The Owensboro Metropolitan Planning Commission met in regular session at 6:00 p.m. on Thursday, June 9, 2005, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

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

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CHAIRMAN:  I would like to call the Owensboro Metropolitan Planning Commission June 9, 2005 meeting to order. Our invocation and prayer will be given by Mr. Brian Howard.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business will be to consider the minutes of May 12, 2005. Are there any additions, corrections?

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

MS. DIXON: Move to approve.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, Mr. Noffsinger.

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ZONING CHANGES - CITY

ITEM 2

1844 Willis Avenue, 1919, 1925 James David Court, 0.319 acres

Consider zoning change: From R-4DT Inner-City Residential to B-4 General Business

Applicant: David & Joyce Simpson

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

MR. HOWARD: Brian Howard.

(MR. BRIAN HOWARD SWORN BY ATTORNEY.)

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

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following:

Conditions:

1. Install a 10 foot landscape easement along adjoining residentially zoned properties with one tree every 40 linear feet and a continuous 6 foot high planting, hedge, fence, wall or earth mound.

2. Install curb and gutter and sidewalks along the entire frontage of the subject property.

3. A consolidation plat and site plan must be approved prior to the issuance of any building permits.

Findings of Fact:

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

2. The proposal is a logical expansion of existing B-4 General Business zone and use immediately west of the subject property; and,

3. Expansion of the contiguous B-4 General Business zone should not significantly increase the extent of the B-4 General Business zone within the area 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 as Exhibit A.

CHAIRMAN: Is there anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody from the commission have any questions?

(NO RESPONSE)

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

DR. BOTHWELL: Motion for approval based on Conditions 1 through 3 and Findings of Fact 1 through 3.

CHAIRMAN: Motion for approval by Dr. Bothwell.

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.

ITEM 3

902 West Second Street, 0.122 acres

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Consider zoning change: From B-4 General Business to R-4DT Inner-City Residential
Applicant: Bradley D. Hutchins

PLANNING STAFF RECOMMENDATIONS

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

Condition:

Access to the subject property shall be limited to Poplar Street only with no direct access to West Second Street.

Findings of Fact:

1. The subject property is partially located in a Central Residential Plan Area, where urban mid-density uses are appropriate in general locations and partially located in a business plan area where urban mid-density uses are appropriate in limited locations,

2. Sanitary sewers are currently existing in the vicinity;

3. The proposal is a logical expansion of existing R-4DT Inner-City Residential zone immediately west of the subject property; and,

4. Expansion of the contiguous R-4DT
Inner-City Residential zone should not significantly increase the extent of the zone within the vicinity 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 as Exhibit B.

CHAIRMAN: Is there anybody representing the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody in the audience have any questions?

MS. HIPPS: We do on the first one. We didn't know you were asking questions.

CHAIRMAN: Excuse me. If we could get someone to step to the podium.

MR. ELLIOTT: State your name, please.

MS. HIPPS: My name is Wanda Hipps. I own the property to the right of the first --

MR. ELLIOTT: Let me swear you in.

(MS. WANDA HIPPS SWORN BY ATTORNEY.)

MS. HIPPS: The only thing that I wanted to ask or the only thing I question about is is the city going to come back after you all rezone that, are you going to come back and condemn my property, take
my property simply because these people want to add
on?

CHAIRMAN: Mr. Noffsinger, would you
address that question, please.

MR. NOFFSINGER: No, ma'am. That should
not trigger anything on your property in terms of your
ability to continue to live there and have your home
there unless there's some violation there that might
exist, some property maintenance violation or
something like that. This board certainly does not
have any authority over that. That's the City of
Owensboro, through their department. Just for this
re zoning would not trigger anything like that.

MS. HIPPS: What about the people that own
the property, are getting ready to do whatever they're
going to do, are they going to be able to push us out?

MR. NOFFSINGER: No, ma'am.

MS. CARDEN: I have a question.

CHAIRMAN: Yes, ma'am. Step to the
podium.

MR. ELLIOTT: State your name, please.

MS. CARDEN: Misty Coleman.

(MS. MISTY COLEMAN SWORN BY ATTORNEY.)

MS. COLEMAN: I've lived there in the home
that they're referring to and they've never maintained
the property. The business that's planning on moving in, they've also prior before have put their parts belong, pipes, signs, whatever the case may be. They've never maintained it. They have, you know, weeds out of control. It's came over into our property. They've never taken care of it. How do we know that with them bringing their business back that they're going to not do the same thing and let it go out of control for the other homes that is around it?

CHAIRMAN: There is an agency that we can give you the name of that takes care of property maintenance. Mr. Darrell Farmer is the officer that's charged with doing that. We can put you in contact with them if you have any problems. They take care of property maintenance.

MR. JAGOE: Mr. Chairman, you may also point out Condition Number 1.

CHAIRMAN: Go ahead if you would you read that.

MR. JAGOE: They have to install a ten foot landscape easement adjoining any residentially zoned properties that adjoin theirs, which would be a fix foot high continuous planting. I'm assuming that would be next to your property. So there will be some type of screening they would have to install.
MS. HIPPS: They do have a fence and it's nice, the fence that they've got up now. It blocks, you know, the view from the stuff that they do store. I have no problem with the fence that they have there now. It did get out of control fora while really bad.

CHAIRMAN: Two steps. I would recommend you personally contacting the owner. If this that doesn't bring any satisfaction, you can contact Mr. Darrell Farmer. What office is Mr. farmer in?

MR. NOFFSINGER: Community development office.

CHAIRMAN: The community development office.

MS. HIPPS: Thank you.

CHAIRMAN: Does anybody else have any further questions?

MR. NOFFSINGER: Mr. Chairman, I do need to point out for the record that I believe that the lady's last name was Hipps.

MS. HIPPS: Yes.

MR. NOFFSINGER: 1848 Willis Avenue?

MS. HIPPS: Yes.

MR. NOFFSINGER: Your property is zoned B-4 General Business which is the same zone the applicant is asking for. I understand you have a

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residential use of your property; however, it is zoned commercial. In terms of screening --

MS. HIPPS: I have never got a letter or anything, no. I have never got a letter saying it has been rezoned. I'm still paying tax on residential area, tax on that.

MR. NOFFSINGER: Yes, ma'am, I'm sure that you are, but the actual zoning of it appears to be non-residential. That's okay. You can continue to live there. If you have any questions after tonight, you can contact our staff in the planning office. You can talk with Becky Stone to find out the history of that zoning, but I just want to make it clear for the record what your zoning was and that the screening requirements listed in this condition would not apply to this particular property boundary, the fence and the trees, but I understand you do have a fence between you and the property that's being rezoned; is that correct?


MR. NOFFSINGER: Right. At this point in time they're not rezoning that. It's the property to the east of your property.

MS. HIPPS: Is that right?

MR. NOFFSINGER: Well, to the east and to
the south, but the property is to the south front James David Court.

MS. HIPPS: That's still adjacent to my property.

MR. NOFFSINGER: Right. But they're south and east of you is what they're rezoning. Not the lot directly behind you which is already zoned B-4 general business.

CHAIRMAN: Would you like to say something else?

MS. COLEMAN: We have pictures actually showing what she meant by fence. Actually technically it's a sign. It's not even a fence. I don't know if you all want to look at these.

Also what we're saying is they're storing their signs here. They're not taking any type of precaution to keep children and other, you know, neighborhood kids that play because kids get into things. I can tell you growing up there with the signs and stuff they store there, kids are all over it. They get in it. They climb on it. I've seen kids get hurt from it. They fall over into our yard. Again, it's a pest control problem. They don't take care of it at all. We're just saying it's a mess.

CHAIRMAN: Mr. Noffsinger, would you like Ohio Valley Reporting
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MR. NOFFSINGER: Mr. Chairman, I think you've adequately addressed that in terms there is a department that you can contact, the community development department and Darrell Farmer.

MR. COLEMAN: We have called the business people about this and, again, this is stuff that they've left there from years ago. They moved their property down to Second Street or something and they left all of this behind. If they haven't cleaned up anything, how do we know they're going to continue to clean up?

CHAIRMAN: Well, they're in the process of rezoning this property and they're going to do some type of development in that area. So I would think your property would improve dramatically because they wouldn't be coming to do a rezoning without ideas for improving the property. There again, those items are not anything that this board can deal with. We did give you the name of the people that do handle that. They'll be more than happy to accommodate you. I would first recommend that you all personally contact the owner. Then after contacting the owner, give them whatever type of response you get and then move to Mr. Farmer in that community development area.
MS. COLEMAN: Thank you.

CHAIRMAN: Are there any other comments?

(NO RESPONSE)

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

We've already had a motion on that item.

Are we ready for our next item?

MR. APPLEBY: We're waiting for questions and comments.

CHAIRMAN: Do we have questions and comments on Item 3?

(NO RESPONSE)

CHAIRMAN: If we don't have any questions or comments on Item 3, let's go ahead and take a motion on that one.

MR. CAMBRON: Motion for approval, Mr. Chairman, based upon Findings of Fact 1 through 4 and Condition Number 1.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: That motion carries unanimously.

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Next item.

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ZONING CHANGES - COUNTY

ITEM 4

3542, 3554 KY 54, 3630, 3636, 3700, 3710, 3714, 3726
Ralph Avenue, 4.109 acres
Consider zoning change: From R-1A Single-Family
Residential to B-4 General Business
Applicant: Woodlands Investments, LLC

MR. HOWARD: In your packets the Staff
Report recommended a postponement of this rezoning
until a development plan was submitted. We're now
prepared to submit a Staff Report that recommends
approval of the rezoning with some conditions. I'll
read that into the record.

PLANNING STAFF RECOMMENDATIONS

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

Conditions:

1. Access to the subject property shall
be limited to Villa Point only;

2. A 10 foot landscape buffer with one
tree every 40 linear feet and a 6 foot high planting,
hedge, fence, wall or earth mound shall be installed.

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as a buffer along adjoining residentially zoned properties;

3. Villa Point Drive shall be extended to Ralph Avenue;

4. The developer should pursue permanent closure of Ralph Avenue or improve Ralph Avenue according to the options listed below;

Option 1: The Ralph Avenue right-of-way shall be permanently closed from the existing intersection with KY 54 to the south property line of the Immanuel Baptist Church with all expenses the responsibility of the applicant. The applicant shall reconstruct the curb and gutter along KY 54 and remove the entire existing pavement of Ralph Avenue that falls within the KY 54 right-of-way. Finally, the applicant shall improve Ralph Avenue to a 34 foot wide commercial street with curb and gutter and sidewalks from the same south property line of the church, south through the intersection of Villa Point Drive. Improvements "through" Villa Point Drive include widening the southern end of radii at the intersection and tapering from a 34 foot cross-section to the existing cross-section at a speed limit; 1 taper.

Option 2: The applicant shall improve Ralph Avenue from KY 54 through the intersection of Villa Point Drive. This improvement includes widening to the southern end of the radii at the intersection and tapering from the 34 foot cross-section to the existing cross-section at a speed limit; 1 taper.

5. Surety shall be posted for Option 2 with the final plat submittal;

6. If the closure of Ralph Avenue or the improvements for which surety is posted have not been completed within five years of the date of the rezoning public hearing, the surety will be forfeited.

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and the local governing body will complete the
improvements;

7. No building permits shall be issued
until a final development plan is submitted and
approved by the OMPC; and,

8. A preliminary and final subdivision
plat must be submitted for the subject property due to
the extension of public services.

Findings of Fact:

1. The subject property is located in an
Urban Residential Plan Area, where general business
uses are appropriate in very limited locations;

2. The proposal is a logical expansion of
existing B-4 General Business zone immediately west of
the subject property; and,

3. If commitments are made by the
developer to bond improvements to Ralph Avenue
expansion of the contiguous B-4 General Business zone
should not significantly increase the extent of the
zone within the vicinity 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 as Exhibit C.

CHAIRMAN: Do we have anybody representing
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the applicant?

MR. HUTCHINSON: Yes.

MR. ELLIOTT: State your name, please.

MR. HUTCHINSON: Randy Hutchinson and Bill Wilson of Hutchinson, Wilson & Poteat representing the applicant.

(MR. RANDY HUTCHINSON AND BILL WILSON SWORN BY ATTORNEY.)

MR. HUTCHINSON: Mr. Chairman and Gary, we have not seen that. In reading through it quickly, we think everything is okay. Would it be improper for us to maybe ask for ten minutes to look at it in writing so we make sure we understand everything and then we could have a vote at that time. We want to make sure we're in total agreement with everything? Ten minutes will do it for us.

CHAIRMAN: Why don't we do this, could we re-arrange their spot on the agenda rather than make everybody wait ten minutes?

MR. NOFFSINGER: Yes, sir.

CHAIRMAN: Mr. Hutchinson, do you have a copy of the --

MR. HUTCHINSON: No.

CHAIRMAN: We will give you a copy and we will move you to the back par with respect to the Ohio Valley Reporting
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rest.

MR. HUTCHINSON: Absolutely. I didn't mean for everybody to wait.

CHAIRMAN: Does that suit you okay?

MR. HUTCHINSON: Yes. Absolutely.

CHAIRMAN: We will move you from the position you are on the agenda to the last item.

MR. HUTCHINSON: Thank you.

CHAIRMAN: We have a change on the agenda from Item 4 Woodlands Investments and we will now take Item 5.

DEVELOPMENT PLANS

ITEM 5

1120 Woodlawn Avenue, 1100 West 11th Street,
0.464 acres
Consider approval of final development plan.
Applicant: Woodlawn United Methodist Church

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

CHAIRMAN: Do we have anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do we have any questions from the audience or from the commission?
(NO RESPONSE)

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

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

CHAIRMAN: Motion for approval by Mr.
Cambron.

MR. JAGOE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 6

404 East 24th Street, 0.322 acres
Consider approval of final development plan.
Applicant: Alan Jarboe

MR. NOFFSINGER: Mr. Chairman, the
Planning Staff has reviewed this application. We find
the application to be in order; however, the city
engineering department has not completed their review
on this particular item. I would recommend that you
authorize the director to sign this plan once the plan
is in order. I think it's a matter of only putting
some notes on the plan, but those are not on the plan
so we can't formally approve it tonight, but if you
would authorize me to sign the plan, we'll take care
of it as soon as the plan is in order.

CHAIRMAN: Is anybody here representing
the applicant?

MR. JARBOE: Yes.

CHAIRMAN: Do you understand?

MR. JARBOE: Yes.

CHAIRMAN: Just for the record let's get
you sworn in and respond to that, please.

MR. ELLIOTT: State your name, please.

MR. JARBOE: My name is Alan Jarboe.

(MR. ALAN JARBOE SWORN BY ATTORNEY.)

CHAIRMAN: Mr. Jarboe, do you understand
what Mr. Noffsinger said in regards to your proposal?

MR. JARBOE: Yes, I do. That is
acceptable.

CHAIRMAN: Do you have any other comments
or anything you'd like to make?

MR. JARBOE: Not at this time.

CHAIRMAN: With that the chair is ready
for a motion to allow Mr. Noffsinger to sign this
plat.

DR. BOTHWELL: Motion for approval.

CHAIRMAN: Motion for approval by Dr. Bothwell.

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SISTER VIVIAN: Second.

CHAIRMAN: Second by Sister Vivian. 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 7

Olde Stone on Griffith, 1.807 acres
Consider approval of major subdivision final plat.
Surety (Performance Bond) posted: $38,921.00
Applicant: Jagoe Homes, Inc.

MR. NOFFSINGER: Mr. Chairman, this plan is in order and ready for approval.

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

CHAIRMAN: Let the record show that Mr. Jagoe will disqualify himself from this vote.

Is there anybody here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody in the audience have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a
MR. CAMBRON: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Cambron.

MR. APPLEBY: Second.

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

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

CHAIRMAN: Motion carries unanimously.

Next item, please.

MINOR SUBDIVISIONS

ITEM 8

6831, 6845 US 231, 4.372 acres
Consider approval of minor subdivision plat.
Applicant: Lewis & Betty Oldham

MR. NOFFSINGER: Mr. Chairman, this plat becomes before the planning commission as an exception. It does create a lot that will exceed the depth to width radio; however, Staff is recommending it be approved in that no additional lots are being created and this would just add this small area to an existing lot.

CHAIRMAN: Does anybody have any questions?
CHAIRMAN: If not the chair is ready for a motion.

MR. HAYDEN: I make a motion for approval.

CHAIRMAN: Motion for approval by Mr. Hayden.

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.

NEW BUSINESS

ITEM 9

Consider for approval FY '06 OMPC Budget and Salary Chart including proposed increase in filing fees effective July 1.

MR. NOFFSINGER: Mr. Chairman, each member has been mailed a copy of the budget, filing fees and salary chart. Answer any questions that you might have.

CHAIRMAN: Does anybody on the commission have any questions on the budget?

(NO RESPONSE)

CHAIRMAN: Does anybody else have any
questions on the budget?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 10

Amend the Fiscal Year '05 budget.

MR. NOFFSINGER: We're asking that you amend this budget to increase the line item under capital replacement from $16,000 to 27,300. This is for purchase of vehicles. We did purchase one vehicle as budgeted this year; however, we did have one vehicle that was totaled in an accident within the past few weeks and we need to add an additional 11,300 into the budget to replace that vehicle.

CHAIRMAN: This actually just takes place a year ahead of what we already had planned on doing, correct?
MR. NOFFSINGER: Yes, sir. We did take capital replace entirely out of the fiscal year '06 budget.

CHAIRMAN: Are there any other questions?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

MR. NOFFSINGER: Mr. Chairman, at this time I would like to ask Becky Stone to make a presentation in terms of the Owensboro Metropolitan Planning. The building department just went through a rating from the insurance service office. This is a rating that's done nationally of all building inspection programs. I have to say I was very pleased with the outcome. I won't say any more. Would like for Becky to present their findings and what the importance of what that rating actually is.

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MS. STONE: The insurance services office
rates all building departments nationally.
Communities that have a building department. They are
an advisory organization that prepares this data and
makes that available to insurance companies.

Insurance underwriters have been using
their data for years. You're probably all familiar
with the fire department ratings. It make an effect
on your community's insurance rating.

Building departments have not been rated
for a long period of time. That probably started
occurring about ten years ago. We are in our second
cycle of rating.

In 1977 we received, the City of Owensboro
received a rating of 4 on a scale of 1 to 10 with 1
being maximum effectiveness of building codes and
enforcement and 10 being minimum protection for your
community. Daviess County received a six in that same
cycle.

This past rating cycle the City of
Owensboro maintained a 4 rating and Daviess County
actually raised to a 4 rating. So I think that, you
know, part of that can be credited to the planning
department taking over the building permitting and
inspection process for Daviess County. So both the
City of Owensboro and Daviess County are at a 4 now which is a really good rating.

We probably could have gotten a little bit of a higher rating if it weren't for the age of the building code that's adopted in the State of Kentucky. The whole scale of the balance of the score is weighed based on the age of your building code.

In Kentucky, we're in a 2002 Kentucky building code. That's the adopted code and that's mandatory across all jurisdictions for Kentucky. However, it's based on the 2000 international building code. So they rate our building code as being six years old. This is the sixth year. That reduces some of the points we get for that. In fact, the whole balance of the rest of our points is scaled based on that rating on our adopted building code.

So had we gotten all 8 points and gotten 100 percent on that particular item, we would have been well within a three category.

This is the first time Kentucky has gone through a cycle where it's an international building code so they were delayed in their adoption and made some amendments. So we can expect the next rating cycle will have a more current code in Owensboro will increase even further in their rating.

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Some of the areas that I just want to bring to your attention pretty quickly how we -- -- items that we received the maximum number of points on.

Under our administration, of course, we've already talked about the building code and we did not get the maximum points on that. In talking with the field representative, Chris Miller, who did the rating, he said meaning jurisdictions in Kentucky obviously had that same problems based on when they were rating. Many jurisdictions actually decreased a point just because of that adopted building code.

We did get capture significant points and certification of code enforcement personnel, building officials qualification and experience, and zoning provisions that are addressed.

In our plan review, we received the maximum number of points on staffing levels to ensure comprehensive review of construction documents. The comprehensiveness of the plan review, including review of plans prepared by the certified design professionals and also for process for evaluation of substitute products and materials, detailed records of plan review activities and employee performance evaluations.

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In our field inspections, we received maximum amount of points for staffing levels sufficient to assure comprehensive review of building construction, management of inspection and re-inspection activity, records keeping of inspections becoming a part of the permanent record, inspections for natural hazard mitigation, final inspections performed on all buildings, certificates of occupancy issued after construction is completed, and again, employee performance evaluations.

These ratings were for commercial as well as one and two single-family dwelling. So I think the results of this building codes effectiveness rating indicate that we have well qualified plan reviewers, qualified inspectors and administrative support personnel who are doing their jobs effectively and review inspection of all aspects of construction within Daviess County.

The information that's supplied to insurance companies is not mandatory to be used, but we expect that it will be used by underwriters just as the fire ratings are used to reduce the insurance cost in our community.

CHAIRMAN: Thank you very much. At this point in time I'd like to recognize Mr. Brian Howard.
Brian, would you step to the podium, please.

Mr. Howard has passed his American Institute of Certified Planners, the AICP which is the next step of a planner. This also helps our overall rating of the efficiency of our office.

Brian, thank you very much. Job well done. Congratulations.

MR. HOWARD: Thank you.

CHAIRMAN: Mr. Hutchinson, is your group ready at this time?

MR. HUTCHINSON: Yes, Mr. Chairman. We're in full agreement with the Staff's recommendation and would ask the commission to vote approval of it, please.

CHAIRMAN: Thank you very much.

Are there any questions of anybody in the audience?

MR. ELLIOTT: State your name, please.

MR. WALKER: Marty Walker.

(MR. MARTY WALKER SWORN BY ATTORNEY.)

MR. WALKER: I actually have two pieces of property on Ralph Avenue. 3726 and Splash Swim Club at the end of Ralph Avenue. Having seen this for the first time I want to make sure what I'm looking at I
guess fir.

Option 1 you're going to close Ralph Avenue completely. Is that what I'm reading?

CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: Mr. Walker, I'm sorry, I did not prepare that recommendation. In concept there are two plans. One would be either close Ralph Avenue at its intersection with Kentucky 54. If that's not possible, then Ralph Avenue would remain open at its intersection with Kentucky 54. That's option 2, yes.

MR. WALKER: But that would be exclusively at the option of the developer. Does that take into consideration the business at the end of Ralph Avenue?

CHAIRMAN: Mr. Walker, any closing of Ralph Avenue will have to be with all the people that are affected with the closing up to the part of the closing. So is your property within --

MR. WALKER: Mine is at the end of Ralph Avenue.

CHAIRMAN: The closing would only, if I understood that right, Mr. Noffsinger, would be right there at the Villa Point intersection, correct?

MR. NOFFSINGER: No, sir. The closing that's mentioned here would be at the intersection of Kentucky 54, but I can tell you that you being a
landowner on that street, if you're in opposition to that closure, then you do have standing. I think Mr. Hutchinson would tell you that.

MR. HUTCHINSON: No question.

MR. NOFFSINGER: This recommendation is in the absence of a specific plan on what's going to happen now. Keeps the options open for what could happen in the future. It may be that the developers decide we're just going to leave the intersection open. We're going to make the improvements and move forward, but it also gives them the option to say, wait a minute, maybe this is not the best idea. Let's pursue or explore trying to close that intersection. That would be with all the residents that have access to it and have standing. If you're in opposition to it, then I think that's going to make it difficult to close that particular road. The only way it can be closed, since that is currently a county road, would be for the Daviess County Fiscal Court to take action to close that roadway. If the roadway is an annexed into the City of Owensboro, it would be the City Commission taking action to do that.

MR. WALKER: I want to make sure I understand what you're saying. This is not the final decision. There will be another chance to uphold when
the development plan comes in or is this the final
decision?

MR. NOFFSINGER: No, sir. You're right.

This is a final decision of two options that leaves
the options open. There will be another opportunity
to address. Number one, they have to have a
development plan that will come before this commission
for approval. Two, if they're going to close Ralph
Avenue, there will have to be -- they'll have to go
through the closure process which involves a public
meeting and an opportunity for you to address your
concerns.

MR. WALKER: I hope you see my concerns.

Number one, my customers are going to have to go
through a commercial development to get back on a
county road to get to my property. Obviously that's
not the easiest way to get to my business. I don't
know that I like the idea of leaving it to their
decision. I mean it's their discretion if this goes
through; is that correct?

MR. NOFFSINGER: Those are the two options
to leave, I guess, their options open.

MR. WALKER: But it will be their decision
on which way they go?

MR. NOFFSINGER: Yes, but they can only go
with the closure of Ralph Avenue if they're successful
in going through the closure process, which would
involve you and other residents that have property
along that roadway and a decision by a legislative
body. That decision is not going to be made tonight.

MR. WALKER: Can you explain that process
to me now? How does that work?

MR. NOFFSINGER: What takes place, right
now the road is located within the Daviess County
Fiscal Court's jurisdiction. They would have to make
application or request that the Daviess County Fiscal
Court close that roadway. The fiscal court would
appoint a reviewer. They would take a look at it and
have a public meeting. Notify the residents that
adjoin that road, use that road and say, look, what do
you think here. If there's opposition to it, then
they would take that into their decision. I can't
speak for them as to what they might do. Generally
with these types of closings it's been my experience
that if there's opposition the closing doesn't move
forward; however, that may not be the case here.
Again, this is to leave the options open, but it's not
totally at their discretion. First, they should
explore closure, but if that's not possible then they
would have to move to the second option and that would
mean improve Ralph Avenue.

MR. WALKER: What is meant by "improve Ralph Avenue"?

MR. NOFFSINGER: It would be improve to a 34 foot street with curve and gutter.

MR. WALKER: The entire street?

MR. NOFFSINGER: Up to the intersection where Villa Point will intersect Ralph Avenue. At that point it would begin a taper.

MR. WALKER: But it would still be curb and gutter and sidewalk throughout the remainder of Ralph Avenue?

MR. NOFFSINGER: No, sir. The curb and gutter with sidewalks would stop at the intersection.

MR. WALKER: You realize Villa Point, from 54 to Villa Point you're only talking maybe, I don't know, 30 yard, 40 yards, 50 yards..

MR. HUTCHINSON: 430 feet.

MR. APPLEBY: The thinking typically is though that the traffic, the reason they're going to have to improve that intersection is their traffic out of that commercial development is going to utilize that section of the road. They're going to come out and turn that way and go back to 54. We're not expecting all that commercial traffic to come out of
Villa Point Drive and turn to go to Splash; although you might want them to.

MR. HUTCHINSON: Where it dead ends.

MR. WALKER: I understand what they want. I'm just explaining my side and this is I guess my one opportunity to voice my concerns.

MR. CAMBRON: I don't think this is your one opportunity, if they pursue that. It may come about they may not even pursue closing that. It may be better for them to just do the improvements right now.

MR. WALKER: It's awful hard for me to sit here and agree to something when there's no claim, there's nothing to look at. I don't know what I'm agreeing to. Obviously I have concerns. I don't know if you all do, but I do.

CHAIRMAN: Mr. Walker, when the Staff wrote up these agreements for the future, you and all the property owners are written into the agreement; whereas, they have the option to pursue closure. That doesn't mean they get closure. They have the opportunity to pursue closure or improve the road up to their point. They are posting bonding right now where if they do not -- if they're not successful with closure, then the road will be improved either at
their expense or the county or the city, whoever is
the domain at that Ralph Avenue is at that time. The
funding will be turned over to them and they will
improve it.

MR. WALKER: Beyond the road issue, what
about utility and sewer? Are they being addressed
here at all? I mean Ralph Avenue currently is not on
sewer.

DR. BOTHWELL: That doesn't fall under our
your jurisdiction I don't think. All we're doing is
zoning. You know, that's RWRA.

MR. WALKER: You all don't take that into
consideration?

DR. BOTHWELL: I'm sure it has some play.

MR. WALKER: That's not taken into
consideration?

MS. STONE: The application on the zoning
change has proposed an extension of sanitary sewer to
serve the subject property that's being zoned. So on
the development plan, those plans to construct that
sewer will have to be included on that preliminary
plat development plan.

MR. WALKER: So that means that there's
potential access for other property along 54 or Ralph
Avenue?
MS. STONE: RWRA will review the preliminary plat. There may be an opportunity for properties on Ralph Avenue. I don't know. That would be a question for the Regional Water Resource Agency.

MR. CAMBRON: To answer that question for you. They're going to bringing it up to the property that they're rezoning. Then what happens from there depends on how they're going to run those sewers from there.

MR. WALKER: Typically I would think that as part of this development you would take into consideration the adjoining properties. I think that would just be a natural, and I'm sure it normally is. I don't know.

MR. CAMBRON: You talking about on sewer?

MR. WALKER: Yes, sewer.

MR. CAMBRON: We don't have anything to do with that.

MR. WALKER: You don't take sewer into consideration?

MR. APPLEBY: We don't require them to provide sewer service for the adjoining property, no.

MR. WALKER: I'm saying provide access to the sewers.

MR. APPLEBY: That's what the RWRA does.
CHAIRMAN: Mr. Hutchinson, thanks for waiting. I know you want to respond to some of the questions.

MR. HUTCHINSON: Let me defer to Gary. I think he and I were maybe going to say the same thing.

MR. NOFFSINGER: Perhaps so. For the record, the idea of closing Ralph Avenue at this intersection with Kentucky 54 did not originate with the Planning Staff. I do not believe it originated with the applicant. That idea came from the city engineering office in the review of this application. I don't want anyone to think that the applicant is pushing for that. That was an option that was left open to them.

Secondly, there will be opportunity to --

CHAIRMAN: Wait a minute, Mr. Noffsinger.

Mr. Hutchinson, would you confirm that.

MR. HUTCHINSON: That is correct. Even to take a step further if it solves anything we have no problem taking that option even out. That was not our intent to try to Ralph Avenue. We can take it out or leave it in there. I certainly want the record to be clear we can't just -- that doesn't empower us, Marty, to close that road.

MR. WALKER: The option is going to be
voted on tonight.

MR. HUTCHINSON: Just that's an option. We have no reason to do it. If the commission or you want to take it out, we can take it out. Number 2 is the one that we're going to do.

CHAIRMAN: Would you restate Option 2, please, just for the record.

MR. HUTCHINSON: Option 2 would be Option 2. Do I need to read it? It's listed.

CHAIRMAN: Okay. Do you have a copy of that, Mr. Walker?

MR. WALKER: No.

MS. STONE: I just wanted to clarify that the applicant or any other person along that roadway would have the option to pursue closure under any circumstances. That's always an option for someone to pursue closure. That doesn't give them the right to close it.

DR. BOTHWELL: Mr. Chairman, if I understand what Mr. Hutchinson has just said, he's willing to withdraw Option 1, the closure as even being on here which forces you all only to widen and fixing Ralph Avenue.

MR. HUTCHINSON: Option 1 never came from us.
CHAIRMAN: Option 1 did not come from their group. Did not come from the Planning Commission. That was strictly a recommendation by he city engineer.

MR. NOFFSINGER: Yes, sir. I do have that in writing that we can present.

MR. CAMBRON: But always remember that Option 1 is an option. That they can pursue it. Anybody can pursue it.

MR. WALKER: Not as part of this.

DR. BOTHWELL: What I'm trying to get to. Can we not withdraw that from this? Make this the plan without Option 1. The only option available now Option 2. Does that change the Planning Staff's --

CHAIRMAN: We would remove the word option and it would be changed to will.

MR. APPLEBY: Our city engineer reviewed it and recommend that this be considered. Either we take the city engineer's advice or we don't.

DR. BOTHWELL: I'm just trying to maybe if they don't have any use to close.

MR. HAYDEN: Any option would have to go through either the city commission or fiscal court, whichever the city takes it in. It has to be their decision. Not our decision. If we didn't even make a
decision, they still have the option to do that.
CHAIRMAN: As you do. You have the option
to close it. Anybody lives on the road has the
option.
MR. CAMBRON: Looks like there's eight
landowners on the east side that would have vocal
reject or accept that one way or the other. It is
somewhat kind of tough to get that done from time to
time if you people that oppose that unless it's a for
safety reason.
MR. WALKER: What's the option of taking
that out? Is that possible?
MR. CAMBRON: I mean we can take it out,
but it really doesn't make a difference because that
option is always there.
MR. WALKER: Then on Option 2 I guess I
have some concerns about safety. I don't know if you
all have been out to Splash on a summer day, but it's
a busy road. I don't know how the development is
going to occur on the proposed lot. Obviously if
there's development over there, there's going to be
more foot traffic up and down Ralph Avenue. As it
stands right now they're not proposing anything beyond
Villa Point I guess is the way I read this.
CHAIRMAN: I would address that question
Mr. Hutchinson.

MR. HUTCHINSON: That's correct

MR. WALKER: So I guess that's my concern.

You're going to get a lot of foot traffic on that street.

MR. CAMBRON: Why would you get more foot traffic?

MR. WALKER: There's no sidewalks.

MR. CAMBRON: You're going to get more foot traffic?

MR. WALKER: You're going to have a commercial development of about 35 acres now going up against Ralph Avenue. Do you not think there's going to be more traffic, more bikes?

MR. CAMBRON: To come to your place you mean? Is that what you're talking about?

MR. WALKER: I'm talking about up and down my hill. My place, the back along those developments. I don't know how the proposal land comes out so I can't tell you at this point. That's a concern I have, knowing what the proposal is.

MR. CAMBRON: Is there foot traffic there now?

MR. WALKER: Absolutely, yes. Bike traffic.

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MR. CAMBRON; What they're going to be doing, and I'm looking at the preliminary development plan, whatever they're going to be doing is going to be an enhancement of what's there now.

MR. WALKER: I guess I'm not privy to that.

MR. CAMBRON: You're privy to it. Here. See right there.

MR. HUTCHINSON: Might also point out it does require a buffer along the back?

MR. WALKER: Explain the buffering of that.

MR. CAMBRON: Be the landscaping, trees.

CHAIRMAN: Why don't we let Mr. Noffsinger.

MR. JAGOE: Mr. Chairman, those are going to be things on the development plan that we don't have in front of us either.

MR. NOFFSINGER: That is true. However I understand that this development will not have driveway access to Ralph Avenue. There will be a retaining wall constructed along Ralph Avenue to provide I guess somewhat of a buffer, but there will not be any vehicular access via driveway. That's why the proposal is only to improve up to the intersection.
of Villa Point because the additional traffic
generated should be coming on to Ralph Avenue, turning
onto Villa Point.

Now, because they are changing the
character of Ralph Avenue with this rezoning, we're
recommending these improvements and as rezonings come
through in the future along Ralph Avenue for
non-residential development, including any plan Splash
may have for expanding or redeveloping, we would be
looking for the owners and developers of those
properties to participate in improving Ralph Avenue.

MR. WALKER: My responsibility, if I do
something at Splash, would be all the way back to
Villa Point at that point?

MR. NOFFSINGER: That would be for another
day.

MR. WALKER: You see where I'm going?

MR. NOFFSINGER: I do, Mr. Walker. I
understand that.

MR. WALKER: I don't like the bear of the
cost when the development comes one house away from
me. Now if I -- which I want to do a water park. I
mean that's my ultimate goal. This development is
coming one lot away from me, but if they're not
improving --
MR. NOFFSINGER: They are improving it from its critical point at the intersection up to Villa Point. An argument could be made that they should improve more than that. However, during the review and the recommendation by the city engineering office is to improve up to this point. Yes, in the future we would look for others to help with future improvements. They are improving both sides of the road. Not just one side of the road. They're improving both sides up to Villa Point. So they are making a significant contribution and they're extending Villa Point to Ralph Avenue which will give your customers and others on that road an opportunity to exit at a potential or at least you could go to a traffic signal now and a potential future traffic signal at Commonwealth Court. That's the reason for the connection and the improvements.

MR. WALKER: I'm not in opposition to that at all. My concern, number one, was closing down Ralph Avenue, my direct access. Secondly, just thinking out loud is if I do something back at Splash it appears as though I'm not going to be responsible, be the next guy down the line for improving all of Ralph Avenue.

MR. HUTCHINSON: That's not true. I
understand, Marty, you would rather have us develop all the way back for you, but that's certainly --

MR. WALKER: I mean you're developing all the way back to me except the lot right next to me.

CHAIRMAN: Randy, let me get you to address your response to me because we don't want to get in to cross comments like that.

MR. HUTCHINSON: I don't know what's at issue here.

CHAIRMAN: Mr. Walker, what we have here before us on agenda is their request. I understand your concerns, but your concerns have to be directed to what they're doing. What they're doing has been reviewed by our staff and then a recommendation by the city engineer came to our office in recommendation on the improvement of Ralph Avenue. The improvement beyond Ralph Avenue to your business is an issue that we would take up when you apply for expansion, improvement or whatever you might do down the road. At this present time it's not an issue for us that we can discuss or make any projection on at this time.

MR. WALKER: So Ralph Avenue is going all the way back to where they're proposing the development is not an option.

CHAIRMAN: It's going back to Villa Point
to where their development is.

MR. APPLEBY: This development is restricting their access though to Villa Point Drive. Not to Ralph Avenue.

MR. WALKER: But you're affecting Ralph Avenue.

MR. APPLEBY: They're not going to put any additional traffic out on Ralph Avenue beyond Villa Point Drive. All that traffic from that development on those lots is going to have to dump out on Villa Point Drive and then come to Ralph Avenue. If they had an access point up there on the lot right next to your, 3726 Ralph Avenue, if they had an access point there we'd make them improve it from there all the way.

MR. HUTCHINSON: Mr. Chairman, may I address?

CHAIRMAN: Mr. Hutchinson, yes, sir.

MR. HUTCHINSON: I think it is important. As Dave pointed out, if it was up to us, we don't need any road into Ralph Avenue. We would stub it off back. We don't need any access. We did that as an accommodation to future development for this community. We knew that's something the commission would want. We did it, but we don't need it. We
don't need Ralph Avenue. We don't need that road to run up to Ralph Avenue, but because it's good for the community that it goes there so we could have some continued growth, we were willing to do it, but we shouldn't have to bear the cost improving all the way down to the far end when the traffic will only be impacted up to that point.

One other thing and then I'll be done. As far as Marty's concern about closing, if you want to leave both options in we'll commit now on the record that we'll follow Option 2 and not Option 1. If you want to leave the options there, but we will commit on the record Number 2 because we have no intent to try to close Ralph Avenue.

CHAIRMAN: Thank you, Mr. Hutchinson. I don't think this commission has the right to take away the option from you or anybody else.

MR. HUTCHINSON: Correct.

CHAIRMAN: But if you're committing that and are on the record to that, Mr. Walker, is that --

MR. WALKER: May I ask a question? Is Ralph Avenue a city or a county road?

CHAIRMAN: County.

MR. WALKER: What will it be?

CHAIRMAN: I have no idea.
MR. CAMBRON: Right now it's county. I mean it's up to the city, I guess.

CHAIRMAN: But we cannot -- there again that's not under our --

MR. WALKER: It's a pretty complicated issue you've got to admit that, I think.

MR. NOFFSINGER: Yes, sir. Mr. Walker, it is.

MR. WALKER: I guess if Ralph Avenue were to stay county beyond Villa Point -- I don't know.

MR. HAYDEN: If they didn't do anything to Ralph Avenue, my understanding is you're going to develop your property at the end of Ralph Avenue, then you would have to come before this commission and take the whole burden of fixing Ralph Avenue for more traffic that you put on Ralph Avenue. So they're helping you out by bringing it up to Villa Point. If you're going to develop your property up to --

MR. WALKER: I'm open two months out of the year. Obviously building a road that -- I don't know how long Ralph Avenue is, but economics start coming into play where it just doesn't make sense at some point.

MR. HAYDEN: We're only guessing at that because we don't have a development plan from you to
see what you're going to do.

MR. WALKER: I don't have a development plan here either. Thanks for putting up with me.

CHAIRMAN: Thank you, Mr. Walker.

Are there any other questions or comments from the commission?

(NO RESPONSE)

CHAIRMAN: Anybody else in the audience?

MR. APPLEBY: I have a question of Gary. What are your thoughts, Gary, on whether or not to remove the option of closing the road since it's a recommendation of the engineers office? Do we leave it in or take it out?

MR. NOFFSINGER: Mr. Appleby, all I can do and would do is offer to you what the Planning Staff staff would recommend or in this situation would prepare to recommend at some point. That would be to improve Ralph Avenue from its intersection at Kentucky 54 to Villa Point which follows along with Option 2 I believe it is. Not close Ralph Avenue because we realize that we're dealing with an existing public road that serves not only a church and residential homes but also Splash. The spacing standard along Kentucky 54 for street intersection is 500 feet. The spacing standard or the spacing of this street from
the nearest street intersection is about 478 feet. Pretty close to that 500 foot spacing standard. Generally if you look out on Frederica Street at the Home Depo, Target development, you see access points at about every 500 feet. I think you would anticipate that here. I think there would have been another access point into Woodlands Plaza had they not had to deal with the flood plain issues and have such a huge crossing to cross that ditch, which was tremendous economics expense.

Mr. Walker, the Planning Staff anticipated his concerns. We realize that he's back there and would probably not support closure because that's his direct access to Kentucky 54. I'm not saying it's a bad idea to close that intersection. It might had its advantages, but we also realize its purpose and why it's there and why it's going to be important to some for that to remain.

Our recommendation would be, since the applicant is agreeable if you go with improving Ralph Avenue as stated in these options, drop the closure option, although that's still an option at any point in time. Say drop the five year requirement because I don't think you want to bond that street for five years. I would think you would want to move forward.

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That would be up to the applicant. Sureties are posted for two years and then transferred to the city or county.

MR. HUTCHINSON: That's correct, Gary.

CHAIRMAN: Mr. Appleby, by reading into the record Mr. Hutchinson's statement that as far as their concern they will do Option 2.

Is that correct, Mr. Hutchinson?

MR. HUTCHINSON: Yes, Mr. Chairman.

MR. APPLEBY: Understanding you to say that you would waive the five year, the bonding for five years? You going to go ahead and proceed with it or do you want to leave the five years?

MR. HUTCHINSON: Be better to leave in the five year part of it or within five years.

MR. APPLEBY: Is chair ready for a motion?

CHAIRMAN: Mr. Hutchinson, do you have any other comments?

MR. HUTCHINSON: No, sir.

CHAIRMAN: Mr. Appleby, I think the chair is waiting your motion.

MR. APPLEBY: I would recommend approval based on the Planning Staff Recommendations and Conditions 1, 2, 3, 4 with elimination of Option 1, Conditions 5, 6, 7 and 8, and Findings of Fact 1, 2.
and 3.

DR. BOTHWELL: Second.

CHAIRMAN: We have a motion by Mr. Appleby for approval based on the conditions of the Planning Staff. We have a second by Dr. Bothwell.

MR. CAMBRON: Just a question quick comment there. Leaving Option 2.

CHAIRMAN: That's the way he stated it, yes.

All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

DR. BOTHWELL: Motion to adjourn.

MR. GILLES: Second.

CHAIRMAN: 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, Notary Public in and for
the State of Kentucky at Large, do hereby certify that
the foregoing Owensboro Metropolitan Planning & Zoning
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 54 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this
the 10th day of July, 2005

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COUNTY OF RESIDENCE:
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