The Owensboro Metropolitan Planning Commission met in regular session at 6:00 p.m. on Thursday, March 14, 2002, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

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

CHAIRMAN: I would like to call our March 14 Owensboro Metropolitan Planning Commission meeting to order. Please rise. Our invocation and pledge of allegiance will be given by Mr. Dave Appleby.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

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

(NO RESPONSE)
CHAIRMAN: Chair is ready for a motion.

DR. BOTHWELL: Motion to approve.

CHAIRMAN: Motion for approval by Dr. Bothwell.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, Mr. Noffsinger.

PUBLIC FACILITIES PLAN
REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

ITEM 2

Portion 2501 Block Westwood Avenue
Land Disposition
Consider comments regarding a proposal to close approximately 272 feet of Westwood Avenue.
Referred by: City of Owensboro

MR. NOFFSINGER: Mr. Chairman, the Planning Staff has reviewed this application. We find the application is not in conflict with the Adopted Comprehensive Plan. It is a proposal to close a portion of Westwood Avenue and we reconstruct the streets so that it changes the flow of traffic somewhat, but it actually improves the situation. We recommend that you forward a letter of that effect to

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the City of Owensboro.

CHAIRMAN: Is there anybody here representing the City of Owensboro?

(NO RESPONSE)

CHAIRMAN: Does anybody from the commission have any questions?

(NO RESPONSE)

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

MR. CAMBRON: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Cambron.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item.

ZONING CHANGES - CITY

ITEM 3

1520, 1524, 1528 Breckenridge Street, 0.39 acres Consider zoning change: From R-4DT Inner-City Residential to B-4 General Business Applicant: Daviess County Board of Health

MR. ELLIOTT: State your name, please.

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MS. WATSON: Becky Watson.

(MS. BECKY WATSON SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the adopted Comprehensive Plan. This recommendation is made subject to the conditions and findings of fact that follow:

Conditions:

1. Driveway access shall be limited to one access point onto Breckenridge Street, not to exceed 40 feet in width at the property line to be located a minimum of 50 feet from the right-of-way at the intersection of Breckenridge Street and East 16th Street;

2. A roadway buffer or 40 feet from the centerline of Breckenridge Street shall be established along Breckenridge Street. No parking or required landscaping shall be located within this roadway buffer;

3. Screening shall be provided between the subject property and the adjoining residentially zoned properties. A 6' high continuous planting, hedge, fence, wall or earth mound shall be provided within a 10-foot landscape easement;

4. Perimeter landscaping of vehicular use area
with a 3-foot high continuous planting, hedge, fence or wall within a 3-foot wide landscape easement and one tree for every 40 feet of vehicular use area boundary; and,

5. Submittal and approval of a lot consolidation combining the three lots into one lot.

Findings of Fact:

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

2. The subject property adjoins B-4 General Business zones and uses; and,

3. The applicants proposal is a logical expansion of an exiting B-4 General Business zone abutting the same street that would not significantly increase the extent of the zone in the vicinity and would not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

MS. WATSON: We would like to enter the Staff Report as Exhibit A into the record.

CHAIRMAN: Is anybody here representing the applicant?

MR. ELLIOTT: State your name, please.

MR. RINEY: Jim Riney.
MR. RINEY: I'm here to answer any questions. We know that there were several conditions that were just listed. Mrs. Watson made the client aware of those and those are consistent with what's in the ordinance and will be dealt with on the development plan.

CHAIRMAN: Mr. Riney, your client agrees to the conditions?

MR. RINEY: I've made them aware of it, Mr. Chairman.

CHAIRMAN: Is there anybody from the audience that has any questions for the applicant's representative?

(NO RESPONSE)

CHAIRMAN: Anybody from the commission have questions of the applicant's representative?

(NO RESPONSE)

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

MR. CAMBRON: Motion for approval, Mr. Chairman, with Conditions 1 through 5 and Findings of Fact 1 through 3.

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously. Next item, please.

ITEM 4

1920 McFarland Avenue, 1.84+acres
Consider zoning change: From B-4 General Business to I-2 Heavy Industrial
Applicant: West Side Auto Parts, Inc., Henry E. Phillips, Mary E. Posey

PROPOSED ZONE & LAND USE PLAN

The applicant is seeking an I-2 Heavy Industrial zone. The subject property is located in a Business/Industrial Plan Area, where heavy industrial uses are appropriate in very limited locations.

SPECIFIC LAND USE CRITERIA

(a) Building and lot patterns; outdoor storage areas Building and lot patterns should conform to the criteria for "Non-Residential Development" (D7) and outdoor storage yards, with "Buffers for Outdoor Storage Yards" (D1). Furthermore, any building or outdoor storage, loading or working areas (except accessory parking areas) should be located at least three-hundred (300) feet from any urban residential area and one-hundred (100) feet from any other area except those containing light industrial or
agricultural/forestry uses.

(b) Logical expansions outside of Industrial Parks Existing area of Heavy Industrial use that are located outside of planned Industrial parks may be expanded onto contiguous land that generally abuts the same street(s). Such an expansion should not significantly increase the extent of industrial uses in the vicinity and outside of Industrial Parks. Such an expansion should not overburden the capacity or roadways and other necessary urban services that are available in the affected area. Also, such an expansion should be of adequate size and shape to provide the separation from incompatible uses cited in criteria (a) above.

APPLICANT'S FINDINGS

The Land Use Element of the community's Comprehensive Plan recommends I-2 Heavy Industrial in very-limited locations. Rezoning the site will result in correcting the zone classification to be consistent with the land use, which existed at the site for at least the past 20 years.

The site is on the south side of McFarland Avenue. In addition to this site, the zoning applicant has operated a similar operation (storage and dismemberment of disabled vehicles) on the north side of the same street.
side of McFarland Avenue at Crabtree Avenue for approximately 50 years. The general character of the neighborhood, including the disabled vehicle storage and dismemberment has remained essentially unchanged for approximately 20 years, since the extension of McFarland Avenue westward.

The site contains approximately 1.9 acres and is non-residential in size and character. A solid perimeter fence currently screens the site. Said screen is characteristic of any industrial tract.

The site is relatively contiguous as previously defined by the OMPC to the existing I-2 site of the West Side Auto Parts operation. Currently, the site adjoins industrial zones at the west and southern corner of the site.

All urban services are available.

Inasmuch as the existing land use has existed at the site for approximately two decades, the rezoning, conforming to the existing use, will not overburden the capacity of the roadway.

PLANNING STAFF REVIEW

The subject property is located in the 1900 block of McFarland Avenue. Land use criteria applicable to this request are reviewed below.

GENERAL LAND USE CRITERIA
Environment

No important environmental criteria apply to the subject property.

Urban Services

All urban services are available to the site.

Development Patterns

The subject property is located in a mixed-use area. Property to the north across McFarland Avenue is zoned R-4DT and is residential in use. Property to the east of the subject property is zoned B-4 General Business and is used for junk vehicle storage. This is a non-conforming use. Property to the south is zoned B-4 and I-1 Light Industrial and contains business and industrial uses. Property to the west is zoned I-1 and is used for a plumbing contractor's office. There is also property to the west that is zoned R-4DT Inner-City Residential. The applicant proposes to use the subject property to store and dismember disabled vehicles. This use would require a conditional use permit to be approved by the Owensboro Metropolitan Board of Adjustment.

Land-Use Intensity, Clusters and Buffers

In I-2 Heavy Industrial Zones, any building or outdoor storage, loading or working areas (except accessory parking areas) should be located at least

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three-hundred (300) feet from any urban residential area and one-hundred (100) feet from any other area except those containing light industrial or agricultural/forestry uses. The location of residential zoning to the west and north requires a 300-foot buffer to be established in those locations. The B-4 General Business zoning on the east would require a 100-foot buffer at that location. The size and shape of the property would not accommodate these buffer requirements without the granting of a variance by the Owensboro Metropolitan Board of Adjustment.

Intersection & Driveway Spacing

McFarland Avenue is classified as a minor arterial roadway. Driveway access on McFarland Avenue should be limited to one access point, no to exceed 50 feet in width at the property line. Currently, the subject property meets the driveway access requirements for the functional classification of the roadway. No additional driveway access would be permitted.

Roadway Buffer Standards

A roadway buffer of 40 feet from the street centerline applies to McFarland Avenue. No required parking or landscaping is permitted within the roadway buffer.

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SPECIFIC LAND USE CRITERIA

The subject property is located in an area of mixed industrial, business and residential use. The property immediately to the east is zoned B-4, but contains a legal, non-conforming heavy industrial use of storage of junk vehicles. The expansion of this use onto the subject property can be considered a logical expansion of a heavy industrial use that does not significantly increase the extent of industrial uses in the vicinity. There are other industrial uses located in the area.

However, the subject property adjoins residentially zoned property. The criteria for an expansion specifically state that the expansion should be of a size and shape to accommodate the buffer requirements to separate incompatible land uses. In this case, the 300-foot setback from the residentially zoned property could not be met and still maintain a usable area on the subject property. Because the subject property adjoins and is adjacent to residential property and a residential plan area, the buffering requirement of a 300-foot setback from those properties is critical to the use of the property for an industrial use. Since this setback is primarily for the benefit of the owners of property in the

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neighborhood, due consideration should be given to
neighboring residents with respect to the established
lot patterns in their neighborhoods.

The applicant argues that the proposed zoning is
the appropriate zone for the property, stating that
the current use of the property for the storage of
junk vehicles has existed for 20 years. The property
has been cited several times in the past 10 years for
being in violation of the Zoning Ordinance. The B-4
General Business zoning classification permits
operable vehicles to be parked there, but not
inoperable, wrecked or disassembled vehicles. The
current use of the property is a violation of the
Zoning Ordinance.

The City of Owensboro's Community Development
Department has begun to collect very preliminary
information to review the possibility of developing a
project for a residential revitalization area for
properties in the vicinity of the subject property.
This redevelopment area would include residential
properties to the north of the subject property across
McFarland Avenue. We should remain cognizant of the
possibility of residential redevelopment in this area
across McFarland Avenue. While there are existing
industrial uses located in the vicinity, these are
oriented toward Old Henderson Road within the Business/Industrial Plan area and not adjoining residential block fronts.

As stated above, due consideration should be given to neighboring residents with respect to the established lot patterns in their neighborhoods.

There is currently a mixture of business uses, light and heavy industrial uses, and residential uses within this area. The frontage of the subject property on McFarland Avenue faces an existing developed residential block. The increase of heavy industrial use in the area could be detrimental to the existing residences that are established there, unless there can be conditions placed on the property to minimize negative effects that are acceptable to the owners in the neighborhood.

PLANNING STAFF RECOMMENDATIONS

Staff recommends denial because the proposal is not in compliance with the community's Comprehensive Plan. This recommendation is made subject to the findings of fact that follow:

1. The subject property is located in a Business/Industrial Plan Area, where heavy industrial uses are appropriate in only very-limited locations;

2. The subject property adjoins existing
residentially zoned and developed property to the west
and to the north across McFarland Avenue and zoning
the subject property to I-2 Heavy Industrial would
permit an incompatible land use;

3. The applicant's proposal is not a logical
expansion of heavy industrial uses existing in the
area because the size and shape of the property are
not adequate to meet the setback requirements of 300
feet from residually zoned properties; and,

4. The use of the subject property for disabled
wrecked vehicle storage and dismemberment may create a
nuisance for the adjoining residential properties.

MS. WATSON: We would like to enter the
Staff Report as Exhibit B in the record.

MR. CAMBRON: Mr. Chairman, I need to
excuse myself from any comments or voting on this item
due to a business relationship I have with one of the
applicants.

MR. ELLIOTT: Disqualify.

MR. CAMBRON: Disqualify myself.

CHAIRMAN: Let the record know Mr. Cambron
has disqualified himself.

Is there anybody here representing the
applicant?

Mr. Riney. You've been sworn in. You
MR. RINEY: Yes, sir. I'm Jim Riney. Let the record show that I'm here tonight as a licensed professional engineer and license professional land surveyor to answer the technical issues of the issues that area within the application that the assisting owner is preparing.

We have heard and read the Staff Report. We understand that the Staff is not in a position to a make a recommendation maybe as much because of the reason of the requirement for variances and items to be dealt with through the Board of Adjustments. The owner has indicated that should the Planning Commission see fit to allow the rezoning to move forward that they would ask us to move forward with the proper applications for the variances that may be needed.

We know that the site has existed for over 20 years in the present use. That the neighborhood is a mixed use area. The neighborhood and this business use have grown up together over the years. It's not a new use that's coming in. It's an effort by the owners to comply with a request from the building inspector and Planning Staff to come in conformance with the regulations.
I think at this point I'll say that we'll answer questions. Mr. Doug McFaddin is here with his brother Aaron who represent West Side Auto. Mr. Philips is here and some other folks here, but I also understand there's some concerns from the neighbors. We'll be prepared later on to answer some of those concerns.

CHAIRMAN: Thank you. Are you aware that Ms. Watson when reading the comment of the Staff unless there are conditions placed on the property to minimize the negative effects that are acceptable to the owners and the neighborhood. Do you all have any conditions or anything that you were going to propose at this time?

MR. RINEY: Yes. We have some items. We weren't sure what or at least I wasn't sure what all the concerns were.

CHAIRMAN: If you're prepared at this time, Mr. Riney, why don't we see what questions some people from the neighborhood might have and then I think we could address them at that time might be the appropriate way to do this. Just as long as you're prepared to meet the conditions.

MR. RINEY: Sure.

MR. CHAIRMAN: Is there anybody here
representing the neighborhood?

MR. WILSON: Mr. Chairman, William Wilson, Jr. I'm here on behalf of William and Charlotte Bradley and Charlotte's sister, Ruth Adkins.

(MR. WILLIAM WILSON SWORN BY ATTORNEY.)

MR. WILSON: Mr. Chairman, if I might, I would like to present to the commission a drawing of the plat from PVA records.

CHAIRMAN: Mr. Wilson, if you'll hand those -- do you have copies or just one?

MR. WILSON: No. I've just got this one I would like to place in the record and that's the properties, residential properties, all of them that are owned by my clients. I'd also like to place in the record an open letter to the commission and a petition of the residents of these properties in opposition of this rezoning.

CHAIRMAN: Mr. Wilson, if it's all right with you I will pass these to the commission members while you're presenting your presentation.

MR. WILSON: That's fine.

Mr. Chairman and Members of the Commission, Mrs. Bradley and her sister have owned property in this area for back to the time it was first established. They were both on Girvin Court
there where most of the properties are. I don't know
how many of you have actually been down there to take
a look at these properties, but it's an extremely neat
and orderly residential subdivision.

Several of these properties are on
MCFARLAND AVENUE right across the street from this
proposed rezoning and several of them run down Girvin
Court which is a dead-end street.

I'll be frank in admitting that we've had
a long running relationship with the owners of West
Side over this fencing problem, street problems in the
neighborhood. A few years ago, I believe it's called
Graves Lane, we had a situation back in '95 where they
had constructed a building out in the city's right of
way on Graves Lane. We went through some zoning and
negotiating matters and changed boundary lines and
agreed to things in exchange for fences and the city
backed off on that and allowed that building to remain
where it was, which is out in the roadway I believe.

We've got a history down there of things
just keep getting done. Once enough complaints are
made we get something done to try to bring them into
compliance in hopes that the situation will go away.

Well, this situation across McFarland
Avenue, you know, my clients are not willing for it to

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go away. They are proud of the properties that they
own down there and that they keep up really up nice.
You can go look at them and any of you will see that.
The applicant is saying that it has an I-2
property on a relatively contiguous piece of property.
Now, I don't know what relatively contiguous means.
To me contiguous is you're contiguous or you're not
contiguous, but I know what they're talking about.
They're talking about West Side Auto Parts facility
that the application says that's located on McFarland
Avenue at Crabtree. Well, if you look in the
phonebook and anywhere else it's located at 1130
Crabtree Avenue. It's located on Crabtree Avenue at
McFarland perhaps, but there's nothing going up and
down McFarland Avenue on either side of these
residents or across that has any, that has any type of
industrial use. The industrial use is around the
corner on down the next block on Old Henderson Road
and there are some properties down there and there are
no residences there for many hundreds of feet from the
intersection with Crabtree. That's just not the case
on McFarland.

These folks are entitled for the character
of that neighborhood to stay as it is in the absence
of the Planning Staff or the courts, what have you,
that justify an encroachment into this or area that's
abutted by these residential properties.

The fact that there isn't sufficient room
in this property for the setbacks that would be
required for an I-2 classification. Of course, that's
important also. Even if there were, my people would
still probably have a problem with this because the
residential nature of their investment and their
development down there. This property is just not
appropriate as the Staff has correctly recommended for
an industrial classification. Not only would we
implore this Commission to deny this request and
follow the recommendation of the Staff, we would also
go further than that and ask that this Commission
direct its Staff and empower the Staff to go forward
in bringing this property into compliance. It's out
of use. We have pictures of everything down there.
We've got signs there that say this is equipment
sales. Well, this isn't equipment sales in there.
It's a junk yard being operated. It clearly needs, it
needs an industrial classification to warrant it. I'm
aware of proceedings that have been under way by this
department to do just what I'm asking now be done.
This application came along and I think they've been
put on the back burner. I would hope that you all
I would follow the oath that you all took and follow the law of the ordinances of this city and enforce the zoning ordinance down there and get this property into a proper B-4 use which is what it is properly zoned for. Thank you very much.

CHAIRMAN: Mr. Riney, do you have any comments at this time?

MR. RINEY: Yes. Let me go ahead and say that the applicant did, just for the record so you'll know, did contact attorney that has dealt with other zoning matters for them. Unfortunately he had a conflict in schedule tonight and couldn't be here. They've asked me to go ahead and speak.

They are not particularly with the idea of speaking before this group, but something needs to be said to confirm what evidence, information that they're ready to present. We'll go ahead and present that.

We understood that there were concerns from the neighborhood. As Mr. Wilson said, there's been some dialogue between the neighbors and the folks at West Side. This business has been there for several years. They are in fact requesting a zoning so that they can use it for the auto dissemble that their business is right now. They did in the past
have some equipment sales at the site, but from what I gather they have abandoned that business at this site and want to move forward with the auto yard.

Let me ask Mr. McFadden if he would to go ahead and bring up to the chairman. There's a listing that has been prepared of items that West Side has become aware of that might help the commission know that the applicant recognizes some of the neighborhood concerns and what in fact the applicant proposes to do.

If you could distribute those. There should be enough copies.

CHAIRMAN: Has Mr. Wilson been made aware of these items?

MR. RINEY: No, sir. We've got enough copies for Mr. Wilson.

CHAIRMAN: Mr. Wilson, would you come forward and let me hand you a copy.

MR. RINEY: I'm going to go through this not to insult your intelligence, but there's some items to kind of amplify what these items are. This was a list that was developed by the applicant to try to address those concerns as I said earlier of the neighborhood. Some of those items have even moved forward since we first talked about this list.
The first item is to install a ten foot high solid fence around the entire perimeter. Mr. McFadden has copies of pictures here that show the fence along McFarland Avenue that has been constructed today. I ask him to go ahead and distribute those and give one to Mr. Wilson.

Pictured in the photograph is a reluctant employee of West Side. The gentleman was chosen because he's like me, he's a little tall in stature. He's about 6'4" just so that you would know that that fence that's being constructed is a ten foot high solid fence. As I said the fence that's being constructed to date is along the McFarland Avenue frontage. Mr. McFadden has advised me that they have enough fencing materials on site. They're going to go ahead and continue the fencing of the entire subject property with this same brown metal fence. I do know that the fence is 10 feet tall because I did measure it early this morning. The existing fence that this is replacing is a chain-link fence with slats. That fence is an 8 foot fence which is probably adequate in a lot of situations, but the applicant has gone the extra mile to go ahead and get the 10 foot fence for additional screening.

The next item, Number 2, is to install Ohio Valley Reporting
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landscaping along McFarland in accordance with the local zoning ordinance. That item pretty much speaks for itself. That work has not been done. Once the fencing is completed then they put in the position to complete that work.

The third item is a roadway buffer. We had some conversations with staff the other day. Staff wanted to be sure that the roadway buffer in the zoning ordinance is complied with.

If memory serves me right we were talking about a buffer with Mr. Noffsinger that's maybe 40 feet from the center of the existing street.

The fourth item is a pedestrian gate in this solid fence. In fact, that has been constructed. Mr. McFadden has some pictures that we'll distribute a little later that show that. The purpose of that fence is to allow the employees to have access into the yard and that goes hand in hand with item Number 5 which would be the closure. I think this is a very important item for the neighborhood as well. The closure of the vehicular access fence off of McFarland Avenue.

So you get a 10 foot high fence along McFarland Avenue, close the opening that's there now that they use for ingress and egress on a daily basis.
Install a pedestrian gate. In fact, that gate has been installed and that gate has been installed at the corner of the lot that's closest to Crabtree Avenue and at the furtherest point from the neighborhood so-to-speak on McFarland Avenue.

So they have already implemented part of these items in trying to show good faith.

The sixth item is do not stack vehicles above the perimeter fence. There has been some concern in the past or some history when they were trying to shuffle some inventory and so forth if I understand the facts correctly. The vehicles were temporarily stacked above the existing eight foot fence that's out there now, but they will commit to keep the whatever stacking they do within the vertical height, within the vertical limits of the proposed 10 foot high fence.

There are also some pictures and photographs. Those photos show how the vehicles are set on stands and are stacked two vehicles high so that they won't exceed the proposed perimeter fence height.

The seventh item is to restrict parking along McFarland Avenue so it is parallel to curb side parking. Evidently there's been some problem with
some random parking along the street by an individual. I don't know if customers or what the basis, employees or whatever, but to comply with whatever city ordinances are in effect about parking along curb side or parallel parking along city streets. That would mean therefore would be no parking in the drive lanes or travel lanes.

The eighth item is to engage a pest control agency, company to monitor the site. There's been some concerns about some sort of pest or varmints at the site. They would commit to at least twice a year to have an inspection. As a matter of fact, we've got another item.

Doug has a copy of an inspection report that was — an inspection was performed today as a matter of fact by Action Pest Control, a well-known pest control agency.

To address the issue, one of the items was the concern about rats. The report, you can read for yourself, indicates that they did not find any visible burrows at the time. Did find debris left side. I'm not sure. No burrows found. That's effective as of today as far as the pest control people.

The ninth item would be, and this would be important possibly to the Planning Staff as well as to
the neighborhood, to provide an entrance apron onto Old Henderson Road so that the access that would service this site would be from Old Henderson Road.

As a comment was made earlier this evening, the primary area of commercial industrial property that exist today is on Old Henderson Road. So the applicant is willing to close the McFarland Avenue access permanently and to open the access point to Old Henderson Road to be least offensive to the neighborhood, to the residential neighborhood. Based on the number of trips that the applicant anticipates that they normally have, somewhere one or two trips a day, maybe three trips a week sometimes in and out of the storage compound, it should not be a nuisance to the neighborhood over on Old Henderson Road. They would also agree to construct an entrance, a semi-concrete entrance that would be in conformance with the city engineer's office requirement and they require a permit where they regulate the construction for those entrances as well.

The tenth item would be to routinely monitor the items above that would need to be monitored, monitor the condition of the fence to make sure it is maintained. That the weather damage or vandals or whatever haven't created a problem either.
for the applicant or for the neighborhood. The eleventh item there was some report of an odor from the storage yard. Applicant had proposed to buy, they have in fact purchased a fuel recycling piece of equipment or hardware. That they say is probably the number one offender for odor from these types of facilities. They not only propose to do that. They have put their money where their mouth is and they have purchased that piece of equipment so that they can recycle that fuel and eliminate that odor source.

As was stated in the record, the facility has existed for probably two decades if not longer. I personally can recall when Green Coal Company existed at this site. They had their road tractors and trailers that they used for transporting coal there. My memory was that they had even a bone yard back there where they kept some of the old equipment and so forth. This use is not necessarily something that's new. Certainly is not new, but it has just occurred in the last 20 years. Even prior to that, I am admitting I'm getting older, but prior to that I can remember that VanOver Coal Company owned that facility before Mr. Green bought the coal company and that they had equipment in there, both tractors, road tractors.
and mining type of equipment. So this facility has seen those types of hardware and equipment in there for several years.

I believe I'll leave that with the commission at this time. If you've got any questions or if we need to hear anything from the owner, we'll be glad to try to answer those questions or deal with those issues.

CHAIRMAN: Thank you, Mr. Riney.

Mr. Wilson, do you have some comments?

MR. WILSON: If I might, yes.

Mr. Chairman, I'd like to set the record straight on one thing. I personally about 4:00 this afternoon I called and spoke with J.D. Myer who was listed as the attorney for the applicant on the information that was sent out to the neighbors merely as a courtesy to tell him I would be here in opposition with the rezoning tonight. He knew nothing about this rezoning to be on the agenda tonight. I'm sure Jim was told what he says he was told, but there was no conflict of interest with their attorney. He knew nothing about it at 4:00 this afternoon.

Mr. Chairman, regardless of these things that they're talking about doing in the neighborhood, which are news to us, that is not at all influence or
change the position of the folks that live and have
investment across the street. This industrial zoning
classification being sought is merely not called for
by the plan. It's not called for by the
recommendation of your staff which is to the contrary.
We merely ask this commission to follow the
recommendations of the staff of the law as we see it
here in Kentucky. The property's shape, size. It's
certainly, it's just not big enough to go into an
industrial classification even in the absence of
opposition. They cannot comply with the setbacks that
are required and there certainly is not going to be
any agreement by the neighbors to weigh the 300 foot
setback to 100 foot setback. It's just most
appropriate for industrial classification. If the
property were divided off and that fronting on Old
Henderson Road with R industrial classification, that
may be a different ball game over there, but not on
McFarland Avenue.

This talk about a fence and all. I've
been down and looked at the fences and I'm sure you
all have too. Being we're talking about what
wonderful fences we're going to put up I would ask
commission to pass these around. These are pictures
of the houses owned by my clients and of the fencing.
CHAIRMAN: Mr. Wilson, let me stop you.
Let me make the hand these out to the commission and
make your statements there for the mike so we'll be
sure and get it.

MR. WILSON: These are the ones that
depict the subject area. These are all homes in the
area.

Mr. Chairman, several of those photos are
of homes on Girvin Court that back up to the
applicant's business over on Crabtree Avenue. Couple
of them are showing the fence. It's just falling down
and terrible state of disrepair. There are holes in
the fence down on Tenth Street side, on the Girvin
Court side. You drive around the area, which I did
today, I think you'll see plenty of them on this same
property over on the Old Henderson Road side. It's
the old fence over there.

The things that the applicant is
indicating it's willing to commit to if this rezoning
were allowed in no way influence the position of my
clients. It's nice that they're willing to abide by
the city ordinances. Many of these things are the law
anyway. We are just adamantly opposed to this
rezoning. We would ask this board to not only vote
now bring it on to adopt the recommendation of the
Staff to deny it, but also direct the Staff to bring this property into compliance with the B-4 zoning classification. Thank you.

CHAIRMAN: Mr. Noffsinger, do you have a comment?

MR. NOFFSINGER: Yes, Mr. Chairman. I have a question of Mr. Riney and then I also would like to make a statement for the record.

Mr. Riney, you have a long list of items that the applicant says that they're willing to address and provide, but you might have mentioned this and I missed it and if so I apologize. What's the time frame on implementing these conditions? Let's say you're successful in convincing the Planning Commission this should be rezoned, you're successful with the Board of Adjustment with the variance and the Conditional Use Permit. What's your time frame in terms of implementing each of these conditions?

MR. RINEY: Well, the time frame is that we would start immediately. I guess in essence they have, Mr. Noffsinger, because the screening has been installed on McFarland Avenue.

Mr. McFadden indicates that within four to six months he thinks that they would have everything completed, but they're serious enough about it to get
on with it. That's why I made the point that on one
or two of these items not only were they on the list,
but they have been completed. Just like the recycle
machines, getting the fence, the gate and fence and so
forth.

MR. NOFFSINGER: So that's four to six
months from the time the Board of Adjustment would
take final action?

MR. RINEY: Yes. So that they knew that
they were in good stead.

MR. NOFFSINGER: That's all I have, Mr.
Riney.

I would like to make a statement at this
time and to clarify for the record because I think Mr.
Wilson alluded to what's contiguous. We alluded to
that in our Staff Report in describing the
neighborhood and why we made a recommendation for
denial that we did.

We did make a finding in this case review
that subject property is contiguous to an existing
heavy industrial use. Meaning a legally
non-conforming auto salvage yard. This property
immediately adjoins the property I believe to the east
and is oriented toward Old Henderson Road. So we were
not speaking of the existing West Side Auto Parts
building at the corner of Ninth and McFarland. We're speaking of a piece of property that's addressed I believe that's 1903 Old Henderson Road.

The problem the Staff had in preparing the recommendation was compatibility with the neighborhood. How do we integrate this piece of property into the neighborhood and realizing that we have had a history of this type of use for a number of years within this area. Based upon the requirement of having to go before the Board of Adjustment for a Variance and a Conditional Use Permit, we had a tough time coming up with a favorable recommendation and trying to be consistent as a Planning Staff because we've addressed issues very similar to this in the past where an applicant has asked for I-2 Heavy Industrial Zoning and the buffer and Conditional use Permit or Variance was required by the Board of Adjustment. In those cases the staff has typically recommended they not be approved; however in many of those cases the applicant has been successful in achieving a zoning change as well as granting permission to operate by the Board of Adjustment. So I just wanted to clarify for the record that this property does adjoin a legally non-conforming auto salvage yard and state the basis for the Staff's
MR. RINEY: Mr. Chairman, just so we don't leave people here tonight with misconceptions or misunderstandings. Mr. Wilson's point about the attorney, let me clarify that. That probably falls back on me. He's correct that Mr. Myer was not going to be here. Unfortunately he was basing that on information that may have been misguided. Mr. Myer does the title work for West Side. Mr. J.D. Myer did the letter that's required on the application stating that there are no restrictions and the deed that would prohibit the use that's requested. Mr. Kamuf is the attorney that I was making reference to that represents the applicant on zoning issues. I was in Mr. Kamuf's office when he told the client that he had a conflict. I personally heard that. So that there's no misunderstanding and no mistrust from the neighborhood. It's a statement of fact.

CHAIRMAN: Thank you, Mr. Riney.

Mr. Wilson, would you want to comment?

MR. WILSON: Mr. Chairman, my sole comment was based on the notice that went out to the Staff that said who the attorney for the applicant was. I called him. I don't dispute anything.

CHAIRMAN: Thank you very much.
At this time let me ask if anybody from
the commission would have any questions of Mr. Wilson
or Mr. Riney at this time.

MR. APPLEBY: I've got a question for Mr.
Riney.

Jim, you said that you're proposing to go
ahead and close the McFarland Avenue entrance and do
some landscaping over there. Are you proposing, do I
understand you're saying you're going to take that
access out, restore that, put that back in grass along
through there and landscape that on the McFarland
Avenue side?

MR. RINEY: That is correct. Mr. McFadden
has got enough materials to do that. There will be no
vehicular gate there. It will be a solid, whatever
that metal fence is that's up there now. That will be
contiguous. The only opening would be a self-closing
pedestrian gate at the very northwest corner of the
fence. So the residents of McFarland Avenue when they
look or drive to the end of Girvin Court there onto
McFarland they will see a solid fence. They won't see
this opening into the salvage storage.

MR. APPLEBY: Now, on the other side of
that where you're proposing to fence this, proposing
to take this ten foot fence all the way around the
perimeter of the property?

MR. RINEY: That's what he's got material for.

MR. APPLEBY: Is there room to do any screening or landscaping between the residential and the fence on say the west side of that property?

MR. RINEY: On the west side?

MR. APPLEBY: Or is it necessary? I've got a little bit of concern about this fence that's on McFarland now. The new fence looks pretty good, but there are some concerns about the maintenance of it. I mean you've got some of the bigger fencing in some other places that hasn't been too well maintained. I think somehow the neighborhood would have to have some assurance that it's not going to end up in the shape that the fence is in that exist today.

I've got a question for you too, Mr. Noffsinger. If by chance the board were to pass this thing with several conditions and it goes to the Board of Adjustment and they deny the variance, what is the status of the zoning at that point?

MR. NOFFSINGER: Well, the zoning if it passes the city commission the property would be zoned I-2 Heavy Industrial, but there would be limits that would be imposed upon the use of the property. In
other words, the Board of Adjustment did not approve
the Conditional Use Permit and the Variance, then it
could not be used for intended use; however, it could
be used for light industrial activities or industrial
activities that do not require the 300 foot buffer
from the residential zone.

MR. APPLEBY: Light industrial?

MR. NOFFSINGER: Pretty much limited to
light industrial activities.

MR. RINEY: Back to Mr. Appleby's point in
regard to the screening, particularly on the west
side. The applicant has had conversation with the
property owner. I believe that's Scott Baird. They
do not oppose rezoning. The fence itself, the ten
foot high fence wouldn't provide screening. There is
no room in there for landscape. There are some
existing trees that are in there now. The fence as I
understand would be constructed in the location where
the existing fence is. That existing chain-link fence
with those slats in it, now I'm reaching back. If
memory serves me correctly, this is personal memory,
was something that was installed back in the era of
Green Coal Company for his facility. It probably has
suffered over the years and probably hasn't had much
maintenance, but one of the items on this list of 10
or 11 points indicates the routine maintenance of the
above items to make sure that they are properly
maintained. That's something we've submitted this
list to the Planning Commission for review. If that
needs to be entered into the record, the applicant has
indicated that they're willing to do that, to put that
into the record, Mr. Appleby.

MR. APPLEBY: Gary, can we make a
recommendation on zoning with that type of stipulation
or condition?

MR. NOFFSINGER: If you would restate the
condition and stipulation. You're not speaking of
this list of conditions?

MR. APPLEBY: He's agreeing or they're
agreeing to routinely monitor the above items, but can
the commission as a commission pass the zoning with
that type of condition on it?

MR. NOFFSINGER: It's a very open ended
condition.

MR. APPLEBY: Who is going to monitor it?

MR. NOFFSINGER: That's right. If we're
charged with enforcing it -- it becomes difficult for
us because ultimately we have to take the route of
circuit court and go into court to have it monitored
and then maintained. We can certainly do that. I
think the record of this meeting would help us in
circuit court, but you might want to refer to Stewart
to answer that question because he would be the one
defending it in circuit court.

MR. ELLIOTT: It would be very difficult.

You know, as time goes by say five or six years from
now, who is going to be monitoring it and looking
after it? Who is going to remember the minutes and
the conditions that we placed on the property once
it's rezoned?

MR. APPLEBY: What about just the property
maintenance code in general that codes enforces now?
Would that apply to say the maintenance of the fence?

MR. ELLIOTT: That would apply. I think
ey have a violation now that is on my desk ready for
action to be taken, but they filed this rezoning, but
that's the type of situation I guess Jim could
probably answer that.

MR. NOFFSINGER: But in terms of property
maintenance, our office does not enforce the property
maintenance code. That's through the community
development condition. It's still being enforced, but
it's through a different agency.

SISTER VIVIAN: Does the orientation
changing where the entrance is, where the property
base is, is that going to change the Planning Staff's recommendation? I guess where I'm coming from here is would the applicant be better off to make some of these changes that they say they're going to make and then resubmit this with the different orientation of property for us to make a decision? I'm getting really confused. There's so many conditions and there's so many proposals and changing where the entrance is.

MR. NOFFSINGER: Let me just state that the Planning Staff is not in a position to change their recommendation. We made that recommendation based upon our objective review of the property and the adopted Comprehensive Plan.

We I think adequately describe and recognize that we do have contiguous, meaning adjoining, immediately adjoining the property a legally non-conforming auto salvage yard. Our concern comes from consistency and applying this 300 foot setback from a residential zone. You know, we can't overcome that. The Staff doesn't have the ability to overcome it so we have to take position that the buffer exist. It exist for a reason. To protect those residential areas. So we can't provide a recommendation for approval.
However, I will state that looking through these conditions, which is a very detailed list of conditions, it changes the orientation of this use.

Right now the subject property is being used we believe, Staff contends, as an automobile salvage yard and it's oriented toward McFarland Avenue directly in the front door of residents owned by the opposition. If these conditions are implemented, then it changes the orientation of the use to Old Henderson Road.

If we were speaking of Old Henderson Road and writing the staff report on a piece of property that fronted only Old Henderson Road, the Staff Report might be different; however, we still have the buffer to contend with. These conditions do change the orientation of the property toward and it does what we feel is in a large industrial area. You may still be a little confused. I kind of I guess talked around it.

SISTER VIVIAN: No. I understood you.

It's like we're dealing with something different than we thought we were coming in here dealing with.

MR. NOFFSINGER: I will say this: You have a tough decision to make and I'm glad at this point it's not my decision.

CHAIRMAN: Does anybody else from the Ohio Valley Reporting (270) 683-7383
commission have any questions of the applicant?

MR. HAYDEN: Is there any way he could park automobiles there if we don't rezone with a fence around it?

CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: To continue to use the property for --

MR. HAYDEN: Yes.

MR. NOFFSINGER: Staff alleging they are illegally using the property for the storage of dismantled or obsolete vehicles.

MR. HAYDEN: Dismantling.

MR. NOFFSINGER: Then to answer that question we would contend that he couldn't; however, that's a decision that probably is not going to be made at the staff level. It would be made at circuit court because the applicant will contest in circuit court that the use of the property has existed for a number of years and they should be allowed to continue.

Mr. Riney, if I've misstated anything feel free.

MR. RINEY: The only thing that I might add is the history that I mentioned going back to Green Coal Company and even VanOver Coal, part of the
reason for looking at that was because those uses I'm not sure but they may predate the zoning ordinance. I know the non-compatible use that this is contiguous with or my impression is that that was there before the zoning ordinance. There may be some issues of time as well as prolonged use.

CHAIRMAN: Mr. Wilson, hold on. I think we've got a question for the applicant.

Do you have a question?

MR. HAYDEN: Well, for Staff I guess. It sounds like it's been used for this purpose back long before we had an ordinance on it. How come it wasn't grandfathered at that time?

MR. NOFFSINGER: In terms of -- when the properties were zoned back several years ago, and I'm not sure how long the B-4 zoning goes back. Gary Adams in our office might be able to give us all a history lesson in terms of what took place back in 1980, but the property could have been rezoned or zoned in 1980 when we had a mass zoning within the community and was zoned B-4. The use at that time I can't speak to. It could be that the property was zoned B-4 back in 1956. That I can't answer. I do know that we've done enough research at the staff level, I'm speaking of Mr. Jim Mischel in particular,
to determine that a letter of violation should go out regarding the use of the property. That’s not something that just happened recently. These letters have gone out many times over the course of the past several years.

CHAIRMAN: Mr. Wilson. Excuse me.

MS. DIXON: My biggest concern, and I still don’t know that we’ve answered it, is how is it monitored? Because as long as I have been associated with either board there have been violations and attempts to monitor and attempts to correct and it has been an onward thing.

CHAIRMAN: Mrs. Dixon, just for the record, why don’t you clarify your position when you say both boards.

MS. DIXON: I’m on the Board of Adjustments as well as the Planning Commission.

CHAIRMAN: Thank you. Mr. Wilson.

MR. WILSON: Mr. Chairman, if I might. Clarify one thing. The legal non-conforming use that’s adjacent to this property to the east, to the Crabtree Avenue side it’s a relatively small area. You know, it’s abutted on the west by this property. That property it’s a legal non-conforming use. It does not have residential property either across the Ohio Valley Reporting (270) 683-7383
street from it nor to the west contiguous to it. To
the west it's got this illegal non-conforming use to
the west of it.

While it is used for the purpose that
these people have been using this property for in
recent years anyway, they've been getting notice after
notice from this Staff. As Mr. Elliott stated, he has
papers on his desk right now to file a lawsuit to
bring it into compliance. That's merely what we're
asking this commission to do. If they are successful
somehow legally in showing that it's proper for them
to use this in violation of the zoning ordinance, then
we're looking at a different animal, but right now
tonight we're here with the application that you have
in front of you. You have a staff recommendation on
it.

This talk about an entrance on Old
Henderson Road is nothing we've even looked at or
thought about, but we still don't like the idea of
having a junk yard legalized right across from our
homes. It's illegal now and we're in hopes that it
will cease to be used for that. Be used for equipment
sales like the sign that sits out at the entrance says
it's used for.

So we would ask this commission to vote in
accordance with the recommendation of the Staff. If
they wish to come back with a totally new proposal at
some point in time or convince the courts when Mr.
Elliott files this lawsuit that he may or may not file
for you all, you know, we'll face that at that time.
Right now we have this application based on what's
before you all and we would ask that it be brought on
for a vote and that the Staff recommendation be
followed. Thank you.

CHAIRMAN: Thank you, Mr. Wilson.

Mr. Noffsinger, just for a very nice
concise summary, would you summarize the terms that
Mr. Wilson was using about the non-conforming and
legal and illegal of the contiguous properties concise
so everybody has -- I think some people probably in
the audience have lost a little bit in our
translation. So you can categorize properties
contiguous.

MR. NOFFSINGER: There's an existing lot
of record that is addressed as 1903 Old Henderson
Road. This particular piece of property is located
immediately to the east of the subject property. They
share a common boundary line. During our research we
find that that property is a legally non-conforming
auto salvage yard. Meaning that the property is zoned
B-4 general business, the same as the subject property now.

When we say legally non-conforming we mean the property is not zoned I-2 Heavy Industrial and does not meet all of the requirements of the zoning ordinance; however, that use predates the zoning ordinance. The date we use is April 20 something of 1977. The use existed prior to that date it's considered a legally non-conforming use so long as it's not expanded, but if it occurred after that date then that occurrence should be consistent with the adopted zoning ordinance and be located in the appropriate zone.

CHAIRMAN: Thank you.

Are there any other questions from anyone?

(NO RESPONSE)

CHAIRMAN: If there are no further questions.

I think what the commission is faced with is we have two different views on the situation. One is a non-conforming situation that we're faced with which we must make a decision on that's been operating in a certain manner; however, they are applying to change their zoning to conform with their business that they're trying to expand.
Yet, we have the neighbors who have been, according to some of their records and things that they've applied to, have been good neighbors, but would like to see the area that we're trying to vote on to maintain the zone which they are now zoned as and operate in that zone, is what we're faced with. We have a Staff recommendation. As our Staff overviewed both parties application, applied it to the current zoning laws and then made a recommendation to this board.

So consequently that is what we, the board, are faced with. So if the commission has any other ideas, suggestions or questions, the Chair is seeking that.

MR. ROGERS: Mr. Noffsinger, if the applicant resubmitted another application after all of this was done, I would be more in favor of it. If we approve this, we have no idea that this will be done that they propose to do. I think they should come back and resubmit a new proposal. May turn it down again, but at least if this part of it was done I would feel better about voting in favor for it.

MR. NOFFSINGER: If those conditions were already or those items already addressed and in place, then you would feel better about it?
MR. ROGERS: Right.

MR. APPLEBY: That presents a problem thought that they're in violation at present if I'm understanding with that paper on your desk. This needs to be resolved one way or the other.

MR. ELLIOTT: Right. I think Jim gave them notice of the violation like on January 24th. They have 30 days in which to take that to the Board of Adjustment and state their position before the Board of Adjustment. If the Board of Adjustment were to uphold his position, then they have 30 days to take it to circuit court. That 30 days has passed for them to take it before the Board of Adjustment.

Technically they're in violation and they have not appealed that. They have no standing to object to that violation. I guess that's why we're before the zoning board.

DR. BOTHWELL: Mr. Chairman, I think we need to act tonight. I think it's before us. They never added the conditions before this came before us. They had ample opportunity to add that to this which wasn't done. The proposal sits here before us as is. I think we need to decide this change or not.

CHAIRMAN: Dr. Bothwell, the Chair will entertain a motion.
DR. BOTHWELL: I make a motion we deny the change based upon the Finding of the Staff.

MS. DIXON: I'll second it.

CHAIRMAN: Let's be a little bit more specific. Staff Recommendations 1 through 4?

DR. BOTHWELL: Yes, that's correct.

MS. DIXON: I'll second.

CHAIRMAN: We have a proposal by Dr. Bothwell for denial. We have a second by Ms. Dixon. Is there any questions?

(NO RESPONSE)

CHAIRMAN: All in favor of denial of proposal by Dr. Bothwell raise your right hand.

(MR. ROGERS, SISTER VIVIAN, MS. DIXON, DR. BOTHWELL RESPONDED AYE.)

CHAIRMAN: We've got four. Then all opposed.

(MR. APPLEBY, MR. GILLES AND MR. HAYDEN RESPONDED NAY.)

CHAIRMAN: I don't feel good about either way and I'm going to abstain.

MR. APPLEBY: You can't abstain. You've got to vote.

CHAIRMAN: It's a tough situation.

Let me recall the question then. Dr.
Bothwell's proposal. All in favor of denial raise your right hand.

(MR. ROGERS, SISTER VIVIAN, MS. DIXON, DR. BOTHWELL AND MR. KIRKLAND RESPONDED AYE.)

CHAIRMAN: All in favor.

(MR. APPLEBY, MR. GILLES AND MR. HAYDEN RESPONDED NAY.)

CHAIRMAN: Motion is denied.

Next item.

ITEM 5

1501 East 26th Street, 0.660 acres
Consider zoning change: From R-1C Single-Family Residential to P-1 Professional/Service Applicant: Communication Workers' of America Local 3314, East Congregation of Jehovah's Witnesses

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the adopted Comprehensive Plan. This recommendation is made subject to the conditions and findings of fact that follow:

Conditions:

1. Access to the subject property shall be limited to the existing developed access point located on the property. No additional access points to East 26th Street shall be permitted; and,

2. A 3-foot high continuous element and one tree per 40 linear feet shall be provided where the
vehicular use area adjoins the public right-of-way.

Findings of Fact:

1. The subject property is located in an Urban Residential Plan Area, where Professional/Service uses are appropriate in limited locations;

2. The subject property adjoins a Professional/Service zone to the west; and,

3. The applicant's proposal is a logical expansion of the P-1 Professional/Service zone that would not overburden the capacity of roadways or other urban services available in the affected area.

MS. WATSON: We would like to enter the Staff Report as Exhibit C.

CHAIRMAN: Is there anybody here representing the applicant?

APPLICANT: Yes.

CHAIRMAN: Would you like to make a statement?

APPLICANT: I'll answer questions if there are any.

CHAIRMAN: Are there any questions from anybody?

Yes, sir.

MR. ELLIOTT: State your name, please.

MR. FENDEL: Max Fendel.
MR. FENDEL: I own property on the corner of 26th and West Victory Court. It is a family neighborhood. The street that joins East Byers Avenue, and it's picked up quite a bit of traffic, there's only one other business in that whole area and it's out on Old Hartford Road which is a main road through that area and that's Carmel Home. I feel like zoning this one piece of property on 26th Street, which is a residential neighborhood, is a formed spot to zone. I think it's an encroachment on a family neighborhood. I would like to see this be denied. Thank you.

DR. BOTHWELL: Mr. Noffsinger, is this correct, that the property immediately west is also zoned B-1?

MR. NOFFSINGER: Yes, sir.

DR. BOTHWELL: Thank you.

CHAIRMAN: Does anybody from the commission have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: If not the Chair will entertain a motion.

MR. APPLEBY: I make a motion for approval, Mr. Chairman, based on the Planning Staff's
Recommendations and Conditions 1 and 2 and Findings of Fact 1 through 3.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

MR. NOFFSINGER: Mr. Chairman, let the record show that I'm disqualifying myself. I disclosed to the Planning Commission that I am a member of Bellevue Baptist Church. I have not participated in the Staff review of the proposal nor will I be participating tonight and that is due to professional ethics would not allow me to do so.

CHAIRMAN: Thank you, Mr. Noffsinger.

Ms. Watson, do you have a report?

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ZONING CHANGES - COUNTY

ITEM 6

4800, 4950 KY 56, 72.074 acres
Consider zoning change: From A-R Rural Agriculture and B-4 General Business to P-1 Professional/Service Applicant: Bellevue Baptist Church

PLANNING STAFF RECOMMENDATIONS

Ohio Valley Reporting
(270) 683-7383
Staff recommends approval because the proposal is in substantial compliance with the community's Comprehensive Plan. This recommendation is made subject to the condition and findings of fact that follow:

Condition:

1. Submittal and approval of a final development plan prior to issuance of a building permit.

Findings of Fact:

1. The subject property is located in a Rural Preference Plan Area, where professional/service uses are appropriate in very-limited locations;

2. The Comprehensive Plan now identifies this area on the map of Sanitary Sewer Facilities Plans as planned for sanitary sewers near-term, which alters the plan area to be comparable to a Future Urban Plan Area;

3. The construction of the Sorgho Elementary School and the rezoning for the development of Whispering Meadows Subdivision are evidence that the plan area is in transition and has facilities planned that will support more urban development than a Rural Preference Plan Area typically has;

4. The applicant's proposal meets the criteria for new locations of P-1 Professional/Service uses in Ohio Valley Reporting (270) 683-7383
a Future Urban Plan Area, the proposal is major-street oriented and over one acre in size; and,

5. The Transportation Planner has found that the location and character of the proposed access points as shown on the submitted preliminary development plan should not overburden the capacities of KY 56 and KY 81.

MS. WATSON: We would like to enter the Staff Report as Exhibit D.

CHAIRMAN: Is there anybody representing the applicant here?

MR. PRESSER: Yes, sir, Mr. Chairman. Ron Presser.

(MR. RON PRESSER SWORN BY ATTORNEY.)

MR. PRESSER: Mr. Chairman, I'm here on behalf of Bellevue Baptist Church. There's several members of the church here as well as the engineer that's working on this project. We would be happy to answer any questions or try to respond to any concerns that anyone might have concerning this application.

CHAIRMAN: Thank you.

Is there anybody from the audience that has any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Anybody from the commission
have any questions of the applicant?

(NO RESPONSE)

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

MR. HAYDEN: Make a motion to approve Findings of Fact 1 through 5 and Condition 1.

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

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.

Related Item:

ITEM 6A

4612, 4700, 4800, 4950 KY 56, 94.575 acres
Consider approval of preliminary development plan.
Applicant: Bellevue Baptist Church

MS. WATSON: The Staff has reviewed the plan. We find it to be in order and ready for your consideration.

CHAIRMAN: Is there anybody here representing the applicant?

MR. PRESSER: Yes, sir.

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

MR. KUEGAL: Mr. Chairman, I'd like to make a statement if I could. I'm Bill Kuegal.

CHAIRMAN: Mr. Kuegel, would you go to the mike, please.

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

MR. KUEGAL: Bill Kuegal.

(MR. BILL KUEGAL SWORN BY ATTORNEY.)

MR. KUEGAL: I've lived in this community since 1937. I have two properties that join two sides of this property and I'm not against the rezoning one minute.

The only thing that I would like to say to this group of church members and their leader that a rural community has some different smells sometimes. You have fresh manure that's spread sometime in the spring or during the summer. We have chemical spray that has a smell. We have dust sometimes when the land is being cultivated. We have smell when tobacco is curing. All of these have to be tolerated by the people that live in this community.

All I'm saying is that when church people comes out on Wednesday night for church services and you smell a particular smell, you're going to have to
bear with us because this is part of living in the
country.

Certainly I think this might help us out
in our community morally. We could use some help in
that respect. I support 100 percent the zoning
change.

I might say one thing to you as
individuals. You make one person happy and five mad
so I don't envy your position at all. Thank you

CHAIRMAN: Mr. Kuegal, I think you stated
your position very well, but this board has always
been very strongly supporting the rural community when
the subdivisions and other businesses move in to the
rural community.

Ms. Watson, I think you can state for the
record the item where when a church or a subdivision
moves into the rural area where we have the item that
protects the rural area there. Natural habitat.

MS. WATSON: We have a note that we could
ask them to place on the final development plan that
just puts people on notice that this is an
agricultural area and that affords them certain
protection under the law.

CHAIRMAN: Okay. Thank you.

You all understand that and have no
problem with that?

MR. PRESSER: Yes, sir, we do understand.

CHAIRMAN: Did you understand what Ms. Watson had said and the notation that would be put on the plat?

MR. PRESSER: Yes.

CHAIRMAN: Thank you very much.

With that said are there any further questions?

(NO RESPONSE)

MR. APPLEBY: Is Chair ready for a motion?

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

MR. APPLEBY: Mr. Chairman, I make a motion for approval with the aforementioned reference to agricultural community notation on the plat.

MR. GILLES: Second.

CHAIRMAN: We've got a motion by Mr. Appleby. Second by Mr. Gilles. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

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ZONING CHANGE - CITY/COUNTY

Ohio Valley Reporting
(270) 683-7383
ITEM 7

1809, 1819 Carter Road, 1501, 1503, 1505 Richbrooke Trace, 3.419 acres

Consider zoning change: From R-1A Single-Family Residential and R-3MF Multi-Family Residential to R-3MF Multi-Family Residential

Applicant: RNA Rental, LLC, c/o Richard N. Anderson

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the community's Comprehensive Plan. This recommendation is made subject to the conditions and findings of fact that follow:

Conditions:

1. Approval of a final development plan;
2. Existing 7-foot high stockade fence located along the east property boundary is to remain and be maintained;
3. Driveway access on Carter Road shall be closed when the single-family dwellings at 1809 and 1819 are removed or changed in use; and,
4. Annexation of the unincorporated portion to allow required lot consolidation of all portions of the subject property.

Findings of Fact:

1. The subject property is located in an Urban Residential Plan Area, where urban mid-density uses are appropriate in limited locations;
2. Adjacent property at 2600, 2604 and 2608 West Parrish Avenue is zoned R-3MF Multi-Family Residential;

3. A portion of the subject property is currently zoned R-3MF and the proposal is a logical expansion of the existing R-3MF zones;

4. The existing buildings are designed and arranged in a manner so they will not become irritants to the neighborhood; and

5. Sanitary sewers serve the subject property.

MS. WATSON: We would like to enter the Staff Report as Exhibit E.

CHAIRMAN: Is there anybody representing the applicant?

APPLICANT: I'm just here to answer any questions.

CHAIRMAN: Does anybody from the audience have a question of the applicant?

MR. ELLIOTT: State your name, please.

MR. SHAW: Glen Shaw, 2435 North Stratford.

(MR. GLEN SHAW SWORN BY ATTORNEY.)

MR. SHAW: I was in the office the other day looking for the final plan of this addition and you didn't have it at that time. Do you have his
final plan, his final drawing now and is it available?

MS. WATSON: There's a final development plan -- Mr. Shaw looked at a final development plan that was submitted for consideration at this meeting at that time. We had marked up some changes on the plan and didn't have the original back at the office. Yes, it's here tonight if you would like to see that.

MR. SHAW: Are there any changes in the entrances and exits from the existing buildings?

MS. WATSON: No, sir.

MR. SHAW: Not no changes there. The height of the stockade fence will be specified to be maintained on the east property line?

MS. WATSON: Right. We ask as a condition that that 7 foot stockade fence remain be maintained.

MR. SHAW: I don't think we have any more problem then. Thank you.

CHAIRMAN: Are there any more questions?

(NO RESPONSE)

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

MR. ROGERS: Mr. Chairman, I make a motion for approval based on Staff's Recommendation with Conditions 1 through 4 and Findings of Facts 1 through 5.
CHAIRMAN: Mr. Rogers makes a motion for approval.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

RELATED ITEM:

ITEM 7A

1809, 1819 Carter Road, 1501, 1503, 1505 Richbrooke Trace, 3.419 acres
Consider approval of final development plan.
Applicant: RNA Rentals, LLC, c/o Richard Anderson

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and the Engineering Staff. It's found to be in order. This plan does take some existing one bedroom units and converts them into two bedroom units with no additional building development proposed at this time. With that it's ready for your consideration.

CHAIRMAN: Is there anybody here representing the applicant?

APPLICANT: Yes.

CHAIRMAN: Any questions from anyone on the commission?
CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move for approval.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

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ZONING CHANGE - WHITEVILLE

ITEM 8

9923 West Street, (Whitesville) 1.01 acres
Consider zoning change: From R-1A Single-Family Residential to B-4 General Business

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because a major physical change has occurred that is not reflected in the Land Use portion of the Comprehensive Plan. This recommendation is made subject to the conditions and findings of fact that follow:

Conditions:

1. No direct access to Main Street (KY 54) shall
be permitted;

2. The existing curb at the intersection of Main Street (KY 54) and West Street shall be continued along the west side of West Street for the entire length of the subject property, and,

3. The subject property shall be screened from the residential property to the west and to the south with a 6' high continuous element and one tree per 40 linear feet of boundary.

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. There has been a major physical change in the area that is not reflected in the Land Use portion of the Comprehensive Plan with the rerouting of KY 54;

3. KY 54 now intersects with West Street changing the previous residential character of the area; and,

4. The applicant's proposal is major-street oriented and situated at the corner of intersecting streets.

MS. WATSON: We would like to enter the Staff Report as Exhibit F into the record.

CHAIRMAN: Is there anybody representing Ohio Valley Reporting
(270) 683-7383
the applicant?

(NO RESPONSE)

CHAIRMAN: Any questions from the staff or any questions from the commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move for approval based upon Findings of Fact 1, 2, 3, 4 and Conditions 1 through 3.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. ROGERS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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COMBINED DEVELOPMENT PLANS/MAJOR SUBDIVISIONS

ITEM 9

Earl Hayden, Phase No. 4, Revised Lot 12, Unit 11, Heritage Park, 5.294 acres
Consider approval of combined major subdivision preliminary plat/final development plan.
Applicant: Earl Hayden

MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff and

Ohio Valley Reporting
(270) 683-7383
Engineering Staff. Found to be in order and ready for consideration.

CHAIRMAN: Is anybody here representing the applicant?

MR. RINEY: Jim Riney.

CHAIRMAN: Do you need to make a statement, Mr. Riney?

MR. RINEY: No.

CHAIRMAN: Any question from the commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 10

Thorobred Crossing, 14.217 acres
Consider approval of amended combined major subdivision preliminary plat/final development plan.
Applicant: Thompson Homes, Inc.
MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff, Engineering Staff. Found to be in order.

It is a revision to lot Number 3 in this development to indicate that that unit will be a single-family rear or a side load unit. It was originally stated as being a rear load unit with a garage and the access drive being located off a rear alley. They are amending that to allow for side loads so there could be a driveway on look out drive. With that it's ready for your consideration.

CHAIRMAN: Is there anybody here representing the applicant?

MR. THOMPSON: Yes.

CHAIRMAN: Mr. Thompson, would you like to make a statement?

MR. THOMPSON: Yes.

MR. ELLIOTT: State your name for the record.

MR. THOMPSON: Tommy Thompson.

(MR. TOMMY THOMPSON SWORN BY ATTORNEY.)

MR. THOMPSON: Mr. Chairman, I'm here to answer any questions that the commission or anyone may have about this application.

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

(NO RESPONSE)

CHAIRMAN: Does anybody from the commission have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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DEVELOPMENT PLAN

ITEM 11

Portion 4801 Frederica Street, 11.69 acres
Consider approval of final development plan.
Applicant: Firstar

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

CHAIRMAN: Is there anybody here

Ohio Valley Reporting
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representing the applicant?

MR. RINEY: Yes.

CHAIRMAN: Mr. Riney, do you need to make a statement?

MR. RINEY: No.

CHAIRMAN: Are there any questions of the applicant from anybody in the audience?

(NO RESPONSE)

CHAIRMAN: Anybody on the commission have any questions?

SISTER VIVIAN: No, but I need to abstain, excuse myself from this since I'm on the board of Firstar.

MR. ELLIOTT: Disqualify.

CHAIRMAN: Sister Vivian will disqualify herself.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.
ITEM 12

5010 Wildcat Way, 2.500 acres
Consider approval of final development plan.
Applicant: Esperanza, LLC, c/o Barry Schnakenburg

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

CHAIRMAN: Is there anybody here representing the applicant?

APPLICANT: Yes.

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

(NO RESPONSE)

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

CHAIRMAN: Motion for approval by Mr. Cambron.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

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MAJOR SUBDIVISIONS

ITEM 13

Ohio Valley Reporting
(270) 683-7383
The Brooks, 31.624+ acres
Consider approval of major subdivision final plat.
Applicant: Owensboro Master Builders, Inc.

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

CHAIRMAN: Is anybody here representing the applicant?

MR. RINEY: Yes.

CHAIRMAN: Does anybody have any questions from the audience?

(NO RESPONSE)

CHAIRMAN: From the commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. HAYDEN: Make a motion for approval.

CHAIRMAN: Motion for approval by Mr. Hayden.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

ITEM 14

Earl Hayden, Unit 1, (division of Phase No. 4, lot 12,
Consider approval of major subdivision final plat.

Surety (certified check) posted: $25,672.50

Applicant: Earl Hayden

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

CHAIRMAN: Is somebody here representing the applicant?

MR. RINEY: Yes.

CHAIRMAN: Does anybody from the audience have a question of the applicant?

(NO RESPONSE)

CHAIRMAN: Are there any questions from the commission?

(NO RESPONSE)

MR. CAMBRON: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Cambron.

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.
MINOR SUBDIVISIONS

ITEM 15

1371, 1381 Gobler Ford Road, 3.98, 1.04 acres
Consider approval of minor subdivision plat.
Applicant: Glendial & Carolyn Sue Westerfield

MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff. The plat is in order; however, it does seek to create a lot that does not conform to the subdivision regulations. The lot will exceed the required 3 to 1 depth to width ratio. I'm not sure if the applicant is represented here tonight, but it is ready for your consideration.

CHAIRMAN: Is there anybody here representing the applicant?

MS. WESTERFIELD: Yes.

CHAIRMAN: Would you like to make a statement?

MS. WESTERFIELD: No.

CHAIRMAN: Does anybody from the audience have a question of the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody from the commission have a question of the applicant?

(NO RESPONSE)

CHAIRMAN: The Chair is now ready for
motion if there are no questions of the applicant.

SISTER VIVIAN: Motion for approval.

CHAIRMAN: Motion for approval by Sister Vivian.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 16

10707 Red Hill-Maxwell Road, 12,000 acres
Consider approval of minor subdivision plat.
Applicant: Samuel N. Goodall

MR. NOFFSINGER: Mr. Chairman, this tract was deeded back in 1985. It's deeded just after this commission began reviewing agricultural divisions. It was recently surveyed and it was sent in to our Planning Staff to approve the plat; however, I cannot sign the plat because it created an agricultural tract that did not have frontage on a public right-of-way. The only rights of ingress/egress or access was via a deeded access easement. It just so happens that all of the properties around this property have been sold off to different property owners. This tract now would have been created by default anyway, but at that
time there should have been a review by the Planning
Staff to determine if it was true agricultural
division or not; however, given the history of the
property and size of the tract Staff has recommended
you give a favorable recommendation.

CHAIRMAN: Is anybody here representing
the applicant?

APPLICANT: Yes.

CHAIRMAN: Would you like to make a
statement?

APPLICANT: No.

CHAIRMAN: Are there any questions from
anybody in the audience?

(NO RESPONSE)

CHAIRMAN: Does anybody from the
commission have a question?

(NO RESPONSE)

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr.

Appleby.

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.
ITEM 17

5010 Wildcat Way, 5036 Best Way, 41.282 acres
Consider approval of minor subdivision plat.
Applicant: SRH Real Estate, LLC

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

CHAIRMAN: Is there anybody here representing the applicant?

APPLICANT: Yes.

CHAIRMAN: I think there will be no questions from the audience. Is there any questions from the commission?

(NO RESPONSE)

MR. CAMBRON: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Cambron.

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

SURETY RELEASE

Ohio Valley Reporting
(270) 683-7383
ITEM 18
Premier Bandag, $5,013.00
Consider release of surety (Certified Check) for landscaping.
Surety posted by: Premier Bandag

MR. NOFFSINGER: Mr. Chairman, it's ready for release.

CHAIRMAN: If there are no questions from anybody, 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.

SURETY TRANSFERS

ITEM 19
Creek Haven, unit #1, $10,560.00
Transfer of surety (Certificate of Deposit) for sidewalks to the City of Owensboro.
Surety posted by: Creek Haven Development, Inc.

ITEM 20
Creek Haven, Unit #1, $1,400.00
Transfer of surety (Certificate of Deposit) for storm sewers to the City of Owensboro
Surety posted by: Creek Haven Development, Inc.
ITEM 21
Creek Haven, Unit #1, $4,369.40
Transfer of surety (Certificate of Deposit) for streets to the City of Owensboro.
Surety posted by: Creek Haven Development, Inc.

ITEM 22
Doe Ridge, Unit #1, Section 3, $26,710.80
Transfer of surety (Performance Bond) for streets, sidewalks and storm sewers to the City of Owensboro.
Surety posted by: Robert J. Wimsatt

ITEM 23
Doe Ridge, Unit #3, Section 3, $1,350.00
Transfer of surety (Performance Bond) for water mains to the City of Owensboro.
Surety posted by: Robert J. Wimsatt

ITEM 24
Eagle Crest Estates, Unit #1, $5,000.00
Transfer of surety (Certificate of Deposit) for fire hydrants to the Daviess County Fiscal Court.
Surety posted by: Hayden Park Developers

ITEM 25
Heritage Park, Phase 2, $16,146.00
Transfer of surety (Certificate of Deposit) for sidewalks to the City of Owensboro.
Surety posted by: Jagoe Homes & Construction Co., Inc

ITEM 26
Heritage Park, Phase 2, $6,370.00
Transfer of surety (Certificate of Deposit) for streets to the City of Owensboro
Surety posted by: Jagoe Homes & Construction Co., Inc

ITEM 27
Turtle Creek, Unit #2, $2,500.00
Transfer of surety (Performance Bond) for fire hydrants to the City of Owensboro.
Surety posted by: Robert J. Wimsatt

Ohio Valley Reporting
(270) 683-7383
MR. NOFFSINGER: Mr. Chairman, Surety

Transfers Item 19 through 27 are in order and may be
transferred in toto.

CHAIRMAN: If there are no questions, the Chair is ready for a motion.

MS. DIXON: Move to approve 19 through 27 in toto.

CHAIRMAN: Motion for approval by Ms. Dixon.

SISTER VIVIAN: Second.

CHAIRMAN: Second by Sister Vivian. All in favor raise your right.

(ALL BOARD MEMBERS RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

NEW BUSINESS

ITEM 28

2600 Block KY 81
Land Acquisition
Consider comments regarding the acquisition of approximately 24 acres of property on KY 81 for the Daviess County Government Complex
Referred by: Daviess County Fiscal Court

MR. NOFFSINGER: Mr. Chairman, Mrs. Watson has a very brief description and presentation on this property.

MS. WATSON: This property is a portion of

Ohio Valley Reporting
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an agricultural tract. There would need to be a property division created for the property. We have looked at the property in terms of flood plain. It is outside of the 100 year flood plain. We've contacted the airport regarding flight patterns from the airport. Tim Bradshaw determined that it would not interfere with flight patterns and would not be an incompatible land use to be located near the airport. He did ask that we get into the record that the requisite applications would need to be filed with the Kentucky Airport Zoning Commission prior to development of the property. The sewer facilities are being planned with RWRA for sewer extension to the site at this time.

CHAIRMAN: Any there any questions from the commission?

(NO RESPONSE)

CHAIRMAN: Mr. Riney.

MR. RINEY: I'm representing the applicant. Let me make one statement on it.

The 24 acres is approximate. As Ms. Watson indicated it would be subject to a lot division which the applicant has asked us to prepare. That's a soft number just for the record so everybody understands. It would depend on the depth of the
property as far as total acreage of the division.

CHAIRMAN: Thank you, Mr. Riney.

MR. NOFFSINGER: I would like to add for
the record that Staff's review finds no conflict with
the Comprehensive Plan and recommend that we forward a
letter to that effect with the items that Ms. Watson
indicated in that letter.

CHAIRMAN: Thank you very much. Added to
the record.

The Chair is now ready for a motion.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms.

Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

ITEM 29

Consider authorization of Dave Appleby, secretary for
the OMPC, to endorse a check in the amount of $630.00
from JMP/Lake Forest that was mistakenly made out to
the OMPC instead of the Daviess County Fiscal Court.

MR. NOFFSINGER: Mr. Chairman, I think
I've made each of the commissioners aware of what has
happened here and it's ready for your consideration.
MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

The Chair is ready for one more motion.

MS. DIXON: Move to adjourn.

DR. BOTHWELL: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Meeting is adjourned.
STATE OF KENTUCKY)  
COUNTY OF DAVIESS)  

I, LYNNETTE KOLLER, Notary Public in and for  
the State of Kentucky at Large, do hereby certify that  
the foregoing Owensboro Metropolitan Planning & 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 86 typewritten pages; and that no signature  
was requested to the foregoing transcript.  

WITNESS my hand and notarial seal on this  
the 4th day of April, 2002.

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

COMMISSION EXPIRES:  
DECEMBER 19, 2002

COUNTY OF RESIDENCE:  
DAVIESS COUNTY, KENTUCKY

Ohio Valley Reporting  
(270) 683-7383