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OWENSBORO METROPOLITAN PLANNING COMMISSION

DECEMBER 13, 2001

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The Owensboro Metropolitan Planning Commission met in regular session at 6:00 p.m. on Thursday, December 13, 2001, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: Drew Kirkland, Chairman
- Gary Noffsinger
- Nick Cambron
- Dave Appleby
- Scott Jagoe
- Irvin Rogers
- Sister Vivian Bowles
- Judy Dixon
- Dr. Mark Bothwell
- Martin Hayden
- Stewart Elliott,
- Attorney

\* \* \* \* \*

CHAIRMAN: I would like to welcome you all and call our December 13th meeting of the Owensboro Metropolitan Planning Commission to order.

Our invocation tonight will be given by Mr. Martin Hayden. Please stand.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Before we get into our agenda I'd like to congratulate Dr. Bothwell on completing his orientation program of the Owensboro Metropolitan Planning Commission and thank Gary for conducting his

1 orientation. Thank you, Mr. Noffsinger.

2 Now, our first item of business is to  
3 consider the minutes of the November 8th meeting.  
4 Does anybody have any corrections, additions?

5 (NO RESPONSE)

6 MR. APPLEBY: Motion to approve.

7 CHAIRMAN: Motion to approve by Mr.  
8 Appleby.

9 MR. JAGOE: Second.

10 CHAIRMAN: All in favor raise your right  
11 hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Our next item of business Mr. Bob Thomas  
15 with Hayden & Company will present our audit report.

16 Mr. Thomas.

17 MR. ELLIOTT: State your name, please.

18 MR. THOMAS: Bob Thomas.

19 (MR. BOB THOMAS SWORN BY ATTORNEY.)

20 MR. THOMAS: Good evening. As they said  
21 I'm Bob Thomas. I'm a CPA and chairholder of Hayden &  
22 Company, CPA here in Owensboro. We were engaged to  
23 audit the general purpose financial statements of the  
24 Owensboro Metropolitan Planning Commission for June  
25 30, 2001.

1                   We conducted our audit in accordance with  
2                   auditing standards generally accepted in the United  
3                   States and government auditing standards. Our  
4                   objective of the audit was to express an opinion on  
5                   whether the financial statements are fairly presented.

6                   In our report we stated that in our  
7                   opinion the general purpose financial statements  
8                   present fairly and all material respects. The  
9                   financial position of Owensboro Metropolitan Planning  
10                  Commission and the results of its operations for the  
11                  year ending June 30, 2001, in accordance with  
12                  generally accepted accounting principals.

13                  Now, each of you should have got a copy of  
14                  the report and I submit it for your approval. Would  
15                  be happy to answer any questions.

16                  CHAIRMAN: Are there any questions from  
17                  anybody on the commission?

18                  (NO RESPONSE)

19                  CHAIRMAN: Any questions from anybody in  
20                  the audience?

21                  (NO RESPONSE)

22                  CHAIRMAN: Chair is ready for a motion.

23                  MR. CAMBRON: Motion for approval.

24                  CHAIRMAN: Motion for approval.

25                  DR. BOTHWELL: Second.

1                   CHAIRMAN: We've got a second. All in  
2 favor raise your right hand.

3                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4                   CHAIRMAN: Motion carries unanimously.

5                   Mr. Thomas, thank you very much.

6                   Mr. Noffsinger, next item of business.

7 -----

8                   PUBLIC FACILITIES PLAN  
9                   REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

10                  ITEM 3

11                  Portion 325 East Third Street  
12                  Land Acquisition, Street Construction  
13                  Consider comments regarding the acquisition of  
14                  property for improvements to the intersection of J.R.  
15                  Miller Boulevard, East Third Street and US 231  
16                  Referred by: City of Owensboro

17                  MR. NOFFSINGER: Mr. Chairman, the  
18                  Planning Staff has reviewed this public facilities  
19                  request. This request is contained within our  
20                  transportation plan for the community. We have  
21                  reviewed and find no conflicts with the plan and would  
22                  recommend that you send a letter to the City of  
23                  Owensboro in that regard.

24                  CHAIRMAN: Are there any questions from  
25                  anybody on the commission?

                  (NO RESPONSE)

                  CHAIRMAN: Chair is ready for a motion.

                  MS. DIXON: Move to approve.

1 CHAIRMAN: Motion for approval.

2 MR. HAYDEN: Second.

3 CHAIRMAN: There's a second. 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 -----

9 ZONING CHANGES - CITY

10 ITEM 4

11 4200 Airpark Drive, 8.04 acres (POSTPONED)  
12 Consider zoning change: From I-1 Light Industrial to  
13 I-2 Heavy Industrial  
14 Applicant: Economic Development Properties, City of  
15 Owensboro, C.J. Turner

16 MR. ELLIOTT: State your name for the  
17 record, please.

18 MS. WATSON: Becky Watson.

19 (MS. BECKY WATSON SWORN BY ATTORNEY.)

20 PLANNING STAFF RECOMMENDATIONS

21 Staff recommends approval because the proposal is  
22 in compliance with the adopted Comprehensive Plan.

23 Findings in support of this recommendation include:

24 1. The subject property is located within an  
25 Industrial Plan Area, where heavy industrial uses are  
appropriate in limited locations;

2. The subject property is located within a

1 planned "Industrial Park", which may contain both  
2 light and heavy industrial zones and uses;

3 3. The subject property adjoins an I-2 Heavy  
4 Industrial zone and use to the north; and,

5 4. The subject property is located away from the  
6 fringes of the park that may adjoin incompatible plan  
7 area or land uses.

8 MS. WATSON: We'd like to enter this as  
9 Exhibit A, the Staff Report.

10 CHAIRMAN: Is there anybody here  
11 representing the applicant?

12 (NO RESPONSE)

13 CHAIRMAN: Does anybody on the Planning  
14 Commission have any questions?

15 (NO RESPONSE)

16 CHAIRMAN: Does anybody in the audience  
17 have any questions?

18 (NO RESPONSE)

19 CHAIRMAN: If there are none, the Chair is  
20 ready for a motion.

21 MS. DIXON: Move to approve based upon  
22 Staff Recommendations and findings in support 1, 2, 3  
23 and 4.

24 CHAIRMAN: Motion for approval.

25 MR. APPLEBY: Second.

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

3                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4                   CHAIRMAN: Motion carries unanimously.

5                   Next item, please.

6                   ITEM 5

7                   Portion 1700 Breckenridge Street, 0.33+ acres  
8                   Consider zoning change: From I-1 Light Industrial to  
9                   B-4 General Business  
10                  Applicant: Barney Lain, J.E.D. Rentals Family  
11                  Partnership, LTD

12                  PLANNING STAFF RECOMMENDATIONS

13                  Staff recommends approval because the proposal is  
14                  in compliance with the adopted Comprehensive Plan.

15                  This recommendation is made subject to the condition  
16                  and findings of fact that follow:

17                  Condition:

18                  1. Approval of a final development plan.

19                  Findings of Fact:

20                  1. The subject property is located in a  
21                  Business/Industrial Plan Area, where general business  
22                  uses are appropriate in general locations;

23                  2. The existing development in the area contains  
24                  a mixture of industrial and general business uses; and

25                  3. A development plan has been submitted in  
26                  conjunction with this zoning request addressing access  
27                  points and zoning ordinance requirements.

1 MS. WATSON: We'd like this Staff Report  
2 entered into the record as Exhibit B.

3 CHAIRMAN: Is there anybody representing  
4 the applicant here?

5 APPLICANT: Yes.

6 CHAIRMAN: Does anybody from the  
7 Commission have any questions of the applicant?

8 (NO RESPONSE)

9 CHAIRMAN: Does anybody from the audience  
10 have questions of the applicant?

11 (NO RESPONSE)

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

14 MR. CAMBRON: Motion for approval based  
15 upon the Findings of Fact 1 through 3 and the one  
16 condition that they have on.

17 CHAIRMAN: Motion by Mr. Cambron for  
18 approval.

19 MR. ROGERS: Second.

20 CHAIRMAN: We have a second by Mr. Rogers.  
21 All in favor raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 Next item, please.

25



1 Related Item:

2 ITEM 5A

3 1700 Breckenridge Street, 1.157+ acres

Consider approval of final development plan.

4 Applicant: Barney Lain's Auto Mart, J.E.D. Rentals  
Family Partnership, LTD

5

6 MR. NOFFSINGER: Mr. Chairman, this

7 development plan has been reviewed by the Planning

8 Staff and the Engineering Staff. It's found to be in

9 order.

10 There is an existing building that's

11 located on the property. The property being rezoned

12 is only a portion of the parent tract. It's going to

13 be for general business so that the majority of the

14 building can continue to be used for warehouse space

15 and then a small portion of the building will be used

16 for a furniture store as well as an auction barn and

17 car lot. There are some improvements that are being

18 proposed for the site including paving of a portion of

19 the vehicle use area as well as some landscape

20 requirements along Breckenridge Street. With that

21 it's ready for your consideration.

22 CHAIRMAN: Is anybody here representing

23 the applicant?

24 APPLICANT: Yes.

25 CHAIRMAN: Does anybody have any

1 questions?

2 (NO RESPONSE)

3 CHAIRMAN: Anybody from the audience have  
4 any questions?

5 (NO RESPONSE)

6 CHAIRMAN: If not the Chair is ready for a  
7 motion.

8 MR. ROGERS: Mr. Chairman, motion for  
9 approval.

10 CHAIRMAN: Motion for approval by Mr.  
11 Rogers.

12 MR. HAYDEN: Second.

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

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 Next item, please.

18 ITEM 6

19 614 Poindexter Street, 0.106 acres  
20 Consider zoning change: From B-4 General Business to  
21 R-4DT Inner-City Residential  
22 Applicant: Martha Jones-Foster

23 PLANNING STAFF RECOMMENDATIONS

24 Staff recommends approval because the proposal is  
25 in compliance with the adopted Comprehensive Plan.

Findings of fact in support of this recommendation are

1 as follow:

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

5 2. The current zoning classification of B-4  
6 General Business is not appropriate for the subject  
7 property because the surrounding neighborhood consists  
8 of residential uses;

9 3. The proposed zoning of R-4DT Inner-City  
10 Residential is appropriate for the subject property  
11 because it is currently in use as a single-family  
12 residence and adjoining and surrounding properties are  
13 residential in nature; and

14 4. All urban services are available to the  
15 subject property, including sanitary sewers.

16 MS. WATSON: We'd like to enter this as  
17 Exhibit C into the record.

18 CHAIRMAN: Anybody here representing the  
19 applicant?

20 APPLICANT: Yes.

21 CHAIRMAN: Does anybody on the commission  
22 have any questions of the applicant?

23 (NO RESPONSE)

24 CHAIRMAN: Does anybody from the audience  
25 have any questions of the applicant?

1 (NO RESPONSE)

2 MR. CAMBRON: Motion for approval upon the  
3 Staff's findings of fact 1 through 4.

4 CHAIRMAN: Motion for approval by Mr.  
5 Cambron.

6 MS. DIXON: Second.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11 Next item, please.

12 ITEM 7

13 Portion of 400 Block West 11th Street, 0.07 acres  
14 Consider zoning change: From I-1 Light Industrial to  
15 B-4 General Business  
Applicant: Blue Grass Real Estate Company, LLC

16 PLANNING STAFF RECOMMENDATIONS

17 Staff recommends approval because the proposal is  
18 in compliance with the adopted Comprehensive Plan.

19 This recommendation is made subject to the conditions  
20 and findings of fact that follow:

21 Conditions:

22 1. Submittal and approval of a revised final  
23 development plan for property at 400 West 11th Street.

24 2. Submittal and approval of a final development  
25 plan with notification to adjacent property owners

1 before consolidation of property to 1118 Frederica  
2 Street and prior to issuance of a building permit.

3 3. The final development plan for the property  
4 located at 1118 Frederica Street shall provide a joint  
5 access point to be shared by 1110 Frederica Street and  
6 1118 Frederica Street.

7 Findings of Fact:

8 1. The subject property is located in an  
9 Industrial Plan Area, where general business uses are  
10 appropriate in very-limited locations;

11 2. The subject property consists of only 0.07  
12 acres of land and is proposed to be consolidated to an  
13 adjacent lot fronting on Frederica Street that is  
14 currently zoned B-4 General Business; and

15 3. The zoning of this small portion of property  
16 to allow consolidation to an existing lot is a logical  
17 expansion of existing B-4 General Business zoning that  
18 will not significantly increase the extent of B-4  
19 General Business zoning in the vicinity and will not  
20 overburden the capacity of roadways or other necessary  
21 urban services.

22 MS. WATSON: We'd like to enter this Staff  
23 Report as Exhibit D.

24 CHAIRMAN: Is anybody here representing  
25 the applicant?

1 APPLICANT: Yes.

2 CHAIRMAN: Does anybody on the commission  
3 have a question of the applicant?

4 (NO RESPONSE)

5 CHAIRMAN: Does anybody in the audience  
6 have a question of the applicant?

7 (NO RESPONSE)

8 CHAIRMAN: Chair is ready for a motion.

9 MR. HAYDEN: Make a motion we approve  
10 Condition 1 through 3 and Facts of Finding 1 through  
11 3.

12 MR. CAMBRON: Second.

13 CHAIRMAN: We have a motion for approval  
14 by Mr. Hayden. We've got a second by Mr. Cambron.  
15 All in favor raise your right hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion carries unanimously.

18 Next item, please.

19 -----

20 ZONING CHANGES - COUNTY

21 ITEM 8

22 8171 Jack Hinton Road, 8234 Short Station Road, 142  
23 acres (POSTPONED)

24 Consider zoning change: From A-R Rural Agriculture to  
25 EX-1 Coal Mining

Applicant: Rust Mining, LLC, Dorothy Barnett, Monnie  
Dawson Rev. Living Trust

1 MR. NOFFSINGER: Mr. Chairman, this  
2 application has been considered by this commission in  
3 November. At that time it was postponed with no other  
4 action taken to give the applicants an opportunity to  
5 work out an alternative coal haul route and what came  
6 into question was the use of Short Station Road in the  
7 mining process as well as there was some concerns from  
8 residents in the area about additional mining. The  
9 applicant is here tonight as well as I believe some  
10 adjoining property owners and it's ready for your  
11 consideration.

12 MR. HAYDEN: Mr. Chairman, I think I  
13 should disqualify myself.

14 CHAIRMAN: Be noted that Mr. Hayden is  
15 disqualify himself.

16 MR. ROGERS: Mr. Chairman, I also need to  
17 disqualify myself.

18 CHAIRMAN: Mr. Rogers is disqualifying  
19 himself.

20 Let the record show we have seven members  
21 voting so we still have a quorum.

22 Why don't we start off - - I think, Mr.  
23 Noffsinger, the best thing to do would be to start off  
24 with maybe the report from the applicant on the  
25 situation they had on postponement.

1                   Is somebody here representing the  
2 applicant? Would you mind stepping forward.

3                   MR. ELLIOTT: State your name for the  
4 record, please.

5                   MR. BRANCATO: My name is Frank Brancato.

6                   (MR. FRANK BRANCATO SWORN BY ATTORNEY.)

7                   CHAIRMAN: Mr. Brancato, why don't you  
8 just rather than to go back over things that the  
9 commission and most of the people in the audience are  
10 aware of, I think the sole reason for postponement was  
11 the possibility of your company being able to  
12 negotiate an alternate route for removal of the coal  
13 to a different road through other property owners; is  
14 that correct?

15                   MR. BRANCATO: That's my understanding of  
16 the postponement, yes, sir.

17                   CHAIRMAN: Would you report and just bring  
18 us an up date on that because I think there was, that  
19 was basically the reason that we did the postponement.  
20 So why don't you go ahead and bring us up to date on  
21 that and then we can move forward.

22                   MR. BRANCATO: Yes, sir. I may not have  
23 made myself perfectly clear last time at this hearing.  
24 What I tried to do on this map to modify it is that  
25 what you see in purple has all been zoned for surface



1 mining EX-1. The one property in about the middle of  
2 the map which has crossed marks in orange is zoned,  
3 lease and is in the process of being permitted to use  
4 that road.

5 What we are asking the commission for is  
6 authority to rezone two other properties which are  
7 south of the currently rezoned, currently leased and  
8 in process permitting for surface mining.

9 The suggestion was made, is there another  
10 route out of this property. There are two or were two  
11 potential possibilities. One of which crossed four  
12 different land owners. I visited the one land owner  
13 where property would terminate on Aull Road and they  
14 are not interested in leasing their property. I have  
15 been discussing and negotiating with a land owner to  
16 the east of this property in an area that is not  
17 leased but is currently rezoned and we have not been  
18 able to conclude any negotiations.

19 CHAIRMAN: Thank you for your update.  
20 That's pretty much where we had the postponement in  
21 our last meeting. Mr. Cambron made this proposal, and  
22 I thought it was a very good one, to see if the  
23 different parties could get together and form an  
24 alternate route. So obviously this is not being able  
25 to be worked out so we're at the point of the same

1 proposal which you had at the last meeting which the  
2 staff reported on which they reported a favorable  
3 recommendation, correct?

4 MR. BRANCATO: Yes, sir.

5 CHAIRMAN: At this point in time does  
6 anybody from the commission have any questions?

7 (NO RESPONSE)

8 CHAIRMAN: Does anybody in the audience  
9 have any questions?

10 Step forward, ma'am.

11 MR. ELLIOTT: State your name, please.

12 MS. GRAY: My name is Theresa Gray.

13 (MS. THERESA GRAY SWORN BY ATTORNEY.)

14 MS. GRAY: I'm here tonight with several  
15 issues that I'm still concerned about. You know,  
16 we've been told or what it came up in front of us was  
17 that is a rural area, but there's 51 residents that  
18 live down this Short Station Road that will be  
19 effected one way or another between Jack Hinton Road  
20 and 144. We all have concerns on damages to our homes  
21 which is our life-time investment, but our major  
22 concern is our safety. Short Station is narrow,  
23 windy, hilly road for the coal trucks to travel.  
24 Personally I'm concerned about my safety and my  
25 family's safety in reference to my driveway and my

1 home.

2 Let me point out. I'm right here. Mr.  
3 Brancato said, you know, there will be a short time  
4 that I'll be inconvenienced. Well, I think I'll be  
5 inconvenienced quite awhile considering what all the  
6 acreage that's he's wanting to do and pass in front of  
7 my driveway. I'm concerned about the coal, all the  
8 coal traffic coming in front of my driveway because of  
9 the access road will go from here and out here.

10 I have a grandchild. You know, I'm  
11 concerned about her playing out in the yard.

12 Due to the coal traffic the blasting and  
13 open pits that will be around my house. Mr. Brancato  
14 made reference to the coal dust last time. Well, the  
15 wind usually comes out of southeast which directly  
16 comes where I live. It can't be healthy to breathe  
17 it. Even if I don't open my windows that dust will be  
18 in my house.

19 He said he would water the roads down, but  
20 you can't control when the blast is in the air, when  
21 the coal is blasted.

22 I'm still concerned about how am I going  
23 to be notified on these blasting times. I also would  
24 like to know who's responsible when I have a problem  
25 when I think my safety is in danger, my health and the

1 damages to my home.

2 CHAIRMAN: Thank you. I believe in our  
3 last meeting that Mr. Brancato outlined that, but I'm  
4 sure he'd be happy to give you phone numbers. I think  
5 he gave you several mobile numbers and a direct number  
6 that you could use, but I'm sure he wouldn't mind  
7 doing that again. We will call him back and ask him  
8 to do that for you.

9 MS. GRAY: Yes, sir. Like I said the  
10 issue that I have mainly is the safety part. This  
11 driveway goes in-between Mr. Lampkin and Mr. Dawson.  
12 We have our water and our phone that goes down there.  
13 I'm concerned about losing my phone service and the  
14 water for a time. Like I said I'm not crazy about  
15 drive through a coal mine. My road goes down there.  
16 If there's only one way to do it and that is to move  
17 the road and like I said I will have to go past it.  
18 My family will. My friends will.

19 CHAIRMAN: We're going to bring Mr.  
20 Brancato back.

21 MR. APPLEBY: I've got a question for Ms.  
22 Gray.

23 If I understood this right at the last  
24 meeting, apparently you've got an easement or  
25 right-of-way of some sort to get out there?

1 MS. GRAY: Yes. Yes, we do.

2 MR. APPLEBY: I assume when you bought  
3 your property there was some understanding as to how  
4 that - - this goes across someone else's property.  
5 Obviously, they've got the right to move it and you  
6 must be aware of that.

7 MS. GRAY: No. This was a county road.  
8 We came before Planning & Zoning.

9 MR. APPLEBY: This road that goes to your  
10 driveway is a county road?

11 MS. GRAY: Was an old county road.

12 MR. APPLEBY: It's not county road now  
13 though that I can tell?

14 MS. GRAY: Right.

15 MR. APPLEBY: So it's just an easement  
16 across these people's property?

17 MS. GRAY: Right.

18 MR. APPLEBY: You don't own that easement?

19 MS. GRAY: No, not that I'm aware of. I  
20 still have to get back there and to me it's a scary  
21 thought going through there and my family going  
22 through there.

23 CHAIRMAN: Let's bring Mr. Brancato back  
24 to answer those questions once again if you would.

25 MR. BRANCATO: Wonder if I could address

1 the question that Mr. Appleby raised and show another  
2 map here.

3 I ran title on this area back to 1852. In  
4 1892 this property was part of a large farm which I  
5 have outlined in yellow here. The property was  
6 divided among the Higdon family, two sisters and two  
7 brothers. The brothers taking the southern most  
8 portion of the property. The older brother granted to  
9 the younger brother a right to access this farm area  
10 right here for purposes of farming. That's in an 1892  
11 grant. That's the only record that I could find and  
12 that Jack could find concerning the access to this  
13 property.

14 MR. CAMBRON: Where does she live at now?

15 MR. BRANCATO: She lives here. Now, the  
16 Grays one acre lot was carved out of this  
17 approximately 110 acre tract of land which does have  
18 frontage to Jack Hinton Road.

19 In 1981 when this one acre tract was  
20 carved out, a petition was made to Planning & Zoning  
21 identifying this lane as a county road, but that lane  
22 has never been in the county road system of any  
23 records that I could find.

24 Now, under Kentucky property law, if a  
25 parcel is carved out of a larger tract of land that

1 has access to a county road or a public road, then  
2 that one acre or that carving out of that property can  
3 not obtain an easement by prescription across adjacent  
4 land as long as there was access to a county road. So  
5 what I believe the Grays have is a license and  
6 accommodation to cross this property. Not a  
7 right-of-way or not an easement by description.

8 MR. JAGOE: There's not an easement of  
9 record there, not a prescriptive easement but there's  
10 not an easement of record?

11 MR. BRANCATO: There is no easement of  
12 record. When the one Higdon brother granted to his  
13 second brother the right to access this property, that  
14 right terminated at this point where the second  
15 brother's property began. The Grays' property is back  
16 here.

17 MR. CAMBRON: So where would the easement  
18 to their property originate at this point in time if  
19 this easement is incorrect?

20 MR. BRANCATO: Well, under Kentucky law if  
21 you take 100 acre parcel of land and carve it out, it  
22 would have an easement, a prescriptive easement across  
23 this property to come to Jack Hinton Road. There's no  
24 disagreement among the neighbors. I mean there's an  
25 existing verbal license and accommodation across that

1 property.

2 Also could not find any easement of record  
3 for the water line or the phone line that was  
4 installed along this driveway.

5 MR. APPLEBY: In your opinion the property  
6 owner's obligation is only to provide some means of  
7 access back to this Gray property?

8 MR. BRANCATO: Well, actually the people  
9 who are providing that accommodation have no  
10 obligation to them because the one acre wasn't carved  
11 out of their property and they have access to another  
12 county road from the larger tract from which it was  
13 carved out.

14 Mrs. Gray mentioned coal dust and  
15 unfortunately that term gets thrown around. It's not  
16 coal dust. That's the challenge out there. It's  
17 regular dust. Same kind of dust farms kick up when  
18 they plow and when they harvest and when they  
19 cultivate.

20 We do have equipment to water the roads.  
21 It particularly challenged during a drought in summer  
22 seasons. A number of years ago in the 1988 drought I  
23 was mining in Henderson County, Kentucky. During the  
24 height of the drought I was putting 120,000 gallons of  
25 water on the road a day which seemed incongruous to



1 me, but that's what we were obligated to do. So I was  
2 pulling water out of the Green River at the very time  
3 power plants along the Green River were starving for  
4 water. So we do water our roads regularly.

5 The areas we are not able to water is the  
6 physical area that were mined. It's not possible to  
7 water in those areas, but those are not the areas that  
8 generate objectionable dust. It's the haul roads and  
9 the movement of the coal and the overburden along the  
10 haul roads.

11 In terms of blasting notices. Everyone  
12 within a mile of the property will receive a certified  
13 letter 30 days before blasting will commence. In that  
14 letter there will be a proposed blasting schedule.  
15 It'll also be published three times in the  
16 Messenger-Inquirer 30 days before blasting will  
17 commence.

18 Now, in addition the blasting operations  
19 require audible alarms at five minutes, three minutes  
20 and one minute before the explosives are detonated.  
21 Those alarms are using an air horn which can be heard  
22 for a minimum of three-quarters of a mile and there  
23 are three short blasts, two long blasts and one very  
24 long blast which is an all clear sign to let people  
25 know about the forthcoming detonation.

1 I think I answered the questions, but I'm  
2 not sure if there was another one.

3 CHAIRMAN: And then give her once again  
4 the phone number. She was concerned about who to  
5 call, how to locate. I believe you had given her your  
6 cell phone number.

7 MR. BRANCATO: I'd be glad to do that  
8 after the hearing again. All of these numbers are  
9 posted on the signs at the entrance to the mine as  
10 required by federal and state law.

11 CHAIRMAN: Thank you.

12 Does anybody from the commission have any  
13 questions for Mr. Brancato before he leaves?

14 (NO RESPONSE)

15 CHAIRMAN: Thank you.

16 Does anybody else from the audience have  
17 anything different that they would like to bring up  
18 that we haven't covered?

19 Yes, ma'am, you've got something different  
20 that we haven't covered?

21 MR. ELLIOTT: State your name, please.

22 MS. KUYKENDALL: Janell Kuykendall.

23 (MS. KUYKENDALL SWORN BY ATTORNEY.)

24 MS. KUYKENDALL: I know Russ Mining are  
25 the ones that's going to be doing this mining. If

1 I've missed it, who will be doing the blasting? What  
2 company will be doing that?

3 CHAIRMAN: Let's bring Mr. Brancato back  
4 up to answer that question. Do you have any other  
5 questions or is that it?

6 MS. KUYKENDALL: I think that's it.  
7 Everything other than safety issues, the water, the  
8 phone. The right-of-way that they have to their  
9 property is straight across from mine which I know.  
10 When I had my phone turned on they told me that's  
11 where it lays at. Same issues. If I'm without phone  
12 or without water, I guess they're going to bring me  
13 phone or bring me some water to use. I don't know.

14 CHAIRMAN: Well, let's have him answer  
15 that question that you have.

16 MR. BRANCATO: I think there's a  
17 misunderstanding here. What Ms. Gray is concerned  
18 about is that we will be crossing the lane that they  
19 now use as the driveway. That is not the area where  
20 the coal will be coming out which would affect, which  
21 I believe she believes would affect her property.

22 Did I state that right? That's not where  
23 the coal haul is going to be. What the Grays are  
24 concerned about is that we're simply going to be  
25 crossing in the north/south direction, the road that

1 runs east/west.

2 In terms of who would be doing the  
3 blasting; well, Russ will be responsible for the  
4 blasting. Currently we're using what's called Down  
5 Hole Service where we hire a license blasting company  
6 to come in and load the holes with ammonia nitrate and  
7 fertilizer and then we detonate that mixed  
8 combination. The company we're currently using is  
9 called Kentext, Inc.

10 MR. APPLEBY: One question. On your use  
11 of Short Station Road, is it the county and the state  
12 that permit the use of Short Station to haul coal?  
13 Who do you go to to get that permission?

14 MR. BRANCATO: We actually go through  
15 both, but the bond and maintenance agreement that we  
16 would enter into would be with the county for Short  
17 Station Road. You would also ordinarily enter into a  
18 similar agreement with the state for use of a Kentucky  
19 highway until 50,000 tons are hauled across that  
20 highway.

21 Kentucky 144 has already crossed that  
22 threshold and it is in what is called the extended  
23 weight program. So that by purchasing a special  
24 license from the Transportation Cabinet, you're  
25 authorized to haul on that road. We report that

1 tonnage every month to the state.

2 A portion of our revenue stream then is  
3 paid to the state for maintenance of Kentucky 144.  
4 Approximately \$200,000 a year is paid to the county  
5 for the maintenance on Short Station Road or I assume  
6 they would do that. Don't want to expect or predict  
7 what the county would do.

8 MR. CAMBRON: Can you again show me, Mr.  
9 Brancato, show me on the other map there exactly where  
10 you're going to be hauling from and down which roads  
11 there and give me some direction there again, please?

12 MR. BRANCATO: The lane that the Grays are  
13 concerned about is right here.

14 MR. CAMBRON: Right. Then we go to a  
15 county road, right?

16 MR. BRANCATO: Well, the green line shows  
17 the county road, but the proposed exit point for the  
18 haul road is up here.

19 MR. CAMBRON: And that county road is?

20 MR. BRANCATO: Short Station Road. Once  
21 upon a time it was called Boston Road. We would  
22 follow Short Station Road north to Highway 144 and  
23 there are 19 homes between this point and 144.

24 MR. CAMBRON: And what's the distance  
25 between the exit here onto the county road to 144?

1 MR. BRANCATO: Just under a mile and a  
2 half.

3 MR. CAMBRON: Okay. That's all I need.

4 CHAIRMAN: Yes, ma'am.

5 MS. GRAY: My question is: When we bought  
6 the property from my dad it was a county road and it  
7 shows on our plat that it was an old county road. We  
8 had to become before this Planning & Zoning and sign a  
9 waiver that they would no longer maintain it.

10 CHAIRMAN: Mr. Brancato would not have the  
11 answer to that question. I think Mr. Noffsinger.

12 Mr. Noffsinger, in regards to her question  
13 about the status of this road whether it be a  
14 right-of-way or a former county road that was turned  
15 over to residents, can you answer that question?

16 MR. NOFFSINGER: No, sir. Only thing I  
17 can state is that there is a plat. That plat was  
18 approved. The plat makes reference I believe to an  
19 old county road not maintained by the public and  
20 that's the only information we have. They did not  
21 survey any right-of-way for that road. The lot, the  
22 lot in question was surveyed, but there's only a  
23 reference made to this passageway, if you will.

24 MR. APPLEBY: If there's some question as  
25 to whether or not they have legal access to a county

1 road, that's a legal question that has to be resolved.  
2 That's not something that we - - it's not in our  
3 proof.

4 MS. GRAY: Okay.

5 CHAIRMAN: I think everybody has had their  
6 say.

7 Yes, ma'am. Would you like to say  
8 something we haven't covered?

9 MR. ELLIOTT: State your name for the  
10 record, please.

11 MS. BAISDEN-WADE: Cheryl Baisden-Wade.

12 (MS. BAISDEN-WADE SWORN BY ATTORNEY.)

13 MS. BAISDEN-WADE: I live at 8065 Jack  
14 Hinton Road. I just have one question I guess for the  
15 commission.

16 We've tried to - - we want to know if  
17 anybody knows what the noise ordinance is for the  
18 county? We tried to contact Reid Haire's office and  
19 he told us to call Criminal Division of the County  
20 Attorney's office. We've left messages for two weeks  
21 and nobody will return our call. We're mainly  
22 concerned about noise when dozers are running all  
23 night long, which is right next to our property, and I  
24 guess the blasting also.

25 CHAIRMAN: Mr. Noffsinger.

1 MR. NOFFSINGER: I'm not aware of any  
2 noise ordinance. The county may have. Now, they may  
3 very well have one and you would need to contact Mr.  
4 Bob Kirtley. He's the county attorney.

5 MS. BAISDEN-WADE: We couldn't get a  
6 response from him in two weeks.

7 MR. NOFFSINGER: I would knock on his  
8 door.

9 CHAIRMAN: Does anybody else have any  
10 areas or any concerns we have not covered in the last  
11 two meetings?

12 Yes, sir. Please step to the podium.

13 MR. ELLIOTT: State your name, please.

14 MR. HAMILTON: James Hamilton.

15 (MR. JAMES HAMILTON SWORN BY ATTORNEY.)

16 MR. HAMILTON: I'm the land owner on Short  
17 Station Road also up there. That joining where Aull  
18 Road is suppose to come out onto Short Station Road.  
19 It's in this 22 houses to be concerned when - - I'm  
20 not against improvements or whatever, but what I would  
21 like to know is why they can't make a new haul road  
22 across the back of the property instead of using Short  
23 Station Road because it will not hold up very long. I  
24 was working with Lanham Coal, United Coal and that  
25 Aull Road it was a continuous mess. They didn't haul



1 very long until the blacktop was gone and they had  
2 nothing but a gravel road. They watered pretty good,  
3 but you go through there you'll hate to take a white  
4 car because it won't be white when you drive a mile on  
5 it. And this won't be any different. But if it could  
6 be possible to go through on the back side and come  
7 out from Hayden, Pedley, the Aud farm, and I don't  
8 know who, onto 144. It would be possible maybe. I'd  
9 just like for them to think about it, and against the  
10 cost of widening Short Station, rebuilding it back and  
11 keeping it up against making a road back there which  
12 they could when they get through with coal they could  
13 eliminate it by putting the top soil back on it and  
14 putting grass back on it. If that would be  
15 possible. I don't know. I've worked for - - well,  
16 I'm a truck driver. Not a good one, but I can get  
17 there and back. Nevertheless I've hauled tons of rock  
18 on Aull Road to keep it up. There's three houses  
19 concerned on that road. The link from 144 back to the  
20 Allen place.

21 On our road now we've got 22 of the  
22 driveway where I presume they're going to come out on  
23 Short Station Road.

24 In all consideration I'd just like for  
25 them to, if they could, go as far as they can towards

1       figuring out an alternate route.

2                   CHAIRMAN: Well, we did have a  
3       postponement so they could try to work out an  
4       alternate route, but I'll have Mr. Brancato address  
5       that. You must have been a pretty successful truck  
6       driver. You're still with us.

7                   MR. HAMILTON: Well, I'm 78 years old.

8                   CHAIRMAN: That's what I mean. You've  
9       answered the roll call quite a few times.

10                  MR. HAMILTON: Let me mention one more  
11       thing. That road at one time was Boston Road, but the  
12       old Bost Road is where they live. That wasn't  
13       original Short Station Road where I had the farm out  
14       there. Well, we've still got it. Short Station Road  
15       goes here. The old road went down through a holler  
16       and across the Payne place to where they live on into  
17       the Jack Hinton Road. Now, that's been done away with  
18       years. I know it has a long time, but it was Boston  
19       Road, but the original Short Station Road was not  
20       Boston Road.

21                  CHAIRMAN: Well, the road system really  
22       doesn't come under anything that we're ruling on here.  
23       That's nothing we really control. That would be the  
24       county, depends on whether it's a county road or a  
25       state road. I will bring Mr. Brancato back to answer

1 your suggestion and question.

2 MR. HAMILTON: If he can it's good for all  
3 people concerned.

4 CHAIRMAN: I think you've got a suggestion  
5 question and we'll get him back to address it. Thank  
6 you.

7 MR. BRANCATO: The road that he's talking  
8 about would start in Payne's lane. It's still shown  
9 on this map here. That was a public road. In  
10 Kentucky public roads connect I think one county road  
11 to another county road. It's one of the requirements  
12 to be a public road. A road that goes to somebody's  
13 house is a private road or private lane. At some  
14 point in time over the last 90 years, this public road  
15 fell into disuse. Once it falls into disuse it  
16 reverses to the landowner. It's no longer available  
17 as a public road. This is one of the landowners we  
18 are talking with and that would be the approximate  
19 location if we could make an agreement with him, but  
20 we have not made that agreement. The other route is  
21 the very route that we talked about last month which  
22 brought about the postponement. Yes, it's possibly,  
23 physically possible but it's not legally possible  
24 without the owner's approval and permission and we  
25 don't have two landowners approval.

1 CHAIRMAN: Thank you.

2 Do we have any other questions of the  
3 commission?

4 (NO RESPONSE)

5 CHAIRMAN: Any other issues from the  
6 audience?

7 (NO RESPONSE)

8 CHAIRMAN: The Chair is ready for a  
9 motion.

10 MR. APPLEBY: Mr. Chairman, I sympathize  
11 with these folks about the use of Short Station and  
12 it's not a good road I don't feel like, but that's an  
13 issue that's best taken up probably with the county as  
14 we don't permit the use of the road. I don't see that  
15 we have any grounds to deny this application as it is  
16 in compliance with the Comprehensive Plan.

17 So I would make a favorable recommendation  
18 based on the Staff's Recommendations and Findings of  
19 Fact 1 through 6 and the condition.

20 CHAIRMAN: Mr. Appleby has made a motion  
21 for proposal.

22 MR. CAMBRON: Second. I agree with what  
23 Mr. Appleby said. You know, we can only do so much  
24 here. It's not our place, but we'll see what happens.  
25 It'll have to go before the county now.

1                   CHAIRMAN: We've got a motion for approval  
2                   by Mr. Appleby. A second by Mr. Cambron. All in  
3                   favor raise your right hand.

4                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5                   CHAIRMAN: Motion carries unanimously.

6                   Next item, please.

7                   ITEM 9

8                   Portion 2714 US 60 East, 1.106 acres  
9                   Consider zoning change: From B-4 General Business and  
10                  R-3MF Multi-Family Residential to B-4 General Business  
11                  Applicant: Charalambos "Harry" Pavlas, Nicholas  
12                  Pavlas

13                  MR. NOFFSINGER: Mr. Chairman, the  
14                  applicant I believe is represented here tonight and  
15                  may agree to a postponement of this item tonight. At  
16                  this point the Staff is recommending that this item be  
17                  postponed until the next meeting so that we can deal  
18                  with some issues related to the future development of  
19                  this property.

20                  CHAIRMAN: Does the applicant agree?

21                  MR. ELLIOTT: State your name, please.

22                  MR. PENCE: Jack Pence.

23                  (MR. JACK PENCE SWORN BY ATTORNEY.)

24                  MR. PENCE: The applicant, the main  
25                  applicant he is out of the country at this time. His  
26                  brother did assure me that he would be here and I see  
27                  that he's not. So I'm not sure that I'm in a

1 position. I prepared the application. I'm not sure  
2 if I'm in a position to answer for the applicant.

3 MR. NOFFSINGER: Are you in a position to  
4 speak for the applicant in terms of should we move  
5 forward with this zoning change?

6 MR. PENCE: From an engineer standpoint,  
7 yes. The fact that there is a question about the  
8 access point, the number of access points and with  
9 those access points, I personally would be favorable  
10 of a postponement to discuss those and look at the  
11 overall development plan prior to rezoning.

12 CHAIRMAN: So, Mr. Pence, on behalf of the  
13 applicant you acting as engineer will accept or do  
14 want to propose a postponement of this issue, correct?

15 MR. PENCE: Since he's not here, I think I  
16 will be in a position to do that.

17 CHAIRMAN: Okay.

18 Mr. Noffsinger, I believe we have a  
19 postponement.

20 MR. NOFFSINGER: We'll need to vote on a  
21 postponement.

22 MS. DIXON: Move to postpone.

23 CHAIRMAN: Ms. Dixon makes a motion for  
24 postponement.

25 MR. APPLEBY: Second.

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

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.

5 Next item, please.

6 -----

7 COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISION

8 ITEM 10

9 Bertha Goetz Estate, 24.358 acres  
10 Consider approval of amended combined major  
11 subdivision preliminary plat/final development plan.  
12 Applicant: Bertha Goetz Estate, c/o Jim Goetz

13 MR. NOFFSINGER: Mr. Chairman, this plan  
14 is in order. Has been reviewed by the Planning Staff  
15 and the Engineering Staff and ready for your approval.

16 CHAIRMAN: Is there anybody here  
17 representing the applicant?

18 APPLICANT: Yes.

19 CHAIRMAN: Does anybody on the commission  
20 have any questions of the applicant?

21 (NO RESPONSE)

22 CHAIRMAN: Anybody from the audience?

23 (NO RESPONSE)

24 MR. APPLEBY: Motion for approval.

25 CHAIRMAN: Motion for approval by Mr.  
Appleby.

1 MR. JAGOE: Second.

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

7 DEVELOPMENT PLAN

8 ITEM 11

9 4617 Sutherland Road, 2.30 acres  
10 Consider approval of amended final development plan.  
11 Applicant: Sports Warehouse, Steve Aull

12 MR. NOFFSINGER: Mr. Chairman, this plan  
13 is in order. Has been reviewed by the Planning Staff  
14 and Engineering Staff and is ready for your  
15 consideration.

16 CHAIRMAN: Is anybody - - I believe I see  
17 the applicant.

18 APPLICANT: Yes.

19 CHAIRMAN: Does anybody on the commission  
20 have any questions of the applicant?

21 (NO RESPONSE)

22 CHAIRMAN: Anybody from the audience?

23 (NO RESPONSE)

24 CHAIRMAN: Chair is ready for a motion.

25 MR. ROGERS: Motion for approval.

CHAIRMAN: Motion for approval by Mr.



1 Rogers.

2 MS. DIXON: Second.

3 CHAIRMAN: Ms. Dixon had a second. All in  
4 favor raise your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item, please.

8

-----  
9 MAJOR SUBDIVISIONS

10 ITEM 12

11 Bertha Goetz Estate, Unit #4, (Lot #8-A) 1.00 acres  
12 Consider approval of major subdivision final plat.  
13 Surety (Certificate of Deposit) posted: \$6,375.00  
14 Applicant: Bertha Goetz Estate, c/o Jim Goetz

15 MR. NOFFSINGER: Mr. Chairman, this  
16 application is in order. Has been reviewed by the  
17 Planning Staff and Engineering Staff and ready for  
18 your consideration.

19 CHAIRMAN: Anybody here representing the  
20 applicant?

21 (NO RESPONSE)

22 CHAIRMAN: Any questions from the  
23 commission or audience?

24 (NO RESPONSE)

25 CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve.

1 CHAIRMAN: Motion by Ms. Dixon for  
2 approval.

3 DR. BOTHWELL: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, please.

9 ITEM 13

10 Brookhill Estates, Unit #11, (Lots #107-108, 110, 111,  
113-117), 3.853 acres

11 Consider approval of major subdivision final plat.

12 Surety (Certificate of Deposit) posted: \$1,000.00

13 Applicant: Brookhill Estates, Inc.

14 MR. NOFFSINGER: Mr. Chairman, this plan  
15 is in order and ready for your consideration.

16 CHAIRMAN: Anybody here representing the  
17 applicant?

18 (NO RESPONSE)

19 CHAIRMAN: Any questions from the  
20 commission or audience?

21 (NO RESPONSE)

22 CHAIRMAN: Chair is ready for a motion.

23 MS. DIXON: Move to approve.

24 CHAIRMAN: Approval by Ms. Dixon.

25 MR. HAYDEN: Second.

CHAIRMAN: Second by Mr. Hayden. All in

1 favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item, please.

5 ITEM 14

6 The Landings of Heartland, Phase 2 (Lots #283-303),  
4.671 acres

7 Consider approval of major subdivision final plat.  
Surety (Certificate of Deposit) posted: \$10,111.60  
8 Applicant: Jagoe Development Corporation

9 MR. NOFFSINGER: Mr. Chairman, this  
10 application is in order and ready for your  
11 consideration.

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

14 CHAIRMAN: Mr. Jagoe is disqualified.

15 Any questions from the audience or  
16 commission?

17 (NO RESPONSE)

18 MR. CAMBRON: Move for approval.

19 CHAIRMAN: Approval by Mr. Cambron.

20 DR. BOTHWELL: Second.

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimously.

25 Next item, please.

1 ITEM 15

2 Plantation Pointe, Unit #1, 1.734 acres  
3 Consider approval of major subdivision final plat.  
4 Applicant: Steve Baker Building, LLC

5 MR. NOFFSINGER: Mr. Chairman, this plat  
6 is in order and ready for your consideration.

7 CHAIRMAN: Anybody here representing the  
8 applicant?

9 (NO RESPONSE)

10 CHAIRMAN: Questions from the audience or  
11 commission?

12 (NO RESPONSE)

13 CHAIRMAN: Chair is ready for a motion.

14 MR. HAYDEN: Make a motion for approval.

15 CHAIRMAN: Motion for approval by Mr.  
16 Hayden.

17 SISTER VIVIAN: Second.

18 CHAIRMAN: Second by Sister Vivian. All  
19 if favor raise your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 Next item, please.

23 -----

24 MINOR SUBDIVISION

25 ITEM 16

11757 Red Hill-Maxwell Road, 1.934 acres

1 Consider approval of minor subdivision plat.  
Applicant: Jennifer Carter

2

3 MR. NOFFSINGER: Mr. Chairman, this plat  
4 comes before the Planning Commission because it  
5 exceeds the three to one depth to width ratio;  
6 however, this lot was created in 1991 by a deed. The  
7 property has been transferred several times since that  
8 time and the adjoining properties and the farm that  
9 this property came out of are now under different  
10 ownership. Because the property was created by deed  
11 in 1991 it would have met the requirements of the  
12 subdivision regulations at this point. Staff would  
13 recommend that you approve this plat as an exception.

14 CHAIRMAN: Anybody here representing the  
15 applicant?

16 (NO RESPONSE)

17 CHAIRMAN: Does anybody on the commission  
18 have any questions?

19 (NO RESPONSE)

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

22 MR. APPLEBY: Motion for approval.

23 CHAIRMAN: Motion for approval by Mr.  
24 Appleby.

25 MR. JAGOE: Second.

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

3                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4                   CHAIRMAN: Motion carries unanimously.

5                   Next item.

6 -----

7                   SURETY RELEASES

8                   ITEM 17

9                   Creek Haven, Unit #1, \$8,738.80  
10                  Consider release of surety (Certificate of Deposit)  
11                  for streets.  
12                  Surety posted by: Creek Haven Development, Inc.

13                  ITEM 18

14                  Hagan's Outdoor Equipment, \$2,077.00  
15                  Consider release of surety (Certified Check) for  
16                  landscaping  
17                  Surety posted by: Hagan's Saw Shop, Inc.

18                  ITEM 19

19                  Mount Moriah Holdings Development, \$9,000.00  
20                  Consider release of surety (Performance Bond) for  
21                  landscaping  
22                  Surety posted by: Mount Moriah Holdings

23                  ITEM 20

24                  Office Building (1200 Breckendridge Street) \$11,402.00  
25                  Consider release of surety (Performance Bond) for  
26                  landscaping  
27                  Surety posted by: Shanti Construction Co.

28                  ITEM 21

29                  Bob Roberts Auto Sales, \$2,333.00  
30                  Consider release of surety (Certified Check) for  
31                  landscaping  
32                  Surety posted by: RKR, Inc.

33

1       ITEM 22

2       Sleep Inn, \$12,832.50  
3       Consider release of surety (Performance Bond) for  
4       landscaping  
5       Surety posted by: D.F. Crane Construction Corp.

6                   MR. NOFFSINGER: Under Surety Releases  
7       Items 17 through 22 are in order and may be released  
8       in toto.

9                   CHAIRMAN: Chair is ready for a motion.

10                  MS. DIXON: Move to approve.

11                  CHAIRMAN: Motion for approval by Ms.  
12       Dixon.

13                  MR. APPLEBY: Second.

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

16                  (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17                  CHAIRMAN: Motion carries unanimously.

18                  Next item, please.

19                  -----

20                                   NEW BUSINESS

21       ITEM 23

22       Consider the filing Deadlines and Meeting Dates  
23       Schedule for the OMPC and OMBA calendar year of 2002.

24                   MR. NOFFSINGER: Each commissioner has  
25       been mailed a copy of this calendar and Planning Staff  
26       recommends that you approve this calendar for the next

1 year.

2 CHAIRMAN: Any questions by any of the  
3 commissioners?

4 DR. BOTHWELL: I have a question. One of  
5 the meetings is set on Valentine's Day.

6 MR. NOFFSINGER: Bring your sweetheart.

7 CHAIRMAN: What's the question, Dr.  
8 Bothwell?

9 MR. BOTHWELL: Should we amend that  
10 meeting date? I think there might be some reason to  
11 do that.

12 CHAIRMAN: Does anybody else have any  
13 other comments they'd like to share with us at this  
14 time?

15 (NO RESPONSE)

16 DR. BOTHWELL: I can see I'm not getting  
17 any support. Okay.

18 MR. APPLEBY: Motion to approve the  
19 calendar.

20 MR. HAYDEN: Second.

21 CHAIRMAN: We have a motion by Mr. Appleby  
22 including February 14th. Second by Mr. Hayden. All  
23 in favor raise your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: The motion carried unanimously.



1                   I believe we're at the point where we're  
2 ready for one final motion.

3                   SISTER VIVIAN: I move that we adjourn.

4                   CHAIRMAN: Sister Vivian says motion for  
5 adjournment.

6                   MR. CAMBRON: Second.

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

9                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10                  CHAIRMAN: Meeting is adjourned.

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

3 I, LYNNETTE KOLLER, Notary Public in and for  
4 the State of Kentucky at Large, do hereby certify that  
5 the foregoing Owensboro Metropolitan Planning & Zoning  
6 meeting was held at the time and place as stated in  
7 the caption to the foregoing proceedings; that each  
8 person commenting on issues under discussion were duly  
9 sworn before testifying; that the Board members  
10 present were as stated in the caption; that said  
11 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 49 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this  
17 the 3rd day of January, 2002.

18  
19

\_\_\_\_\_  
LYNNETTE KOLLER, NOTARY PUBLIC  
OHIO VALLEY REPORTING SERVICE  
202 WEST THIRD STREET, SUITE 2  
21 OWENSBORO, KENTUCKY 42303

22 COMMISSION EXPIRES:  
23 DECEMBER 19, 2002

24 COUNTY OF RESIDENCE:  
25 DAVIESS COUNTY, KENTUCKY