

MR. WILSON: I do.

CHAIRMAN: Does anybody else have any
questions regarding this matter?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a
motion.
MR. APPLEBY: Move to postpone Item 3A until final action has been taken by fiscal court.

CHAIRMAN: Motion for postponement by Mr. Appleby.

MS. DIXON: Second.

CHAIRMAN: Second by Mr. Dixon.

MR. MILLER: Just a comment. They're going to say, I think this property has been annexed by the city since the time this initial action was taken. So this may go back to the Owensboro City Commission and not Daviess County Fiscal Court.

MS. STONE: Final action by the legislative body.

MR. APPLEBY: Move to postpone until final action by the appropriate legislative body has been taken.

CHAIRMAN: Clarification on Mr. Appleby's motion.

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.
ITEM 3B

3175 Fairview Drive, 0.610 acres
Consider approval of major subdivision final plat.
Surety previously posted
Applicant: B.C.E. Properties, LLC

MS. STONE: We have the same situation on this final plat. The access point is shown on the plat and would also need to postponed until final action by the appropriate legislative body.

MR. APPLEBY: So moved.

MR. CAMBRON: Second.

CHAIRMAN: A motion by Mr. Appleby. A second by Mr. Cambron. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 4

5150 Todd Bridge Road, 114.70 +/- acres
Consider zoning change: From A-R Rural Agriculture to R-1C Single-Family Residential
Applicant: Thompson Homes, Inc.

MS. STONE: We do have a letter from the applicant's engineer asking that this item be postponed. There are some drainage issues that have not been worked out.

CHAIRMAN: Chair is ready for a motion.

MR. CAMBRON: Motion for postponement, Mr.
Chairman.

CHAIRMAN: Motion for postponement by Mr. Cambron.

MR. MILLER: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Item

ITEM 4A

Keeneland Trace, 114.70 +/- acres
Consider approval of major subdivision preliminary plat/final development plan.
Applicant: Thompson Homes, Inc.

MS. STONE: We also have a letter from the applicant's engineer on this item requesting postponement.

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to postpone.

CHAIRMAN: Motion for postponement by Ms. Dixon.

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously.
Next item, please.

-------------------------------

MAJOR SUBDIVISIONS

ITEM 5

Brownwood Oaks, 13.154 acres
Consider approval of major subdivision preliminary plat.
Applicant: Wells and Wells Builders

MS. STONE: This application is in order.
It's been reviewed by the Planning Staff and it's ready for your consideration.

CHAIRMAN: Chair is ready for a motion.
MR. ROGERS: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Rogers.
MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 6

Lake Forest, Unit 24, Lots 245-246A, 252, 253, 1.55 acres
Consider approval of major subdivision final plat.
Surety (Certificate of Deposit) posted: $35,041.05
Applicant: Lake Forest Community, LLC

MS. STONE: The plat is in order and ready for
your consideration.

CHAIRMAN: Questions.
(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. CAMBRON: Motion for approval,

Mr. Chairman.

CHAIRMAN: Motion for approval by Mr. Cambron.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 7

Lake Forest, Unit 25, Lots 270-274, 278, 299, 2.14 acres
Consider approval of major subdivision final plat.
Surety (Certificate of Deposit, Certified Check) posted: $18,265.90
Applicant: Lake Forest Community, LLC

MS. STONE: This application is in order.

It's been reviewed by the Planning Staff and ready for your consideration.

CHAIRMAN: Any questions?
(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.
MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 8

Village Run, 31.234 acres
Consider approval of major subdivision final plat.
For development transfer only, no surety required
Applicant: National City Bank, Kentucky, Jagoe Development, LLC

MS. STONE: The plat has been reviewed by the Planning Staff. It's ready for your consideration and it is in order.

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

CHAIRMAN: Let the record show that Mr. Jagoe has disqualified himself.

MR. CAMBRON: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Cambron.

MS. DIXON: Second.

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

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

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 9

3001-3101 Blocks Settles Road, 37.350 acres
Consider approval of major subdivision final plat.
For development transfer only, no surety required
Applicant: JMP Lake Forest, Inc.; Lake Forest
Community, LLC

MS. STONE: The plat has been reviewed by the
staff. It is in order and it's ready for your
consideration.

CHAIRMAN: Any questions?

(NO RESPONSE)

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

MR. GILLES: Motion to approve.

CHAIRMAN: Motion for approval by Mr. Gilles.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

NEW BUSINESS

ITEM 10
Consider retirement of Bob Childers, OMPC Plan Reviewer, Electrical/Building Inspector, effective August 1, 2006

MS. STONE: We have a letter of retirement from Bob and I'll read that into the record. It's addressed to Gary Noffsinger, Director.

"Dear Gary, This is to formally notify you that I am retiring from the Owensboro Metropolitan Planning Commission as Plan Reviewer, Electrical/Building Inspector.

"July 31, 2006 will be my last day of employment, or termination date. August 1, 2006 will be my retirement date under the County Employee Retirement System.

"I have enjoyed my 22 years career with the OMPC, working with the great folks who have built this outstanding public agency. I feel confident that under your continued leadership, the OMPC will go on to make great strides in planning for the citizens of Owensboro, Whitesville and Daviess County, Kentucky.

"Sincerely, Bob Childers, Plan Reviewer/Inspector."

We need to take action on accepting his letter of retirement.

CHAIRMAN: Bob has done an outstanding job in all areas working for the Owensboro Metropolitan
Planning Commission. He will be greatly missed. We wish him the best of luck and a great retirement.

MS. CAMBRON: I would make a motion to accept it.

CHAIRMAN: Mr. Cambron makes a motion to accept Mr. Childers' retirement.

MR. MILLER: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

The chair is ready for one final motion.

DR. BOTHWELL: Mr. Chairman, make a motion to adjourn.

MR. APPLEBY: Second.

CHAIRMAN: We have a motion for adjournment by Dr. Bothwell. We have a second by Mr. Appleby. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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

I, LYNNETTE KOLLER, Notary Public in and for
the State of Kentucky at Large, do hereby certify that
the foregoing Owensboro Metropolitan Planning
Commission meeting was held at the time and place as
stated in the caption to the foregoing proceedings;
that each person commenting on issues under discussion
were duly sworn before testifying; that the Board
members present were as stated in the caption; that
said proceedings were taken by me in stenotype and
electronically recorded and was thereafter, by me,
accurately and correctly transcribed into the
foregoing 24 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the
1st day of August, 2006.

LYNNETTE KOLLER
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES: DECEMBER 19, 2006
COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY