The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, September 11, 2008, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Drew Kirkland, Chairman
Judy Dixon, Vice Chairman
David Appleby, Secretary
Gary Noffsinger, Director
Madison Silvert, Attorney
Tim Miller
Martin Hayden
Rita Moorman

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CHAIRMAN: Call the Owensboro Metropolitan Planning Commission September 11th meeting to order.
Please stand for our invocation and pledge of allegiance.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business is to consider the minutes from the August 14, 2008 meeting. Are there any corrections, additions?

(NO RESPONSE)

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

MS. DIXON: Move to approve.
CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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CELLULAR TELECOMMUNICATIONS FACILITIES PER KRS 100.987

ITEM 2

895 Highway 140 West (Postponed at August 14, 2008, meeting)
Consider approval of a wireless telecommunications tower
Applicant: Larry A. Ratliff, GTE Wireless of the Midwest, d/b/a Verizon Wireless

MR. NOFFSINGER: Mr. Chairman, the applicant has requested a postponement of this item to be postponed until our October 9, 2008 meeting. The applicant has signed the agreement stating that they do agree to waive the 60 day timing mechanism in the statutes that requires the Planning Commission to act within 60 days.

The applicant is requesting this postponement so that they will have time to respond to information submitted by Mr. Larry Payne, as well as we may have a notification publication issue regarding this item
from the August 14th meeting. The applicant is not alleging or agreeing that that is the case, but there is that issue out there.

It will take action by you to postpone a vote and then authorize me to sign that agreement for the Planning Commission. It will come back to us on October 9th of 2008. The applicant will put a new notice in the Messenger-Inquirer stating that it will be heard October 9th.

CHAIRMAN: This does require a motion?

MR. NOFFSINGER: Yes, sir.

CHAIRMAN: Chair is ready for a motion.

MR. MILLER: Mr. Chairman, I move to postpone this item and in that motion would like to authorize Mr. Noffsinger to sign the postponement letter from the applicant to hear this item at our October 9, 2008, meeting.

CHAIRMAN: We have a motion for postponement by Mr. Miller and authorization for Mr. Noffsinger to sign.

MR. APPLEBY: Second.

CHAIRMAN: We have a second from Mr. Appleby.

All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously for
postponement.

Next item, please.

Related Items:

ITEM 2A

895 Highway 140 West, 0.230 acres (Postponed at August 14, 2008, meeting)
Consider approval of minor subdivision plat.
Applicant: Larry A. Ratliff

MR. NOFFSINGER: Mr. Chairman, this plat is related to the item we just voted to postpone. So Staff would recommend that you postpone taking action on this plat until we hear the actual application for the cell tower.

CHAIRMAN: We need a motion on that also?

MR. NOFFSINGER: Yes, sir.

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to postpone until the October 9, 2008 meeting.

CHAIRMAN: Motion for postponement by Ms. Dixon.

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.
MR. NOFFSINGER: Under Zoning Changes Item 3 has been withdrawn.

ZONING CHANGES

ITEM 4

10562 US Highway 431, 0.38 acres
Consider zoning change: From R-1A Single-Family Residential to B-4 General Business
Applicant: Daviess County, a political subdivision of the Commonwealth of Kentucky

MR. SILVERT: State your name, please.

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: As the first order of business, I will note that all the rezonings heard tonight will become final 21 days after the meeting unless an appeal is filed by anyone. That appeal would be filed with our office and they're available on the back table and on our web site as well.

For this rezoning our Staff Report is for denial so I will have to read the entire Staff Report into the record.

PROPOSED ZONE & LAND USE PLAN

The applicant is seeking a B-4 General Business zone. This subject property is located in a Rural Community Plan Area, where general business uses are appropriate in limited locations.
SPECIFIC LAND USE CRITERIA

(A) Building and lot patterns; outdoor storage areas - Building and lot patterns should conform to the criteria for "Nonresidential Development" (D7), and outdoor storage yards with "Buffers for Outdoor Storage Yards" (D1).

(B) Logical zoning and expansion of proportional scope - Existing General Business zones may be expanded onto contiguous land that generally abuts the same street(s). The expansion of a General Business zone should not significantly increase the extent of the zone in the vicinity of the expansion and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

(F) New locations in Rural Communities - in Rural Community plan areas, new locations of General Business zones should be "major-street-oriented" (D2) and should be sited at corners of intersecting streets if located in close proximity to existing dwellings.

APPLICANT'S FINDINGS

The proposed rezoning is in compliance with the applicable criteria as set forth in the Comprehensive Land Use Plan. The rezoning proposal meets the requirements of the criteria as set out
under Section 11 General Business of the Land Use Plan. The subject property is located in a Rural Community Plan Area where commercial activities are appropriate in limited locations.

Building and lot patterns; outdoor storage yards - Building and lot patterns conform to the criteria for "non-residential development."

New locations in rural communities - In Rural Community plan areas, new locations of General Business zones should be "major-street-oriented." As indicated in the background section above, the subject property has a long history of non-residential use and past use is consistent with B-4 General Business.

The rezoning proposal meets the "arterial-street-oriented" requirement. Highway 431 is a major arterial highway known as US Highway 431.

The area south of the subject property serves as a service center for the Utica area. Three lots to the south on the east side of Highway 431 is a commercial strip area with a convenient store (known as Utica Food Mart) which is located at the intersection of US Highway 431 and KY 140. The property is zoned B-4.

On the east side of the intersection of US 431 and KY 140, there is a vacant tract zoned B-4.
On the west side of the intersection of US Highway 431 and KY 140, there are two vacant tracts zoned B-4.

On June 5, 2008, the property located at 10539 Highway 431, which is north and east of the subject property, was rezoned from R-1A Single-Family Residential and A-U Urban Agriculture to B-4 General Business.

The applicant’s plan is to rezone the property to make it a conforming use and then sell.

PLANNING STAFF REVIEW

The subject property is located in the 10500 block of US 431. Land use criteria applicable to this proposal are reviewed below.

GENERAL LAND USE CRITERIA

Environment

According to a study prepared by the US Department of Agriculture Soil Conservation Service dated March 6, 1990, it appears that the subject property is not located in a wetlands area. The subject property is not located in a special flood hazard area per FIRM Map 21059CO425 C. Based on the preliminary FIRM maps dated July 7, 2007, the subject property is not located in a special flood hazard area per Map 21059CO405 D. It appears that a portion of
the subject property is designated as prime agricultural land according to the "Important Farmlands" map created by the US Department of Agriculture Soil Conservation Service dated March 1980. However, the prime farmland has been lots from previous development on the site. The developer is responsible for obtaining permits as may be required by the Division of Water, The Army Corp of Engineers, FEMA or other state and federal agencies as may be applicable.

It appears that the subject property is outside the Owensboro Wellhead Protection Area according to a map created by GRADD office dated March 1999.

Urban Services

Electricity, water and gas are available to the subject property. Sanitary sewage disposal is accomplished by an on-site septic system.

Development Patterns

The subject property is located in the rural community of Utica. In the vicinity of the subject property, all surrounding properties are zoned R-1A Single-Family Residential. There are residences on all sides of the subject property.

The subject property is only 0.38 acres in
size which could create issues when applying
appropriate screening measures. A ten foot landscape
buffer with a six foot element and one tree every 40
linear feet would be required along the entire
boundary to the north, west and south. The east side
of the property is the road frontage which is
primarily open. The rezoning ordinance allows for a
maximum of 40 percent of the road frontage to be used
for access.

The road frontage of the property is used
primarily as access since the site has historically
been used as a fire station. Although the use has
been non-residential in nature, the fire station was
approved under the public facility guidelines
established in KRS for governmental uses and are
appropriate in any zone. Since a fire station could
be constructed in any zone as a public facility, the
justification of use as commercial is negligible.
Also, from previous public hearings concerning another
rezoning in the vicinity, statements have been made
that the fire station is being relocated due to poor
sight visibility at this location. The
appropriateness of converting the use to commercial
which could significantly increase the extent of
traffic utilizing the site may create a safety and
liability issue.

There are two primary criteria in the Comprehensive Plan for general business uses within a Rural Community Plan Area. The first is a logical expansion which is not applicable for the subject property since the nearest B-4 General Business zoning is located across the street and to the north or south. The second criteria states that new locations of general business use should be major-street-oriented and be located at the corner of intersecting streets if located in close proximity to existing dwellings. With frontage on US 431, the site is major-street-oriented; however, the second portion of the requirement is not met and not addressed by the applicant in their findings. There are existing dwellings on three sides of the subject property with the property to the east across US Highway 431 being occupied by a residence as well.

SPECIFIC LAND USE CRITERIA

The applicant's proposal is not in compliance with the Comprehensive Plan. The proposed use will be non-residential in nature and major-street-oriented but is not located at the corner of intersecting streets and is in close proximity to existing dwellings.
PLANNING STAFF RECOMMENDATIONS

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

FINDINGS OF FACT:

1. The subject property is located in a Rural Community Plan Area, where general business uses are appropriate in limited locations;

2. Although the subject property may have been used for non-residential purposes as a fire station, the approval was via a public facility review for local government which is applicable in any zone;

3. The subject property is not contiguous to existing B-4 zoning or use and is therefore not a logical expansion of existing B-4 General Business zoning;

4. The subject property is situated in close proximity to existing dwellings with residences located to the north, south and west of the subject property; and,

5. The subject property is not located at the corner of intersecting streets.

MR. HOWARD: We would like to enter the Staff Report into the record as Exhibit A.
CHAIRMAN: Is the applicant represented by anybody here?

MR. PORTER: Yes, Mr. Chairman. Claud Porter, County Attorney on behalf of fiscal court.

MR. SILVERT: Mr. Porter, I recognize the oath that you took as an attorney.

MR. PORTER: Mr. Chairman, Members of the Board, fiscal court is asking that the commission and the board change the fire department's zoning or rezone from R-1A residential. It's county zoned. I notice Mr. Howard has quickly gone through each of those.

It's been a fire department since 1973. I think the two criteria that Mr. Howard noted that we did not comply with, one was that it was not contiguous to other rezonings.

I would note that the commission has approved the property immediately across 431 from an R-1A to a B-4 very recently. I think that was back in July. It is contiguous in the sense that it is adjoining the major arterial street, US Highway 431.

The other issue I think that he addressed was the traffic elements. Of course, we have no idea of the use that someone may put to the property if it is given to a B-4, if it's changed to a B-4, but it would
not create, I don't think that would create any additional traffic any more than the fire department does now with the volunteers appearing there periodically for their use and for fires as necessary. So given those circumstances we would ask that the Board approve the change in the zoning given those criteria.

CHAIRMAN: Thank you, Mr. Porter.

Is there anybody else that would like to ask any questions or have any comments?

Yes, sir. Please step to the mike.

MR. SILVERT: State your name, please.

MR. GRIMSLEY: Bob Grimsley.

(BOB GRIMSLEY SWORN BY ATTORNEY.)

MR. GRIMSLEY: I own the property directly across from the fire station. My wife and I had it rezoned by this board back when we met with you guys. I would like to offer our support for the rezoning of the fire station to a B-4 zoning. I feel like the traffic patterns have been established. It's been in the community. It's not only used as a fire station, but some of the people that travel the transcontinental bike railway use that facility to stay in and it's used for different activities within the community. I feel like it's not going to be a
hazard to have it zoned to B-4. We wholeheartedly, the community and my wife, Nancy, and I support the zoning approval.

CHAIRMAN: Thank you, Mr. Grimsley.

Anybody have any questions?

(NO RESPONSE)

CHAIRMAN: Mr. Porter, I have a question.

MR. PORTER: Yes.

CHAIRMAN: What is the use going to be of this facility?

MR. PORTER: We are uncertain. It will be declared a surplus property. The intent will be to market that as a surplus property. So we do not have a use. The county does not have a use in mind.

CHAIRMAN: Thank you.

MR. PORTER: I think the board is aware that the state has changed the speed limit along that road, which also was, I think, a concern that the Staff had about access and visibility. It was changed from 55 to 45, I think, miles per hour just recently.

CHAIRMAN: Thank you.

Does anybody on the Staff have a question?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.
MR. APPLEBY: Mr. Chairman, I make a motion for approval based on the applicant's findings of fact.

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

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Thank you very much.

Next item, please.

ITEM 5

4300 Veach Road, 11.075 acres
Consider zoning change: From A-R Rural Agriculture to B-4 General Business
 Applicant: River City Church, Inc.

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 both J.R. Miller Boulevard and Veach Road shall be limited to the proposed public
street intersections as shown on the preliminary
development plan submitted in conjunction with the
rezoning;

2. The site development shall be phased to
connect the public street to Veach Road first and to
move westward as the site develops. The street
connection to J.R. Miller Boulevard shall be in
compliance with the special access restrictions and
shall not be made until it will connect the roadway
network within the surrounding neighborhood; and,

3. Due to the proximity to residential
structures, all lighting for the subject property
should be directed away from the residential
structures to reduce the impact of the commercial
light and glare onto the residential 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 subject property will be used for a
church and commercial purposes and will be
nonresidential in nature;

3. The proposal is a logical expansion of
existing B-4 General Business zoning located
immediately south and west of the subject property;
4. The expansion of the B-4 zoning should not significantly increase the extent of the zone in the vicinity of the expansion and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

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

CHAIRMAN: Is anybody here representing the applicant?

MR. BICKEL: Yes, sir. Mr. Chairman, John Bickel here on behalf of the applicant.

MR. SILVERT: Mr. Bickel, we recognize the oath you took as an attorney.

MR. BICKEL: Thank you.

The applicant would like to suggest one change in the condition. We're continuing, of course, to ask for approval, but we want to introduce a little bit more flexibility into the conditional aspect of the rezoning.

Condition Number 2, we would like to request that the rezoning be subject to this condition being revised as follows:

The site development shall be phased to connect the public street to either Veach Road or J.R. Miller, to move westward from Veach Road or eastward
from J.R. Miller as the site develops. The street
collection to J.R. Miller Boulevard shall be in
compliance with the special access restrictions.

All this does, Ladies and Gentlemen, is to
allow flexible; in other words, whether you begin over
on the Veach Road side or whether you begin at the
J.R. Miller side. That is indeterminate now, but it
would still be binding as to fixing the point of
access at point of access to J.R. Miller to remain the
same, point of access to Veach Road remain the same.

CHAIRMAN: Does anybody have any questions of
--

Brian, does the Staff have a question to Mr.
Bickel on that?

MR. HOWARD: I will explain where that
condition came from.

The reason that it was stated that way is that
there are special access requirements along J.R.
Miller Boulevard. Those stated in order for a street
connection to be made that there are a couple of
criteria that have to be met.

The first is that it has to create the fourth
leg of a three leg intersection. So this would do
that. You'd have J.R. and Weikel. This would create
a four leg intersection.
However, the other criteria is that it should not happen unless the access point will connect the surrounding neighborhood. Unless the connection is made to Veach Road and the surrounding neighborhood is not connected and the requirements of the special access guidelines on J.R. Miller Boulevard will not be met. If the accesses were to start at J.R. Miller Boulevard and work towards the east, there could be no guarantee that the connection would be made to Veach Road in the future or when that connection would be made.

So the intent of the requirements of a special access guidelines would not or could potentially not be addressed. So that's why we wanted to make sure it was geared so that when a connection is made to J.R. Miller Boulevard that those requirements of the special access requirements are met.

MR. BICKEL: Mr. Chairman, if I -- excuse me.

Brian, are you finished?

MR. HOWARD: Yes.

MR. BICKEL: Mr. Chairman, if I may respond. We are only asking for the same treatment that's been given to the project to the north in Fiddlesticks.

Thompson Homes started at J.R. Miller rather
than starting at Veach and they have not completed the roadway all the way through from J.R. Miller to Veach. We're just asking for the same accommodation.

CHAIRMAN: Mr. Howard, make sure that I understand. We want to be able to connect Weikel all the way over to Veach Road?

MR. HOWARD: Correct.

MR. BICKEL: And we will do that eventually. It's just rather than mandating that we must start our development on the Veach Road side, we would like to have the option, like Thompson Homes did, of starting on J.R. Miller Boulevard side. That's all we're asking.

CHAIRMAN: Mr. Bickel, you understand that what we want in the agreement would be that this road would be completed, the connection would be completed.

MR. BICKEL: Well, we own the whole 11.075 acre tract. When we would finally plat it, you would have to complete the road. Sure.

CHAIRMAN: Mr. Howard.

MR. HOWARD: Whenever a final plat is submitted, they would post surety for that; however, they wouldn't have to do a final plat for the entire development at one time. They could do that in phases. At the initial final plat they wouldn't
necessarily have to post surety for the entire roadway connection.

CHAIRMAN: Mr. Howard, unless you correct me, I don't really see a problem with them starting on one end or the other. Is there a problem there that I'm not understanding?

MR. HOWARD: Again, it's just that we want to make sure that the special requirements set by the GRADD transportation are addressed on this site and that we do guarantee that the entire tract is connected from Veach Road and J.R. Miller Boulevard. We saw that with this condition that we would guarantee that that connection be made.

CHAIRMAN: Mr. Bickel, do you we see any problem with wording such that the guarantee is there and we allow you to start at the other side?

MR. BICKEL: The guarantee is there because of Condition Number 1. The access points are fixed, J.R. Miller and Veach Road. As the property is developed, the road has to be built in conjunction with the preliminary plan that's already been presented as part of the application. So Condition Number 1 takes care of that.

CHAIRMAN: Mr. Howard, do you feel comfortable with that?
MR. HOWARD: Condition Number 1 is in reference to the actual location along those road frontages where that access point would tie in. I don't know that it actually states that it guarantees that the roads would connect.

MR. BICKEL: But starting on Veach Road side doesn't guarantee that the road would connect either.

MR. HOWARD: Right, but the --

MR. BICKEL: All we're asking for is the flexibility to start at either end of the property.

CHAIRMAN: Mr. Bickel, with your gift of words, could you come up with something that would satisfy this? I realize what you're saying, but he's playing with a set of rules also. I see no problem with you all starting on the other side.

MR. APPLEBY: Is there a note that can be -- we're going to deal also with the preliminary development plan is the next item. What I'm understanding you to say is they don't have to final plat and bond anything all of it at one time. They can do it piecemeal. Which you're going to require that street to be bonded and stubbed out to the property line at each juncture?

MR. HOWARD: Correct.

MR. APPLEBY: Your concern is that it may
never be completed and they may never develop all the
way through then it wouldn't be criteria set out for
J.R. Miller Boulevard?

MR. HOWARD: That's correct.

MR. APPLEBY: Is there any way we can deal
with this on the preliminary development plan by some
kind of a note that this road is to connect?
Something that would bind that property all the way
through there?

MR. NOFFSINGER: Mr. Chairman, it is a timing
issue. So far we have not heard what the timing is.
We are dealing with a special access provision that
applies to J.R. Miller Boulevard and not Veach Road.
So that's why Planning Staff, as well as the
Transportation Advisory Committee is concerned about
making sure that this street, if it's a street or if
there's access to J.R. Miller, that it be connected
with Veach Road.

Now, you can certainly address it on the
preliminary plat and the rezoning by some type of
timing mechanism, but I don't think we've heard that
here tonight. It's eventually. At what stage in the
game will this street be connected I think is the real
issue that Staff is trying to deal with and that we
haven't heard and did not know until tonight that this
was going to be an issue.

CHAIRMAN: Mr. Bickel.

MR. BICKEL: We cannot commit to timing on the total construction of the road because we don't know how it will be developed. That's why the rule is you only have to bond or build when you get a final plat. That, of course, makes sense, but we don't have the capability of knowing how the development is going to proceed over time and that's why we can't commit to a timing schedule.

I guess I don't understand why we're being treated differently than Thompson Homes. What am I missing here, gentlemen? There's no timing schedule for Thompson Homes to build all the way through to connect the street from J.R. Miller to Veach Road.

MR. NOFFSINGER: There's no time schedule per se, but there is a plan that Mr. Thompson entered into an agreement, a final development plan preliminary subdivision plat that indicated that that connection would be made.

MR. BICKEL: And we're doing that too. We're indicating through our preliminary plan that the street will be made. We've committed just like it says in Condition Number 1, to the two points of access are fixed.
MR. NOFFSINGER: That is being done, but there's a serious concern that that street may never be connected. That's what we're trying to address here. You could come in and create one to three lots. We're not dealing with a traditional developer. We're dealing with a church that has not developed property that has a plan submitted with no time line in terms of how that property is going to be developed. The timing becomes an issue and at what point will a building permit be issued for a church on this property and the street to be constructed. It's a matter of how long will this function as a driveway as opposed to a street.

MR. BICKEL: Mr. Noffsinger, are you saying that the difference is because this is a church and Thompson Homes is a developer and that justifies the difference in treatment?

MR. NOFFSINGER: No. What I'm saying it's not because they're a church. What I'm saying is we have a history on this property that indicates that the church wants access to J.R. Miller Boulevard, but does not want to extend that street or that connection to Veach Road. We have to make some assurance --

MR. BICKEL: That's incorrect. That's incorrect. They want to extend. They want the street
to go all the way through. There's never been any plan or proposal not to have the street go all the way through. It's just that the timing of when the street goes through is something we cannot know and therefore cannot commit to. I'm only asking we be treated the same way as Thompson Homes because they're not on a time line and they don't have -- they started at J.R. Miller and they haven't completed all the way through to Veach Road. We're just asking for the same treatment.

MR. APPLEBY: The only concern is that the road would never be built. That's the issues I understand it from the Staff's standpoint. The only way that happens if that property never develops; is that right, because essentially we've got control of it? At any juncture it's going to have to come back before this board with a final -- it's going to have to be final somewhere and bonded somewhere. The plan is not going to be approved if it doesn't show that road through there, if I'm understanding this correctly.

MR. NOFFSINGER: If you approve the development subject to the development plan, I think you can ensure that.

CHAIRMAN: Can we just do it right there?
Because that way that will give -- we would have assurance that the road is done. They would have the opportunity to go ahead and start the development.

Do you have a problem with that, Mr. Bickel?

MR. BICKEL: We cannot commit to a development plan now because we don't know where all the final lot lines are going to be. All we're committing to on the plat is that the street will go through and we're committed to the two access points that are indicated on the plat. The rest of it may change as the development progresses just like it changed in Fiddlesticks. Just like it changed in Highland Pointe. Just like it customarily changes in all developments. You cannot expect to tie our hands in a way that you don't tie other people's hands.

MR. NOFFSINGER: In Mr. Thompson's situation, the adjoining residential development, before Mr. Thompson can transfer lots to landowners, there has to be a final plat and surety posted and the street constructed.

MR. BICKEL: That's correct. I understand that.

MR. NOFFSINGER: So in order to fulfill that development plan, that has to happen.

