

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 SEPTEMBER 13, 2007

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 6:00 p.m. on Thursday,
5 September 13, 2007, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Drew Kirkland, Chairman
9 Gary Noffsinger, Director
10 Dave Appleby
11 Scott Jagoe
12 Tim Miller
13 Judy Dixon
14 Martin Hayden
15 Madison Silvert, Attorney

16 * * * * *

17 CHAIRMAN: I would like to welcome everybody
18 to the Owensboro Metropolitan Planning Commission
19 September 13th meeting. Will you please rise. Our
20 invocation will be given by Mr. Scott Jagoe.

21 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

22 CHAIRMAN: Our first order of business is to
23 consider the minutes of the August 9, 2007 meeting.
24 Are there any corrections, additions, questions?

25 (NO RESPONSE)

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

MS. DIXON: Move to approve.

1 CHAIRMAN: Motion for approval by Ms. Dixon.

2 MR. JAGOE: Second.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item, please.

8 ITEM 2

9 PRESENTATION OF FISCAL YEAR 2007 AUDIT by Robert
10 Kuphal

11 MR. KUPHAL: My name is Robert Kuphal. I'm a
12 CPA associate of Gene Boaz, CPA of Morgantown and
13 Owensboro, Kentucky, who is also here tonight.

14 We were engaged to audit the financial
15 statements for the Owensboro Metropolitan Planning
16 Commission.

17 COURT REPORTER: Excuse me, sir. You need to
18 be sworn in, please.

19 (MR. ROBERT KUPHAL SWORN BY ATTORNEY.)

20 MR. KUPHAL: We were engaged to audit the
21 financial statements for the Owensboro Metropolitan
22 Planning Commission for the years ending June 30, 2007
23 and 2006.

24 We conducted our audit in accordance with US
25 generally accepted audit standards applicable to

1 financial audits contained in Government Auditing
2 Standards issued by the comptroller general of the
3 United States.

4 Our audit was conducted for the purpose of
5 performing an opinion on the basic financial
6 statements taken as a whole. We stated in our opinion
7 the financial statements referred to above present
8 fairly and all material respects the financial
9 position of the Owensboro Metropolitan Planning
10 Commission as of June 30, 2007, and the results of its
11 operations and cash flows for the year ended in
12 accordance with US generally accepted accounting
13 principals.

14 Each of you should have received a copy of the
15 audit report. We submit it for your approval. We'll
16 be glad to answer any questions.

17 CHAIRMAN: Mr. Kuphal, in reviewing the
18 Metropolitan Planning Commissions Staff and the
19 operations, obviously you look for weaknesses and
20 anything that needed to be documented and any possible
21 improvements that the Staff needed to make or the
22 Commission needed to make. In our report to you, in
23 your report to us, you made it very clear that the
24 situation seemed very sound, but would you reiterate
25 on that for us for the record?

1 MR. KUPHAL: Yes. One of the things with some
2 of the new audit standards, internal control has a
3 very, very strong emphasis and where the standards
4 have really been increased.

5 One of the things in the last two years that
6 we did, we were required now, this is not an option,
7 but we are required to hold a fraud conference where
8 we take key members, key employees of the commission,
9 and this year we also had one commissioner and we had
10 a fraud conference where we would ask poignant
11 questions and ask them, for example, can you think of
12 any way that someone could steal from this
13 organization. We feel that overall that there are no
14 weaknesses, no material weaknesses, for example. So I
15 feel that everything is fine.

16 There is definitely segregation and duties as
17 far as checks being signed. One person prepares the
18 check, another person enters the check in the
19 computer. The executive director reviews all checks
20 that are prepared and a commissioner signs the checks.
21 Then the executive director also reviews the bank
22 statement and cancelled checks. Since everything is
23 done by check, feel they're overall is good standing.

24 CHAIRMAN: You stated that the receipt of the
25 checks and the cash for building permits and other

1 permits had a good check and balance system?

2 MR. KUPHAL: Right. We tested out the system.
3 Without approval employees cannot override the system
4 and generate permits without a check, without the
5 money being received by that employee.

6 CHAIRMAN: Thank you.

7 Are there any other questions, any comments
8 from anybody on the commission?

9 (NO RESPONSE)

10 CHAIRMAN: I would like to thank Mr. Appleby
11 for being the representative of the board on this
12 review. I would like to thank Mr. Noffsinger and the
13 Staff for doing an outstanding job in making our job
14 of this commission very easy and by your check and
15 balance system. We appreciate it very much.

16 Mr. Kuphal, thank you. Appreciate your
17 report. If there are no further questions, we'll
18 excuse you. Thank you.

19 Mr. Noffsinger.

20 MR. NOFFSINGER: You will need to take a vote
21 on this to approve the audit.

22 MR. JAGOE: Mr. Chairman, I move that we
23 accept the financial statements and independent
24 auditor's report dated June 30, 2007 as submitted.

25 CHAIRMAN: We've got a motion by Mr. Jagoe.

1 MR. HAYDEN: Second.

2 CHAIRMAN: We've got a second by Mr. Hayden.

3 All in favor raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

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8 ZONING CHANGES

9 ITEM 3

10 3434 Old Hartford Road, 2.962 acres
11 Consider zoning change: From B-4 General Business and
12 I-1 Light Industrial to I-1 Light Industrial.
13 Applicant: Donald and Linda Roberts

14 MR. SILVERT: State your name, please.

15 MR. HOWARD: Brian Howard.

16 (MR. BRIAN HOWARD SWORN BY ATTORNEY.)

17 MR. HOWARD: Before I enter the Staff Report
18 into the record, I would like to make note that the
19 rezonings tonight, the Planning Commission will make a
20 recommendation. That recommendation will become final
21 in 21 days after the meeting tonight, unless the
22 applicant or a person files an application with our
23 office. It would require to go before the local
24 legislative body. Those forms are available on the
25 back table and in our office and on line.

PLANNING STAFF RECOMMENDATIONS

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

6 CONDITION:

7 Access to Old Hartford Road shall be limited
8 to the existing access point only.

9 FINDINGS OF FACT:

10 1. The subject property is located in a
11 Business/Industrial Plan Area where light industrial
12 uses are appropriate in general locations;

13 2. The proposed use of the property as
14 storage buildings will be nonresidential in use; and,

15 3. The zoning of the entire tract to I-1
16 Light Industrial will eliminate split zoning on the
17 property and is in compliance with the adopted
18 Comprehensive Plan.

19 MR. HOWARD: We would like to enter the Staff
20 Report into the record.

21 CHAIRMAN: Is the applicant here?

22 (NO RESPONSE)

23 CHAIRMAN: Do we have someone representing the
24 applicant?

25 APPLICANT REP: Yes.

1 CHAIRMAN: Do we have any questions?

2 (NO RESPONSE)

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

5 MR. APPLEBY: Motion for approval based on
6 Planning Staff Recommendations with the Condition and
7 Findings of Fact 1 through 3.

8 CHAIRMAN: We've got a motion from Mr. Appleby
9 for approval.

10 MR. MILLER: Second.

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 Next item, please.

16 RELATED ITEM:

17 ITEM 3A

18 3434 Old Hartford Road, 2.962 acres
19 Consider approval of amended final development plan.
Applicant: Donald and Linda Roberts

20 MR. NOFFSINGER: Mr. Chairman, this
21 application has been reviewed by the Planning Staff
22 and Engineering Staff. It is found to be in order.
23 It's found to be consistent with the adopted zoning
24 ordinance and subdivision regulation, as well as
25 consistent in its land use with the adopted

1 comprehensive plan.

2 CHAIRMAN: We have somebody representing the
3 applicant. Are there any questions on this item?

4 (NO RESPONSE)

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

7 MR. MILLER: Motion to approve.

8 MR. JAGOE: Second.

9 CHAIRMAN: Motion for approval by Mr. Miller.
10 Second by Mr. Jagoe. All in favor raise your right
11 hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Next item, please.

15 ITEM 4

16 1805, 1807, 1809 West Parrish Avenue, 0.56 acres
17 Consider zoning change: From R-4DT Inner-City
18 Residential to B-4 General Business
19 Applicant: West Parrish Plaza, LLC; David S. & Mary
20 Lou Haycraft; John W. Ray

21 PLANNING STAFF RECOMMENDATIONS

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

CONDITIONS:

1 1. No access shall be permitted to West
2 Parrish Avenue;

3 2. A 10 foot landscape buffer with a six foot
4 element and one tree every 40 linear feet shall be
5 installed along the west property line abutting
6 residential zoning; and,

7 3. Due to the proximity to existing
8 residential zones, all lighting for the subject
9 property shall be directed away from the residential
10 property to reduce the glare and impact of the
11 lighting on the residential uses.

12 FINDINGS OF FACT:

13 1. The subject property is located in a
14 Central Residential Plan Area where general business
15 uses are appropriate in limited locations;

16 2. The proposed use of the property for
17 commercial purposes will be nonresidential in nature;

18 3. Commercial zoning is located across
19 Independence Avenue to the east;

20 4. Expansion of commercial zoning within the
21 same West Parrish Avenue block front has recently
22 occurred within this Central Residential Plan Area in
23 conformance with the Comprehensive Plan has altered
24 the residential character of the neighborhood;

25 5. With no access permitted to West Parrish

1 Avenue, the proposed zoning change should not
2 overburden roadways or other necessary urban services
3 that are available in the affected area; and,

4 6. The proposed zoning change will not
5 significantly increase the extent of the zone in the
6 vicinity.

7 MR. HOWARD: We would like to enter the Staff
8 Report into the record.

9 CHAIRMAN: Is there anybody representing the
10 applicant?

11 MR. KAMUF: We're here if you have any
12 questions, Mr. Chairman.

13 CHAIRMAN: Thank you.

14 Do we have any questions of the applicant?

15 (NO RESPONSE)

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

18 MR. HAYDEN: I make a motion for approval
19 based on Staff Recommendations, Conditions 1 through 3
20 and Findings of Fact 1 through 6.

21 CHAIRMAN: We've got a motion for approval by
22 Mr. Hayden.

23 MS. DIXON: Second.

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 Next item, please.

4 ITEM 5

5 3857 KY 54, 3840 Wood Trace, 2.565 +/- acres
6 Consider zoning change: From A-U Urban Agriculture
7 and R-1B Single-Family Residential to P-1
8 Professional/Service
9 Applicant: Christ Presbyterian Church of Owensboro,
10 Inc.

9 PLANNING STAFF RECOMMENDATIONS

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

15 CONDITION:

16 No access shall be permitted to KY 54.

17 FINDINGS OF FACT:

18 1. The subject property is located in a
19 Professional/Service Plan Area where
20 professional/service uses are appropriate in general
21 locations;

22 2. The continued use of the subject property
23 as a church will be nonresidential in nature; and,

24 3. The existing church has been in existence
25 for more than 20 years and is in integrated part of

1 the neighborhood.

2 MR. HOWARD: We would like to enter the Staff
3 Report into the record.

4 CHAIRMAN: Is there anybody representing the
5 applicant?

6 APPLICANT REP: Yes.

7 CHAIRMAN: Do we have any questions of the
8 applicant?

9 (NO RESPONSE)

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

12 MR. APPLEBY: Motion for approval based on the
13 Staff Recommendations with the one condition and on
14 the Findings of Fact 1, 2 and 3.

15 CHAIRMAN: We have a motion for approval by
16 Mr. Appleby.

17 MR. MILLER: Second.

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

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 Next item, please.

23 ITEM 6

24 Portion of 4228, 4410 KY 54; 4416, 4420, 4440 KY 54,
25 4520, 4530, 4538 4544 Millers Mill Road; Portion of
4560 Millers Mill Road, 8.8 +/- acres

1 (POSTPONED 8/9/2007)
2 Consider zoning change: From A-U Urban Agriculture,
3 R-1A Single-Family Residential and B-4 General
4 Business to B-4 General Business
5 Applicant: Millers Mill Plaza, Lake Forest Community,
6 LLC, Pagan Enterprises, Inc.

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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. Access to KY 54 shall be limited to the single access point as shown on the Millers Mill Plaza preliminary plat/final development plan submitted with the rezoning application;

2. Access to Millers Mill Road shall be limited to the single access point as shown on the Millers Mill Plaza preliminary plat/final development plan submitted with the rezoning application;

3. An eastbound right turn decel and storage lane shall be installed on KY 54 at the proposed access to the development in compliance with KYTC standards;

4. A 10 foot landscape easement with a six foot element and one tree every 40 feet shall be

1 installed along the south and west property lines
2 where adjoining residential zoning;

3 5. Approval of a preliminary plat/final
4 development plan prior to any construction activities;

5 6. Spring Hill Drive shall be stubbed to the
6 western property line for future interconnection; and,

7 7. Due to the proximity to existing
8 residential zones, all lighting for the subject
9 property shall be directed away from the residential
10 property to reduce the glare and impact of the
11 lighting on the residential uses.

12 FINDINGS OF FACT:

13 1. The subject property is located in a
14 Business Plan Area where general business uses are
15 appropriate in limited locations;

16 2. The proposed use of the property as a
17 commercial subdivision will be nonresidential in use;

18 3. The proposed zoning change is a logical
19 expansion of an existing general business zoning
20 classification on the subject property and located
21 immediately north and east of the subject property;
22 and,

23 4. With the installation of an eastbound
24 right turn lane on KY 54 at the proposed access point,
25 the development should not overburden the capacity of

1 roadways and other necessary urban services that are
2 available in the affected area.

3 MR. HOWARD: We would like to enter the Staff
4 Report into the record.

5 CHAIRMAN: Is anybody representing the
6 applicant?

7 MR. PEDLEY: Yes.

8 CHAIRMAN: Does anybody have any questions of
9 the applicant?

10 Please go to the mike and be properly sworn
11 in.

12 MR. SILVERT: State your name, please.

13 MR. ELLIOTT: Mark Elliott.

14 (MR. MARK ELLIOTT SWORN BY ATTORNEY.)

15 MR. ELLIOTT: My concern, I'm a property
16 owner, Lot 17, which adjoins the property that's of
17 subject here.

18 The retention basin that is designed and
19 located, the tip of it comes right to my property
20 line. I have some concerns about exactly where this
21 basin is located. I asked on several occasions to
22 speak with the developers and see if there's any kind
23 of agreement or discussion that we can have to
24 maximize the buffer between the developing that's
25 going on in this area and my lot.

1 I built a house there less than two years.
2 When I did that, that lot was almost completely
3 wooded. I could not see 54, hear 54 traffic. Now I
4 can hear 54 traffic. They're proposing a road that's
5 going probably halfway between 54. That will even
6 worsen the situation.

7 I just have a number of concerns and really
8 have not had a forum for those concerns to be
9 addressed.

10 CHAIRMAN: All right. Will you be seated and
11 we'll bring the representative or their engineer
12 forward.

13 Mr. Pedley.

14 MR. SILVERT: State your name, please.

15 MR. PEDLEY: Ward Pedley.

16 (MR. WARD PEDLEY SWORN BY ATTORNEY.)

17 MR. PEDLEY: We have a plat here of the area
18 that we're proposing for a zoning change. We also
19 have pictures here for our standard screening process
20 which exceeds all of the zoning ordinance
21 requirements.

22 We met with the homeowners in the Tanglewood
23 area and explained to them our procedure and what we
24 will be doing. So I will go through that with you.

25 This in the dark blue is the proposed area

1 here, and here, and here, and here. That little
2 section is an old passway that will be closed.

3 In the light blue is the existing B-4.

4 The pink is the two pieces of property there
5 that we have acquired purchase contract on.

6 So we will be owning everything in that area
7 including the pink. We already own the old passway.

8 This dotted line is a screening for the B-4
9 zone from residential zone. It requires a 6 foot
10 solid element plus a tree for every 40 feet.

11 We have met with the residents in Tanglewood.
12 Explained to them what we intend to do, how we intend
13 to screen it.

14 Now, this line here, that's Tanglewood. I
15 believe Mr. Elliott might live here. That line is
16 about 12 or 15 feet above their yards. We intend to
17 go to the top of that bank and create maybe a little
18 more berm and then put this type of screening. This
19 is what we've done in Lake Forest and all of our
20 subdivisions. We presented this to the homeowners of
21 Tanglewood about a month ago.

22 This is Settles Road along Lake Forest. It's
23 one year old. What we do, we put up a 6 foot high
24 fence and then we put a 6 foot pine tree every 10
25 feet. That area there is one year old, this area

1 here. That's Settles Road.

2 This is Old Hartford Road, Cross Creek
3 Subdivision where we screened it. We put a 6 foot
4 fence and we put 6 foot pine trees every 10 feet. You
5 can see after three years those pine trees are 16, 18
6 feet tall. You can barely see the roof tops.

7 This is Lake Forest on Highway 54 and Lake
8 Forest Drive. This is eight years old. Those trees
9 are 30 feet high and a solid mass. You can no longer
10 see the fence. You can no longer see the fence here
11 and Cross Creek on Old Hartford Road.

12 The requirements is a 6 foot solid element and
13 a tree every 40 feet. We far exceed that. If you
14 look at any development we have, our screening far
15 exceeds.

16 With the area that he's describing is here.
17 That is probably I'm guessing 8 to 12 feet above his
18 yard. When this street goes down through there, there
19 is a bank right there. We've got to cut in about 10
20 or 12 feet right in that area there. So the
21 probability after we put a 6 foot fence on top of that
22 berm and then those pine trees, and then that street
23 being dropped down below that, you probably won't even
24 see the roof tops.

25 That's what we explained to them when we met

1 with them some three or four weeks ago. That's what
2 we intend to do. We're committed to that. I want it
3 in the record that that's what we will do.

4 CHAIRMAN: Mr. Pedley, I think his initial
5 concern and question was about the retention basin and
6 how near it was coming to his property.

7 MR. PEDLEY: The retention basin is on the
8 back side. It's right here in this area right here.
9 It's on the back side of that high berm. It will be
10 on the opposite side of the fence and pine trees from
11 his home. Which unless he walks to the top of that
12 bank, he wouldn't see the retention basin, especially
13 after we put a 6 foot fence and then the pine trees.

14 CHAIRMAN: And the original berm is how high
15 above his property?

16 MR. PEDLEY: The existing berm is probably 12
17 feet above his yard. I didn't shoot an elevation.
18 That's by eye. After we dig that retention down on
19 the opposite side, and then there will be 12, 16 feet,
20 and when that road goes down through there, then you
21 have another, it cuts down deeper.

22 MR. APPLEBY: Is that a dry basin?

23 MR. PEDLEY: Yes, it's a dry basin.

24 MR. JAGOE: Mr. Pedley, will the trees go on
25 the side of Tanglewood or will the trees be on your

1 side?

2 MR. PEDLEY: We always put the trees on the
3 outside, which would be either the roadside or the
4 adjoining property owner's side. We don't put it on
5 our side.

6 If you look at what I just presented, the
7 trees are always on the adjoining property owner's
8 side and the fence is on our side.

9 MR. JAGOE: So on this particular piece of
10 property, you're going to put the trees --

11 MR. PEDLEY: On their side.

12 MR. JAGOE: That's what they would see first.

13 MR. PEDLEY: Yes. When we met with them some
14 three weeks ago, we explained that. We had this. The
15 trees will be on their side of the fence, adjoining
16 property owner.

17 Then if you look at Old Hartford Road, my
18 subdivision, Cross Creek, you can no longer see the
19 fence. After three years, the pine trees are together
20 and they get 12, 15 feet high. You can no longer see
21 a fence there.

22 CHAIRMAN: Mr. Pedley, when did you say you
23 put those on?

24 MR. JAGOE: Ten.

25 CHAIRMAN: You put them on ten foot?

1 MR. PEDLEY: Yes. We're only required one
2 every 40 feet and a six foot fence.

3 CHAIRMAN: I think you've adequately answered
4 the question that the resident had. Let me ask him if
5 he has any further questions, but you far exceeded the
6 question that he had.

7 MR. PEDLEY: That's all I can say about the
8 retention basin. We're showing you what we're doing.
9 We're committed to that. It's on record.

10 CHAIRMAN: I think you did an adequate job.
11 I'm going to see if the resident has any further
12 questions. If not, unless any other people do.

13 Did that adequately answer your question?

14 MR. SILVERT: Could you just state your name
15 again for the record.

16 MR. ELLIOTT: Mark Elliott.

17 I guess my desire here is he's talked about
18 the -- first of all he mentioned a berm and he
19 mentioned trees on ten foot centers. I received a
20 drawing possibly a week ago. It states only that
21 there's going to be an easement with six foot high
22 element and a tree every 40 feet. I did attend that
23 homeowners meeting. Mr. Pedley did explain and we did
24 see these exact same things. However, it was never
25 really said this is what's going to happen and this is

1 how we're going to do it. That is what we intend to
2 do. When I kind of pressed, okay, what is actually
3 going to be done? What is actually going to go there?
4 What are you actually going to do with the land?
5 Understandably so Mr. Pedley could not really tell me
6 exactly what's going to occur. There are probably
7 three, four, five 50-foot oak trees that are right
8 there on the side of my property. They are on the
9 property that's scheduled to be developed. I guess
10 what I would like to have the opportunity to do is
11 look for a solution where those 50, 60 foot trees
12 could be kept. You cannot -- they're irreplaceable.
13 You can put --

14 CHAIRMAN: If you'll stop right there, we'll
15 bring Mr. Pedley back. I believe he'll be able to
16 answer that question. Thank you.

17 Mr. Pedley.

18 MR. PEDLEY: Well, obviously any tree that we
19 can leave on the rear of the property, we will do.
20 I'm not committed to leaving any tree. I intend to
21 leave trees, but with the development plan and the
22 issue is we will sell lots. Unless that's a common
23 area, it can't be touched. You can't commitment to
24 something that you're going to sell. I'm not -- we
25 will probably have an area, triangle area back there

1 that we will try to leave some of those trees, if it
2 doesn't affect a commercial lot. I am committed to
3 what we said here. We'll try to leave some of those
4 large trees. In all probability we will because the
5 triangle back in that area, we probably won't be
6 including in the commercial project. That would be in
7 that area right there. The trees he's talking about
8 is in that area. It depends on how we -- since we've
9 acquired that land there, we'll probably square up.
10 Then probably that triangle will be left as
11 residential.

12 We haven't come up with an amended development
13 plan yet. We will know that probably in two or three
14 weeks. But at this point for me to commit to leaving
15 trees that's on our property that we're developing for
16 commercial, I'm not guaranteeing you. I'm saying we
17 probably will leave some of those oak trees, if it
18 won't affect what we're wanting to do. I am committed
19 to what I showed you here. But to say, yes, we're
20 going to leave those oak trees, I'm not committed to
21 it.

22 CHAIRMAN: I understand.

23 Do you have any further questions?

24 MR. ELLIOTT: Yes. Do I need to state my name
25 again? I don't do this for a living. I'm an

1 engineer.

2 I guess what my approach is that with some
3 redesign of this retention basin that the needs of all
4 could be met. I think by, for example, and this is
5 just looking at it over a few days. I don't know how
6 possible this is, but you could potentially move the
7 road that leads out onto Millers Mill. I'm not saying
8 move it halfway up the property, but by shifting that
9 possibly 20 feet, you could then redesign that basin
10 where some of that water is taken down in that area.
11 Again, it's not --

12 CHAIRMAN: Just a moment. You're getting into
13 areas of engineering and areas that this commission is
14 not to deal with. We take recommendations from the
15 city and the county engineer based on the retention
16 basins and how they're designed. We would not be able
17 to move. I'm sure at your expense, you could meet
18 with his engineer or I'm sure the city or the county
19 engineer, whoever's jurisdiction this is. You could
20 meet with them, but this commission cannot do anything
21 as far as retention basins.

22 MR. ELLIOTT: That is exactly what I'm looking
23 for. Is the opportunity to discuss options where
24 everybody wins as opposed to, you know, I hear we
25 intend, we will try.

1 CHAIRMAN: Wait just a minute. Any time we've
2 dealt with Mr. Pedley, and what he said he's done in
3 the past in his development, it's been done. I think
4 if you look at his record, and I think questioning
5 that is going a step beyond where you should be.

6 MR. ELLIOTT: I'm sorry, I did not want to be
7 misunderstood in questioning Mr. Pedley.

8 CHAIRMAN: Well, I think you were at a point
9 there where you shouldn't have been. Mr. Pedley
10 stated what he was going to do. We've dealt with Mr.
11 Pedley for quite a few years. I think if you look at
12 his other developments, he's done what he said he was
13 going to do. I think that's where we need to leave
14 that.

15 MR. ELLIOTT: I appreciate that and I
16 apologize if any of this was taken personal towards
17 Mr. Pedley. I do not know Mr. Pedley. What I am
18 looking for is the opportunity to look at
19 alternatives. If the board is telling me that that
20 alternative is not available, then --

21 CHAIRMAN: The board did not tell you that. I
22 told you who you could meet with. You can meet with
23 -- is this the county engineer, Mr. Pedley? You could
24 meet with the county engineer. He's the one that
25 okays and certifies the retention basin. The builder

1 and the developer is also responsible in building and
2 putting in retention basin at the most economical
3 situation for him. If he meets the requirements, then
4 he's met the requirements of the city and the county
5 engineer. That's where we stand on that. We can't
6 take a plan and then say, you know, redesign the whole
7 thing and come back and see us. You understand the
8 cost that's incurred by the developer.

9 MR. ELLIOTT: Yes, sir. I was merely looking
10 at one retention basin. It just seems like if --

11 CHAIRMAN: The one retention basin I'm sure
12 you understand being an engineer, you know, you move
13 this then something else has to move along the way.

14 MR. ELLIOTT: Yes, sir.

15 CHAIRMAN: So it's not quite as simple as
16 you're stating. I'm telling you you're welcome to
17 meet with the county engineer who certified it. Then
18 if you want to meet with his engineer, Mr. Riney I
19 believe is who I see sitting over there, but in no way
20 if they meet the county standards would they be
21 required to make any changes.

22 MR. ELLIOTT: Okay. That's certainly
23 understood. I guess I was just looking for the
24 opportunity to discuss it.

25 CHAIRMAN: We're giving you the opportunity,

1 but I'm telling you what the situation is.

2 MR. ELLIOTT: Okay. I guess that takes care
3 of it. Thank you.

4 CHAIRMAN: Thank you.

5 Does anybody else have any questions?

6 (NO RESPONSE)

7 CHAIRMAN: Mr. Pedley.

8 MR. PEDLEY: We sent a message to the
9 Tanglewood people last week that we're available to
10 meet with them again and walk that site and look at
11 what he's talking about on the trees and the retention
12 basin and explain what we could possibly do. I've
13 been expecting a call every day. I didn't get that
14 call. So I'm not here willing to listen to it now.

15 CHAIRMAN: You're at the point where you would
16 not want to -- you made yourself open earlier to any
17 input they had.

18 MR. PEDLEY: We met with them early on, a
19 month ago, and then we sent a message to them last
20 week. We were open Monday, Tuesday and Wednesday to
21 meet again and actually go out in the field and walk
22 the site and talk about what we're doing and explain
23 to them, after we had already presented this. I think
24 we've given them an opportunity.

25 CHAIRMAN: Thank you.

1 Yes, sir.

2 MR. NOFFSINGER: Mr. Chairman, I'd just like
3 to point some clarification.

4 On the final development plan, that would be
5 the next item, the applicant has indicated that there
6 will be a six foot high continuous element and one
7 tree per 40 feet along the boundary Mr. Elliott is
8 speaking of. That is a minimum requirement of the
9 zoning ordinance. What Mr. Pedley put on record here
10 tonight will be what he will be required to do if that
11 development plan is approved.

12 So he has in fact gone above and beyond the
13 ordinance requirements and we will hold him to that in
14 terms of the minimum that he will have to do on that
15 property.

16 Secondly, in terms of moving Spring Hill
17 Drive, Millers Mill Road, according to the adopted
18 transportation plan, is to be the future outer
19 boulevard which will be a major roadway and will carry
20 traffic from the Reid Road area all the way to the
21 mall and Carter Road. Although that roadway hasn't
22 fully developed, it has been on the plans for a number
23 of years. It is a very important roadway for the
24 future development of the Thruston area or
25 Thruston-Dermont area and KY 54. That rural roadway

1 has been relocated on a couple of occasions, I think.
2 The developers here tonight have had to work within
3 and around that particular transportation corridor.
4 It used to be projected to cut through Tanglewood
5 Subdivision and then up through this property. That
6 has been changed to where it's now going to be in
7 alignment with Millers Mill Road.

8 The point I want to make there is that Spring
9 Hill Drive needs to be as far away from that Kentucky
10 54 intersection as possible because you're bringing
11 the public street onto Millers Mill Road which will
12 handle much more traffic in the future. Even shifting
13 that location 20 feet or however much is going to lead
14 to some issues with storage along that future
15 transportation corridor in the future.

16 Would not recommend that Spring Hill Drive be
17 moved at any other location, other than what is shown
18 on this plan.

19 MR. ELLIOTT: I'm done.

20 CHAIRMAN: Are there any other questions or
21 comments?

22 (NO RESPONSE)

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

25 MR. JAGOE: I did have one question.

1 CHAIRMAN: Yes, sir, Mr. Jagoe.

2 MR. JAGOE: Would the screen be subject to
3 zoning or just to the development plan?

4 MR. NOFFSINGER: It's going to be subject to
5 the zoning because Mr. Pedley has indicated to you
6 under oath what he will do at that location. He will
7 be required to do what he says he's going to do or his
8 zoning will become questionable. You can certainly
9 re-enforce that with an amended condition to the
10 rezoning.

11 CHAIRMAN: Chair is now ready for a motion.

12 MR. APPLEBY: I make a motion for approval
13 based on the Staff Recommendations with Conditions 1
14 through 7. Should we amend condition 4?

15 MR. NOFFSINGER: You certainly could, yes.

16 MR. APPLEBY: I assume you're agreeable with
17 that. That would now read 10 foot landscape easement
18 with 6 foot element one tree every 10 feet shall be
19 installed along the south and west property lines
20 where adjoining residential zoning.

21 CHAIRMAN: Mr. Pedley, would you come to the
22 podium and just confirm that for us for the record.

23 MR. APPLEBY: That you don't have a problem
24 with amending the condition to require a tree every 10
25 feet as you've said you were going to do?

1 MR. PEDLEY: That's fine. I've already
2 committed to that. It's on record. That's fine.

3 MR. APPLEBY: And also with the Findings of
4 Facts 1, 2, 3 and 4.

5 MR. JAGOE: Second.

6 CHAIRMAN: We've got a motion for approval by
7 Mr. Appleby.

8 MR. JAGOE: Second.

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item, please.

14 RELATED ITEM:

15 ITEM 6A

16 Millers Mill Plaza, 8.8 +/- acres (POSTPONED 8/9/2007)
17 Consider approval of major subdivision preliminary
18 plat/final development plan.
19 Applicant: Millers Mill Plaza, Lake Forest Community,
20 LLC

21 MR. NOFFSINGER: Mr. Chairman, this
22 application has been reviewed by the Planning Staff.
23 Its use is found to be consistent with the adopted
24 comprehensive plan as well as the site plan. It meets
25 the minimum requirements of the adopted zoning
ordinance and subdivision regulations.

CHAIRMAN: Do we have anybody representing the

1 applicant?

2 MR. PEDLEY: Yes.

3 CHAIRMAN: Do we have any questions?

4 (NO RESPONSE)

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

7 MS. DIXON: Move to approve.

8 CHAIRMAN: Motion for approval by Ms. Dixon.

9 MR. APPLEBY: Second.

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

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Next item, please.

15 -----

16 COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISIONS

17 ITEM 7

18 Hidden Valley Townhomes, 10.429 acres
19 Consider approval of amended major subdivision
20 preliminary plat/final development plan.
Applicant: The Summit, LLC; et al.

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

23 CHAIRMAN: Anybody representing the applicant?

24 APPLICANT REP: Yes.

25 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. HAYDEN: Move to approve.

6 CHAIRMAN: Motion for approval by Mr. Hayden.

7 MR. JAGOE: Second.

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item, please.

13 ITEM 7A

14 Hidden Valley Townhomes, 6.429 acres
15 Consider approval of major subdivision final plat.
16 Surety (Certified Check) posted: \$2,865.00
Applicant: The Summit, LLC

17 MR. NOFFSINGER: Mr. Chairman, this plat is in
18 order.

19 CHAIRMAN: Do we have somebody representing
20 the applicant?

21 APPLICANT REP: Yes.

22 CHAIRMAN: Do we have any questions?

23 (NO RESPONSE)

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

1 MS. DIXON: Move to approve.

2 CHAIRMAN: Motion for approval by Ms. Dixon.

3 MR. MILLER: Second.

4 CHAIRMAN: Second by Mr. Miller. 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 8

10 Waterford Place at the Summit, 37.3 acres
11 Consider approval of amended major subdivision
12 preliminary plat/final development plan.
Applicant: The Summit, LLC; et al.

13 MR. NOFFSINGER: Mr. Chairman, the plan is in
14 order.

15 CHAIRMAN: Anybody representing the applicant?

16 APPLICANT REP: Yes.

17 CHAIRMAN: Do we have any questions?

18 (NO RESPONSE)

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

21 MS. DIXON: Move to approve.

22 CHAIRMAN: Motion for approval by Ms. Dixon.

23 MR. JAGOE: Second.

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 ITEM 8A

4 Waterford Townhomes, 2.424 acres
5 Consider approval of major subdivision final plat.
6 Surety Previously Posted
7 Applicant: The Summit, LLC

8 MR. NOFFSINGER: Mr. Chairman, this plat is in
9 order.

10 CHAIRMAN: Do we have somebody representing
11 the applicant?

12 APPLICANT REP: Yes.

13 CHAIRMAN: Do we have any questions?

14 (NO RESPONSE)

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

17 MS. DIXON: Move to approve.

18 CHAIRMAN: Motion for approval by Ms. Dixon.

19 MR. HAYDEN: Second.

20 CHAIRMAN: Second by Mr. Hayden. 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 ITEM 8B

Waterford Village, Unit 1, 10.873 acres

1 Consider approval of major subdivision final plat.
Surety Previously Posted
2 Applicant: The Summit, LLC

3 MR. NOFFSINGER: Mr. Chairman, this plat is in
4 order.

5 CHAIRMAN: We do have somebody representing
6 the applicant. Do we have any questions?

7 (NO RESPONSE)

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

10 MS. DIXON: Move to approve.

11 CHAIRMAN: Motion for approval by Ms. Dixon.

12 MR. HAYDEN: Second.

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

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 ITEM 8C

18 Waterford Village, Unit 2, 8.927 acres
Consider approval of major subdivision final plat.
19 Surety Previously Posted
Applicant: The Summit, LLC
20

21 MR. NOFFSINGER: Mr. Chairman, this plat is in
22 order.

23 CHAIRMAN: We have somebody representing the
24 applicant. If there are no questions, chair is ready
25 for a motion.

1 MR. MILLER: Motion to approve.

2 CHAIRMAN: Motion for approval by Mr. Miller.

3 MR. JAGOE: Second.

4 CHAIRMAN: Second by Mr. Jagoe. 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 MR. NOFFSINGER: Mr. Chairman, Items 9 and 9A
10 I have a letter of postponement, requesting
11 postponement by the applicant due to the plat is not
12 in order. You will need to take a motion to postpone
13 until our October meeting which will be the second
14 Thursday in October.

15 CHAIRMAN: Chair will entertain a motion for
16 postponement.

17 MR. JAGOE: Move to postpone Items 9 and 9A.

18 CHAIRMAN: Motion to postpone by Mr. Jagoe.

19 MR. HAYDEN: Second.

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

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 -----

25 MINOR SUBDIVISIONS

1 ITEM 10

2 2060 Hillbridge Road, 0.340 +/- acres
3 Consider approval of minor subdivision plat.
4 Applicant: Robert B. Moorman

5 MR. NOFFSINGER: Mr. Chairman, this plat comes
6 to you as an exception to the subdivision regulations
7 in that it creates a lot that does not have frontage
8 on public roadway and is undersized. However, it is
9 for the location of a water tank in the Masonville
10 area. The water tank will serve the Deer Valley
11 neighborhood as well as the Masonville community and
12 beyond.

13 Talking with the water district it's a much
14 needed project. A need that they have had for some
15 time and they're looking forward to moving forward
16 with this. So we would recommend that you approve.

17 CHAIRMAN: Anybody representing the applicant?

18 APPLICANT REP: Yes.

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

21 MS. DIXON: Move to approve.

22 CHAIRMAN: Motion for approval by Ms. Dixon.

23 MR. HAYDEN: Second.

24 CHAIRMAN: As of record there is somebody here
25 representing the applicant. Mr. Riney.

 Motion for approval by Ms. Dixon. We had a

1 second by Mr. Hayden. All in favor raise your right
2 hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.

5 The chair is ready for one final motion.

6 MR. JAGOE: Move to adjourn.

7 MR. APPLEBY: Second.

8 CHAIRMAN: Motion for adjournment by Mr.

9 Jagoe. Second by Mr. Appleby. All in favor raise
10 your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: We are adjourned.

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

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that the foregoing Owensboro Metropolitan Planning
6 Commission meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 40 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 1st day of October, 2007.

18

19

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

22

COMMISSION EXPIRES: DECEMBER 19, 2010

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COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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