Here's what we're dealing with, and a
A development plan may very well take care of it. This is a commercial development, non-residential development. You're not necessarily interested in transferring land, especially the last piece. Now, I know you have the lots that you want to transfer. That's understandable and there will be some final plats. What happens when we get to a point where we've platted lots 1, 2, 3, 4 and 5 and then the church says, we're going to build on 6, and there's never a final plat? The danger is building permits can be issued on preliminary plats. That building permit could be issued for the church that's on the very back lot and the street never be extended or surety posted. It can just be sitting there on its own lot that was never platted.

Now, if the property is rezoned subject to a development plan, then prior to the issuance of the building permit, there has to be a development plan that is prepared and approved by the commission that would address the street extending through. So if we can agree on that, I think that's the way to get around the phasing.

MR. BICKEL: I'm not sure. We have to agree to a development plan. I'm not sure what all that entails. What kind of restrictions that would impose.
What are you saying would have to be approved tonight to satisfy your requirement of having a development plan and be the key way of imposing restrictions?

MR. NOFFSINGER: Right now you have the preliminary development plan, but the development on the property would be subject to a final development plan being submitted. In other words, you could not move forward with developing properties until there's a final development plan on the property. Building permits would not be issued. What it is is a site plan for the property.

MR. BICKEL: May I ask for the commission to proceed with its agenda and give me time to meet with my client to discuss this? Because I'm not in the position to say yea or nay to that. Is that all right?

CHAIRMAN: I have no problem with that. Does anybody else?

MR. NOFFSINGER: There's not much left.

CHAIRMAN: Mr. Bickel, five minutes.

MR. BICKEL: Five minutes, yes, sir.

CHAIRMAN: We will recess for five minutes.

--- (OFF THE RECORD) ---

CHAIRMAN: Call the meeting back to order.

Mr. Bickel.
MR. BICKEL: Mr. Chairman, we have a solution that is amenable to all. Well, at least we're willing to accept. That is we will accept the rezoning application as originally proposed by the Staff on its conditions. So we will be asking for rezoning in accordance with the conditions as written in the Staff Recommendations.

CHAIRMAN: With that are there any further questions?

(NO RESPONSE)

CHAIRMAN: If not the chair -- just a moment. Mr. Noffsinger.

MR. NOFFSINGER: We're fine.

CHAIRMAN: No further questions.

MR. APPLEBY: I make a motion for approval based on the Staff Recommendations, Conditions 1 through 3 and Findings of Fact 1 through 4.

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

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.
Related Items:

ITEM 5A

4300 Veach Road, 11.075 acres
Consider approval of preliminary development plan.
Applicant: River City Church, Inc.

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order and it's ready for consideration.

CHAIRMAN: Is anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do we have any questions?

(NO RESPONSE).

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

MS. DIXON: Move to approve.

MS. MOORMAN: Second.

CHAIRMAN: Motion for approval by Ms. Dixon. Second by Ms. Moorman. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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MAJOR SUBDIVISIONS
ITEM 6

Highland Pointe, Unit 3, Lots 5, 8A-8H, 52.994 acres
Consider approval of major subdivision final plat.
Surety (Certificate of Deposit) posted: $425,943.50
Applicant: Highland Pointe Holdings, LLC

Mr. Noffsinger: Mr. Chairman, this plan has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order and is ready for consideration.

Chairman: Anybody representing the applicant?
Applicant Rep: Yes.
Chairman: Do we have any questions of anybody?

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

Mr. Hayden: Make a motion for approval.
Chairman: Motion for approval by Mr. Hayden.
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.
Mr. Noffsinger: That's all.
Chairman: The agenda is completed. Chair is
ready for a motion for adjournment.

MS. DIXON: Move to adjourn.

CHAIRMAN: Ms. Dixon for adjournment.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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

I, LYNETTE KOLLER FUCHS, 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 34 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 1st day of October, 2008.

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

COMMISSION EXPIRES: DECEMBER 19, 2010
COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY