

Henderson City-County  
Planning Commission  
April 5, 2016

The Henderson City-County Planning Commission held their regular meeting April 5, 2016 at 6:00 p.m., at the Henderson Municipal Center, 222 First Street, 3rd floor assembly room. Members present: Chairman Herb McKee, Vice-Chair David Williams, Bobbie Jarrett, Dickie Johnson, Gary Gibson, Rodney Thomas, David Dixon, Kevin Herron, Kevin Richard, Penny Hahn and Herb Pritchett. Mac Arnold was absent.

Staff present: Director Brian Bishop, Assistant Director Claudia Wayne, Theresa Curtis, Heather Lauderdale and Chris Raymer

*(A summary of the minutes from the meeting on April 5, 2016. A recorded audio tape is on file at the Planning Commission Office)*

**MEETING BEGAN AT 6:00PM**

Chairman McKee: I will call this April 5, 2016 meeting of the Henderson City County Planning Commission to order. Madame Clerk, will you please call the roll. The Chair will entertain a motion to go into public hearing.

***MOTION WAS MADE BY RODNEY THOMAS, SECONDED BY KEVIN RICHARD TO GO INTO PUBLIC HEARING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: First on the agenda is the review and approval of the minutes from the **March 1, 2016 Planning Commission minutes.**

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY KEVIN RICHARD TO APPROVE THE MINUTES FROM THE MARCH 1, 2016 MEETING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda is **Parcel “A” Akin Family Trust Agricultural Subdivision,** Mrs. Wayne are you going to lead that discussion.

Claudia Wayne: Yes.

Chairman McKee: Please proceed.

Claudia Wayne: This is submitted by Charlotte Akin Cooper, Trustee and Stephen and Mary Cabell for the property located in Henderson County (PID #17-8) on Ky. Hwy 136 W. Applicants are requesting approval of an Agricultural Division located in a Special Flood Hazard zone. This is before you tonight for two reasons, the Ag. Division and the Special Flood Hazard area. The property contains 134.4 acres and it does meet all the requirements of the K.R.S. 100 for agricultural exemptions plus our flood prevention ordinance requires property in a flood hazard area to come to the Planning Commission for approval. Staff recommends approval and if you all have any questions I will do the best to answer it.

Chairman McKee: Questions for staff? Hearing none, is there anyone that would like to speak for or against this proposal? Seeing none, the Chair will entertain a motion.

***MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY DAVID DIXON TO APPROVE PARCEL "A" OF THE AKIN FAMILY TRUST AGRICULTURAL DIVISION, PID #17-8 ON KY. HWY 136 W.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda is an **Amendment to the City Zoning Ordinance**, Mr. Bishop are you going to lead that discussion?

Brian Bishop: Yes sir.

Chairman McKee: Please proceed.

Brian Bishop: The proposed text amendment to the City Zoning Ordinance was originated by the City Commission and it is referred to us. The proposed text amendment would allow the applicant to apply to the city's Board of Zoning Adjustment for a Conditional Use Permit to operate up to three (3) businesses in the same structure. The public hearing regarding this proposed amendment has been advertised, it is our responsibility to hold the public hearing, to make a recommendation to the City Commission and to justify the reasons for that recommendation. The uses should be of the same general character or accessory to one another. An example of this would be a convenient store with a fast food restaurant or a chain inside that convenient store. There was previous language in the zoning ordinance that would allow for this but it was inadvertently removed or deleted when the current zoning ordinance was re-written. The text amendment would allow the City Board of Zoning Adjustment to determine if three (3) businesses in one structure are appropriate on a case by case basis. The Board of Zoning Adjustment can require conditions when the circumstances warrant it,

some examples of conditions are screening, hours of operation and lighting requirements. The proposed amendment is intended to do three (3) things: allow for more density, make efficient use of the existing infrastructure and to help promote a more business friendly climate. The zones impacted are the Central Business District, General Business District, Highway Commercial, Neighborhood Business, the HIP Zone, the Gateway District and the Residential Office District.

We have prepared a draft sample so that way you will have reasons and the basic outline of the motion if you choose to accept it and if you choose to make that recommendation and we will do our best to answer any questions you may have.

Chairman McKee: Questions for staff?

Kevin Richard: So Brian, I guess I didn't get a chance to go back and look at the original language prior to omission, was it also conditional use?

Brian Bishop: It was not prior.

Kevin Richard: Ok.

Chairman McKee: Any other questions for staff? Is there anyone here that would like to speak for or against this proposed text amendment? Judge Ershig, would you please state your name and address?

Harvey Ershig: Harvey Ershig, 502 Norris Lane.

Chairman McKee: Do you swear the statements you are about to make are the truth to the best of your ability?

Harvey Ershig: The best of my ability.

Chairman McKee: Please proceed Judge.

Harvey Ershig: I wasn't really tuned into this thing until I just read it on the board but why do you require a conditional use permit? In the Central Business District, as a kid I remember down Second Street I think Dr. Strother and a flower, what was his name, O'Daniel they shared a building and they didn't have to go ask anybody. It's just another step, it's another piece of red tape that you've got to have a hearing, you've got to go through this stuff, you've got to apply, it's probably costly and it take time. When people want to do something, they want to do it. It's a good idea just eliminate the red tape; don't make them have a conditional use permit. Go to the codes department and get a business license and go for it.

Now, just yesterday I read in the Wall Street Journal where there has been a new company formed and their business is to make available, try to consolidate some of this retail space that bigger companies had and can't use and consolidate those and make them offices or I understand Home Foods are going to move in to part of Sears store, but they didn't have to go ask anybody. The space was available, take advantage of it. That's my two (2) cents.

Chairman McKee: Thank you Judge, would anyone like to comment?

Tommy Jo Fridy: Let me address that Harvey.

Chairman McKee: Judge, can you hear Mr. Fridy?

Harvey Ershig: Not too good, John (Stroud) told me it was time to get up and talk and that's what I did.

Tommy Joe Fridy: I can explain it to him after the meeting but what we are doing tonight is having a public hearing on the words that the City Commission gave us to hold a public hearing and to let you comment that you don't think there should have to a conditional use permit. Right

now, you can't have multiple businesses uses in the same building. This will allow it but it also requires a conditional use permit from the Board of Zoning Adjustments. You're comment, as I understand it is you're for multiple uses but you think it should be without having to get a conditional use permit.

Harvey Ershig: Right, right.

Tommy Jo Fridy: And that's what we're here for, to hear your and everyone else's comments.

Harvey Ershig: Let me just give you one illustration. I have a building down on First Street, its one building and I have ten (10) tenants in it and we didn't go ask anybody. It's been grandfathered, don't send anybody (laughter) and you know, that's just the way it is. For a small business person, you know I've got some empty spots and maybe two (2) people would want to join in, you know? One guy sells clothes, Pete Bryant is dead, he had Bryant's Clothing Store on Second Street and shared that with Dr. Strother, I think. I mean there were two (2) or three (3) of those things going on and it's just another cumbersome thing. The concept is good, let them do it but just don't... if they are a legitimate business...

Chairman McKee: Your comments are noted Judge, thank you very much.

Brian Bishop: Mr. Chairman, may I address?

Chairman McKee: Please do.

Brian Bishop: John and Claudia please correct me if I'm wrong, I think the though process and the logic behind the conditional use was two-fold. One it was to protect the property ad joiners so that way they would have some input if there was going to be a use that they

considered not conducive to an adjoining property and the other was to allow for multiple uses and not be forced to require it into the shopping center requirements is probably the best two (2) arguments for the conditional use permit.

Chairman McKee: You may have to share that with Judge Ershig after the meeting, he didn't hear you. Yes Mr. Fridy.

Tommy Jo Fridy: As the Planning Commission when the City Commission originates a change to the zoning ordinance as they have done here, you have a responsibility and in that responsibility you have three (3) choices; as a majority recommend back to the City Commission either that they approve it as they proposed it or you recommend changing it and approving it or you recommend not approving it at all. Whatever you do the statute says you have to advertise it, that's been done they tell me, I believe it and you have to have a public hearing and that's what we're doing and you have to have to say you are either recommending it or you're not and you have to say why, you have to have reasons why you think they should pass it or why you think they shouldn't or why they should change it.

Herb Pritchett: Mr. Chairman?

Chairman McKee: Yes Sir Commissioner Pritchett.

Herb Pritchett: I would like to pose two (2) questions. The first question is if there are three (3) uses proposed for that building, they must all be uses that are permissive uses in that district, is that correct?

Brian Bishop: Permisses or permitted?

Herb Pritchett: Permitted.

Brian Bishop: Permitted uses, yes.

Herb Pritchett: The second question I have is more problematical, let us suppose that someone proposes three (3) permitted uses and goes to get a conditional use, upon what grounds could you preclude them from those three (3) uses?

Brian Bishop: That is a very good question that the Board of Zoning Adjustment will ultimately decide and I think they are going to base it on are the uses compatible, are they of similar nature and would they operate in unison with one another. Basically, you wouldn't want to have an attorney's office and a car lot sharing the same area because they are not conducive uses with one another. They are not compatible is probably the best word to use.

Herb Pritchett: I guess what my problem is, let's suppose we have three (3) shotgun buildings in downtown and they are each twenty (20) feet wide, you could put those three (3) permitted uses in those three (3) buildings and no one could say anything. But if you have one (1) building sixty (60) feet wide and there were no common walls to separate them, then they would have to go before the zoning board of adjustment to get a conditional use and it would be very problematical if they did not get that conditional use.

Brian Bishop: True but it is also impossible for them to do that at all the way the current zoning ordinance is written.

Chairman McKee: Mr. Fridy?

Tommy Jo Fridy: There are very specific laws and regulations about how a Board of Zoning Adjustment works. What has to be presented to them and how they go about making their decision and because I don't represent the Board of Zoning Adjustments, I have represented them but it's been twenty (20) years or ten (10) years, a long time ago and I cannot spiel off the checklist of what you have to go through but it's

more than just an arbitrary we feel good about this or we feel bad about this. There are objective standards that the Board of Zoning Adjustments must go through. I don't know if that helps you because I understand that's a little different than what you were saying.

Chairman McKee: May I offer a comment? My sense is that each of these zones have a list of permitted uses and a list of conditional uses, is that accurate? The permitted uses and the conditional uses are generally compatible with the oversight of the Board of Zoning Adjustments. So, if you read down through here it kind of gives you a road map. Now, having said that would you like add anything John Stroud? Anybody else like to ask a question? Yes Judge, please come back up to the podium, you are still under oath.

Harvey Ershig: But what he says (Herb Pritchett) is really important because you are just requiring these people to jump through some hoops that the city couldn't stop. Why not just eliminate the need for a conditional use and just go ahead and allow them to do it because they can only do what is permitted in this use anyway? That really is a key point. They can do it anyway just spread it out; just consolidate these three (3) bad tenants into one (1) building.

Chairman McKee: Thank you Judge. Would anyone else like to speak for or against this proposal? Please come to the podium Mr. Taylor. Please state your name and address?

Alan Taylor: Alan Taylor, 4001 Deepwood Drive.

Chairman McKee: Do you swear the statement you are about to make are the truths to the best of your knowledge?

Alan Taylor: Yes I do.

Chairman McKee: Thank you sir, please proceed.

Alan Taylor: I have absolutely no vested interest financially and I am not a member of the church but in thinking through the ramifications of how this would affect property owners in the Gateway Zone on Second Street; there's a church building there, several thousand square feet of a building multiple levels. As I understand it, if this is in place they couldn't have a half dozen different business on those multiple floors in all of those thousands of square feet. Am I accurate?

Brian Bishop: I'm sorry, say that again.

Alan Taylor: The church building that is for sale down here on Second Street, according to this there are several thousand square feet in that building on multiple levels, how would they market that property to someone that wants to develop that?

Brian Bishop: In the current zoning ordinance they would only be able to market it as one (1) business and one (1) space. The way this is written, they could allow to market it up to at least three (3) with a conditional use and anything above that they would have to meet the shopping center requirements.

Alan Taylor: So it's a multiple level, four (4) stories I think, building they would have to go through a shopping center classification process?

Brian Bishop: If this is not passed then yes, that is my understanding. John, is that correct?

Chairman McKee: Mr. Stroud, will you please state your name and address?

John Stroud: John Stroud, City of Henderson.

Chairman McKee: Do you swear the statements you are about to make are the truths to the best of your knowledge?

John Stroud: Absolutely.

Chairman McKee: Please proceed.

John Stroud: I think what Alan is getting at is IBT is a three (3) story building along with the church property, the sanctuary, if they tear that down could they market that as an office building? But an office building, let's say, are you talking about having twenty-two (22) different tenants or is it all going to be under The Kunkel Group and they lease out spaces? So you're talking about...

Alan Taylor: I refer you to the Citi Center building down here on Second Street or the building that Hilliard Lyons offices in where we have multiple floors and multiple business that are totally unrelated. Are we limiting, by this language, somebody developing economically that property...?

John Stroud: I don't think so Alan. I think what we are looking at here are things like a gas station and a Wendy's. I think what you're talking about it would be common ownership of the building, you're going to own the building but you're going to lease out a spot to this person, this person, this person. I don't think that's apples to apples I think that's a different...

Alan Taylor: It was just a question.

John Stroud: It's a good question, it's a very good question but what we're trying to do as you know is work it out to where we could have two (2) uses that the same person doesn't own. Like Alan and I could both be in a building and he could have Personal Safety and I could have a dance factory. As long as they were comparable uses in the zones, so that's what this is for. It's also for places that exist today like Chuckles up here that is a gas station and it is a Wendy's. Actually if you could

do three (3) you could put a Jack in the Box on the other side or something like that. So that is what this is going towards, not restricting someone that owns the Citi Center Mall from leasing property inside their building because they are a unit.

Alan Taylor: Leasing to these businesses that are permitted?

John Stroud: Yes.

Alan Taylor: Ok, it was just a question.

John Stroud: Does that make sense to everyone?

Herb Pritchett: That's not what the ordinance is saying, admittedly I'm not an attorney but that's not what the ordinance is saying. I don't know the ownership of the Chuckles and the Wendy's up here but I would lay you odds one person owns it...

Kevin Herron: Right.

Herb Pritchett: And somebody else rents. There may be two (2) renters so...

John Stroud: Those are decisions that are made at the attorney's levels in conjunction with zoning administration but Chuckles is owned by the same person and they lease two (2) separate things out.

Herb Pritchett: Right, right. I am concerned that if we make this a conditional use, I mean Judge Ershig has some merit to his argument if we make this a conditional use and somebody comes and says I want three (3) uses in this building and you say well you can't have them and they say well you're doing it at the Citi Center building and you're doing it at all these other places and then we have an inconsistency of enforcement that...

John Stroud: But that's non-conforming, that's continuation of non-conforming. Like Judge Ershig, Harvey has ten (10) people staying in a building, rented out ten (10) different spaces, ten (10) different offices. We cannot, right now, we being the City cannot go in there and say you can't do that as long as he continues to do it, it's a non-conformity which exists. It's like having anything else that's non-conforming that exists today...

Herb Pritchett: Until it stays vacant for so many...

John Stroud: Until it stays for over a year. Then you go back to follow the regulations that exists today.

Herb Pritchett: Right.

John Stroud: That's what we looked at with all of these things and that's the reason we came up with three (3). We tried to look at areas that would be comparable in what we're doing. We know there are some places that may have four (4) or five (5) but a lot of those, let's say Harvey was talking about a Sears that's going to be divided up, most of those are in shopping centers anyway, they're already allowed to do that. East Gate, there a lot of different business in there. A large church took over part of a retail area; it's allowed to go in there its part of a shopping center. This is taking care of the buildings that exist today that someone, they might not be able to rent the whole building but they could rent two (2) offices to a small construction company and the rest of it to something else that's comparable to that. That is what this ordinance does; right now it doesn't exist in our ordinance so it can't happen period.

Harvey Ershig: There is a building in town right now that they are operating a bank and there is some discussion about the use of some of

their property. Its property that they don't need but it's in the home office. Now, do they have to get a conditional use permit to do that?

John Stroud: It would be on a case by case basis Harvey. We would have to look at it. Are they wanting to put a retail store in the bottom or are they wanting to keep the bank in the top or do they want to do law offices?

Harvey Ershig: They want to put an office there.

John Stroud: We would have to look at it. It's possible they would, it's possible I don't know.

Herb Pritchett: I guess where I'm coming from is one of the first meetings I attended as a Planning Commissioner we got feedback that we were not business friendly in Henderson. Now then, Judge Ershig has brought up a good point and I understand that you don't want and I serve on the County Board of Zoning Adjustments so I'm familiar with those statutory hoops that we have to jump through and I'm just concerned is this an unnecessary burden to allow permitted uses to go in a district where they would already be permitted, that's where I'm coming from.

David Williams: Herb, just a matter of words, to call these things hoops to jump through, it's not that these things are being place to obstruct, what they are trying to do is make conducive uses and to make good neighbors and ensure we have good neighbors and good relationships among them. But I am kind of curious John, when I first came to Henderson our office was over Mac's Department Store and then over the music store, that was a non-conforming use right?

John Stroud: Back then it wasn't, back then it was a conforming use. There was a caveat in the zoning ordinance that basically allowed the

zoning administrator to allow more than one (1) use in there. When the zoning ordinance was re-written, it disappeared it was tightened too much.

David Williams: So all of these loft apartments that are going in now under the current zoning ordinance, are those...

John Stroud: Any new ones will fall under this ordinance.

David Williams: Yes but if they have been built in the last, how long has this particular ordinance been in effect, the non-multiple use.

Chairman McKee: Remember when we had hearings on the CBD issue and it got approved.

Brian Bishop: Is it 2014?

John Stroud: Yes, 2014 or 2015 something like that.

David Williams: The Central Business District?

John Stroud: Yes.

David Williams: Ok so it's a moot point at this point.

John Stroud: It's a relatively new thing that we discovered inadvertently while looking at the Gateway District actually.

David Williams: I would propose to you Herb that these are, the word I was looking for are checks in the system and Harvey may not like them, in fact I guess most business people do not like being obstructed in any way whether it's for a good purpose or not, it's just they do what they want to do. I can conceive of somebody having a fresh food meat market maybe and next door the owner of a building allows someone to put in a dog kennel service. That would be ... if I was a meat operator I would be a little bit worried about that. So, I'm on the fence here

Harvey, I'm trying to be persuaded one way or the other as to whether we do this or not with...

Harvey Ershig: I think a dog kennel has to have certain qualifications...

David Williams: Ok, what about a pet store?

Harvey Ershig: A dog kennel can't go in next door to a food store.

John Stroud: I think what we are here for today and Tommy Jo said it so much better than I did, we're here today to try to put something back in that was taken out. Now, yes it is going to have to go through the Board of Zoning Adjustments and that is because we added a third item to it, you know you can have three (3) businesses. So right now what we're trying to do is what the City has asked us to do is put this back in the zoning ordinance and this is how we have come up with doing that. I'm like you, no one likes regulations, and I don't like them I just have to enforce them. We all have these things we have to go by but I think it is and maybe it would have brought them away from the Central Business District because it's such a unique district and go out there on the highway or something to a little place that's not a shopping center but there's a building out there that you only have two (2) uses in, right now you can't do it. Right now you can have one and without going through the shopping center regulations we would like to allow you to do more than one. A prime example Barret Boulevard and US Hwy 60, there is actually on the corner I don't know if it's a movie rental place, a vacant store and then like a Verizon store.

Penny Hahn: A Game Stop, it used to be Blockbuster.

John Stroud: Then on the far side of that where actually, I don't know if it's still a Hostess place still, that's actually been divided and that's a separate lot. So, right now there exists two (2) businesses in this

building and they've got a big gap in between and they would love to rent that out. Now, they could go through the shopping center process and as long as they have rear doors and access around it and the correct number of parking places they can come to the Planning Commission or the Board of Zoning Adjustments, go through the subdivision process and probably get that done. This way, with a lot of engineer drawings, this way they go to the Board of Zoning Adjustments and say you know we'd really like to have three (3) uses in that building and not have to jump through all the hoops of having rear doors and this and that and then if the Board of Zoning Adjustments will allow it they can.

Chairman McKee: May I ask a point of clarity?

John Stroud: Yes sir.

Chairman McKee: I want to go back to Mr. Taylor's example of the Immanuel Baptist Church building on Second Street. Did I understand you to say that separate ownership is a factor of the spaces or one owner and leasing spaces out?

John Stroud: I think on that one we would have to look at it that way, like the City Center Mall. I don't know if it's going to happen that way but there are three (3) floors there and if they remodel it and let's say you bought it and you wanted to rent out offices in it, are those separate offices? No, you actually own them all you're leasing them the space. Are they businesses or it's a hard concept, I know...

David Williams: I don't see the difference between if Harvey owns this building and he's got three (3) doors to it to the street, why he can't lease those three (3) doors out to three (3) separate business people.

John Stroud: Are you talking about if there's, if it's one (1) building?

David Williams: Yes. Three (3) separate entrances and...

John Stroud: That's just a zoning thing, that's...

David Williams: What I'm saying is if Harvey owns the building, ok he opens it up and he can put three (3) offices in there right? A dentist office, a doctor's office and a lawyer's office, right? Those are all related. How's that different from the Baptist church building being leased out to three (3) different...an engineering group, a geologist group and a land development agency?

John Stroud: I think that's something that would come to the Planning Commission and probably be approved at that time.

Herb Pritchett: Mr. Chairman, I applaud that we're trying to simplify and not having to go through the shopping center deal. Where I have a problem is the word businesses in this proposed ordinance because the term of (inaudible) use is a planning term, office is a use. So, if you have an office building filled with offices you can argue that is one use under the planning definition of use but they've added the word, in parenthesis businesses in this ordinance so each office is a different business. So, I would recommend that at a minimum if we pass this we suggest or whatever we need to do legally to delete the word that's in parenthesis businesses because I think it's confusing and adds to a potential problem rather than solving a problem.

Gary Gibson: Well I would like to ask John one question. This is what the City Commission wants us to pass, change? So they can make it easier for the City to do business with other people and this is what the City recommends us to look at and it will help them out.

Buzzy Newman: Buzzy Newman, 2110 Locust.

Chairman McKee: Do you swear the statements you are about to make are the truth to the best of your knowledge?

Buzzy Newman: I do.

Chairman McKee: Please proceed.

Buzzy Newman: Gary, Mr. Gibson, you are correct that the City Board of Commissioners directed this question to the Planning Commission to get you all to review it and make a recommendation back to the Board of Commissioners. One thing I do want to clearly point out to you all is that we had a business owner come to us who had a building in the Gateway Zone and under the current ordinance he could only have one business in that building. So he came and asked a simple question, why can I not have two (2)? So we spoke with that person, we went through it and we didn't see a problem with it and Brian said it used to be that way and inadvertently it got omitted when we redid the regulations. The question, I think that is before you tonight is getting a conditional use and I would want to say in a situation such as the question that I just mentioned earlier is that as an adjoining property owner if I had a building next door to me that currently housed one business and they wanted to put up to three (3) businesses in that one building, I think that as an adjoining property owner that adjoining property owner should have the right to voice his opinion as to whether that should be allowed or not. Thus, that is the reason for the conditional use to be granted to allow property owners their voice.

Chairman McKee: Thank you Mr. Newman. Any questions for Mr. Stroud?

Penny Hahn: I have a question. What if one of the businesses changes, like you have a conditional use and then one of them changes, do they have to come back and do another conditional use.

John Stroud: It depends on how it's worded by the Board of Zoning Adjustment. The Board of Zoning Adjustment can word things to where

they can make anything come back. If you get a conditional use, if you move your conditional use is gone, if they don't say that then that conditional use travels with the property. So, the attorneys are going to have to work on the wording on things happening there.

Penny Hahn: Like in the gas station example there where you have the two (2) restaurants...

John Stroud: Like if Wendy's closes and Hardees went in there? I think the Board of Zoning Adjustment could word that to say if it's a similar type use restaurant, etc.; that would be all in the motion that was made through the Board of Zoning Adjustments and the attorneys would be heavily involved in it. That's a good question.

Chairman McKee: Does anyone else have questions for Mr. Stroud?

Rodney Thomas: How much red tape are we talking about?

John Stroud: It's one (1) meeting. You have to advertise three (3) weeks before the meeting and then you come to one (1) meeting. So it's, depending on your process it's a month maybe.

David Dixon: What is your recourse if they Board of Zoning Adjustment doesn't allow you're...?

John Stroud: Circuit Court, it's like anything that comes here if they are not allowed it will go to Circuit. Is that right Mr. Attorney, sorry I didn't mean to jump in there.

Chairman McKee: Any other questions for Mr. Stroud?

Penny Hahn: I have one (1) more. Is there a significate, what is the cost?

John Stroud: I think its fifty-six dollars (\$56). There is a forty dollar (\$40) because we have to advertise, we have to notify all of the

adjoining property owners by certified mail and then there is a sixteen dollar (\$16) fee recording fee to the courthouse for the conditional use. It's a pretty good bargain really. Because most of the time you have a piece of property with six (6) or seven (7) property owners you're talking six (6) or seven (7) times, is it \$7.50 now certified mail Theresa?

Penny Hahn: I was just curious to see how cost prohibitive it was.

John Stroud: It's like fifty-six dollars (\$56) at this point in time.

Penny Hahn: Ok, thank you.

Chairman McKee: Any other questions for Mr. Stroud? Thank you sir, will you be available for more questions later? Would anyone else like to speak for or against this proposal? Please state your name and address.

Mike Richardson: Mike Richardson, 312 Ragan Ave.

Chairman McKee: Do you swear the statements you are about to, make are the truth to the best of your knowledge?

Mike Richardson: I do sir.

Chairman McKee: Thank you please proceed.

Mike Richardson: I'm against the conditional use permit also. I think it's just another piece of legislation, expense and more time is taken to get a business started. I have a building with six (6) spaces in it and I feel that if I want to rent it out, people come to me and want to rent say a massage parlor, parts store, five (5) and ten (10) cent store, barber shop, none of those are related. But, if they want to be in that building and they want to make a business and work here in this city I think they should be able to without having to go through a conditional use permit. They are not related but yet they want to be here so that's just my feeling

and I think that's just another piece of legislation. Something to make it harder for the small person to keep going or get going.

Chairman McKee: Questions for Mr. Richardson?

David Williams: Mike if you are a neighbor to your business, are we talking about the one down here off of Green Street, South Green Street?

Mike Richardson: South Green.

David Williams: Yes, the one with the Christmas Story lamp?

Mike Richardson: Yes, that's one building; the one I'm talking about is on Green Street.

David Williams: Your neighbors there, if you were to want to rent to a business that was going to have objectionable, a barbecue place or a place that's going to have a high level of noise associated with it, do you not think the neighbors should be allowed to have some say as to what you do there since it's going to impact them?

Mike Richardson: I don't think I would rent to somebody like that. Number one (1), you said a barbecue place right?

David Williams: Yes.

Mike Richardson: I can't rent to a restaurant because I don't have fire walls so that's out and somebody that has noise in it, a lot of loud music, I probably wouldn't rent to them anyway. I've already turned a few people down because of what they have, knowing that the ordinances and the zoning won't let them in anyway. There are certain things that you can't put in a building anyway.

David Williams: What if I'm a business owner, I'm the building ok? I don't care what goes in there as long as I rent the building, as long as I'm getting a check I don't care. Do you then think the neighbors should

at least have a say, they may not be able to block it but have a say in what goes into that building.

Mike Richardson: The neighbors are going to have a say anyway because they're going to be asked, aren't they?

David Williams: No. Not in the case that you propose.

Mike Richardson: You've got to get a business license and if the City doesn't want it in there they aren't going to let them in there to begin with. This permit is just another...

David Williams: But if this is a permitted use, no matter what it is, it's a permitted use in the zone and it may be the zoning would take care of the questions I'm proposing. The question I'm proposing to you Mike is should your neighbors be able to have a say in what you put in that building as it may impact their lives?

Mike Richardson: I don't think anybody is going to put anything in a good neighborhood something that the neighbors don't want. A responsible landlord is going to put in something that the neighbors won't dislike.

David Williams: But is every landlord responsible? Can you guarantee that?

Mike Richardson: No, I can't guarantee that, not everyone is. We have slum landlords here, every city has. But if you have somebody that's got multiple spaces, multiple buildings and they are running it properly they are going to have to run it properly to make a go of it and they aren't going to have something that's not going to work and not be able to make a profit.

Gary Gibson: I really believe what we're doing tonight is trying to make it easier on the people that have a business with two (2) or three (3) places in it where they could open it up whereas now they can't. We are trying to make it easier for them to operate, that's the main thing, to get businesses here in town.

Mike Richardson: My understanding of this ordinance is that if I want a barbershop here and I want to put a five (5) and ten (10) cent store if somebody wants to put one on the other side of the building they're not related so you can't put them in there. Is that not correct?

Rodney Thomas: No.

Gary Gibson: You have to have some kind of guideline; we have guidelines on our zoning, page after page. We are trying to make it easier for people in town to develop their land and property.

Rodney Thomas: Aren't you allowed just one (1) right now? You're only allowed one (1) business in a building right now, this will allow up to three (3).

John Stroud: In Mike's situation he has several businesses already there, it wouldn't effect at all in that area. Now, don't you have a building around the corner on Ragan Ave that's always had one business in it? That building under this ordinance, right now you can have one business in it, by doing this ordinance with a conditional use it would be possible you could have two (2) or three (3) in it. This isn't going to affect Mexican Village at all, so tenants can move in and out of that one with no problem they can continue to do what you're doing there. Now, this is going to allow you on that building on the backside that has one (1) tenant to put multiple tenants in it is what it would allow you to do with a conditional use.

Mike Richardson: Here we go again with the conditional use permit.

John Stroud: Right, right.

Mike Richardson: Will the people in one of the six (6) places, will they still have to get a conditional use permit?

John Stroud: No, they're existing and they are there. Like if there's a barber shop down there and a beauty shop and a tattoo place and a frame shop, they're all existing they're all going to be there. The frame shop moves out and Kevin moves his real estate office in down there, that's going to happen, in and out in and out. That's not going to change at all, all of that is going to be the same. What this is allowing is in buildings, like this that exist today with one business in it, it's going to allow you to possible put three (3). It's not going to affect what you've got at the Mexican Village there at all. So, when those guys move out you don't have to get a conditional use permit to move somebody in.

Mike Richardson: Ok.

John Stroud: It's not going to affect that at all. I think probably under our ordinance you guys are a shopping center anyway. Though I think it was an older shopping center but I think you guys were put in as a shopping center. I hope that answers your question.

Mike Richardson: Thank you.

David Williams: John while you're up here, the question is as far as restrictions are not allowing a bad landlord to take advantage of a building or a building situation is what Mike is saying correct? The current zoning and business licenses would restrict that kind of...

John Stroud: Business license and Buzzy, Donna help me. Business license is a tax. That's correct? It's actually not a license to do business in Henderson, it's a tax somewhat.

Buzzy Newman: A business license is a license to do business within our community. There is a fee associated with that license.

Herb Pritchett: But as long as it's a legal business you can't preclude them from having that license, correct?

John Stroud: That's correct. Now what business license does, most of the time is, someone will come in to get a license to do something and they'll say have you talked to the zoning people because there's a form you fill out that's an existing building verification form. Because there for a while they were selling licenses and we would come back and say you can't sell fireworks there, it doesn't meet the zoning ordinance. So, they've started requiring them to come see us and they fill out their existing building verification form. We were being the bad guys having to come back in, second hand and tell them you can operate what you're doing but you can't do it there.

Buzzy Newman: You bring up a very good point about fireworks. It's a very specific, seasonal business but you bring up a good point whereas if you came in and you wanted to do it for two (2) months prior to July 4, there are restrictions by State Statute and also by local ordinance as to what regulates fireworks operations. So, here again as you all discuss this issue I think it goes back to the conditional use question and know that our board of zoning which is a different body but which is also, we had the city attorney oversee that board that at least they have the ability to place conditions on a business that proposes to go in a location. Where they make their basis from is if the public or an adjoining property owner has an objection then that board gives those adjoining

property owners the right to voice their opinion and take that into consideration in making their decisions.

John Stroud: Things that the Board of Zoning Adjustment, I don't know if you deal with it in the county as much but the things they can require are screening and things like that but they can also require additional parking and things like that. If you've got a building that has "x" amount of parking spaces it might have been fine for the business that was there and all of a sudden you put a restaurant in a third of it, you have to have more parking. So, the Board of Zoning Adjustment will be able to say we're going to let you do this but you have to add eight (8) parking places. That's a conditional that they have placed on you to make it fit where it is better. I don't know if that helped you.

Chairman McKee: Would you excuse me for a moment, we're going to call a five (5) minute recess.

## **5 MINUTE RECESS**

Chairman McKee: Mr. Stroud have you concluded your comments or do you have more you would like to make?

John Stroud: Yes sir.

Chairman McKee: Are there any other questions that you would like, Judge please come to the podium you're still under oath.

Harvey Ershig: The thing about this conditional thing and it's a good concept, I mean it's really good that the city is addressing this but who it punishes is the small guy who wants to get in a place and do a little business. He's got the availability of going through the application, that's going to cost fifty something dollars and that's not a big deal. But then he says I really want to do this, well you better get a lawyer. Now he's talking about seventy-five (\$75) or a hundred dollars (\$100) per

hour maybe and he says I really don't feel like I have the emotional stability to get up there before a bunch of people and tell them what I'm going to do. I'm going to operate a little two for a nickel swap shop in here along with somebody that has a motorbike place and another guy is going to sell some flowers and none of that is related but now I have to get a conditional use permit and like Herb said, all of these three (3) people can go along with your thing about the, you know, the neighbors. Well they don't have any right to come in there anyway if they want them to have an independent business, they don't have a right. I'll tell you what happened to me about thirty (30) years ago I bought a property out on First Street and in one (1) building they had a chicken hatchery and I'm serious they hatched chickens in the back of the building. The next building was a restaurant, now those two, you know I eliminated that pretty quick but the chicken hatchery today wouldn't even be permitted under the local zoning I don't think would it Tommy Jo? In the downtown business district? Anyway what I'm saying is that it is an economic situation where the small guy is, you know, Wal Mart's not going to come in here and take advantage of this, it's the local yokels that want to come in and want to do something and make a little money.

Chairman McKee: Thank you Judge. Is there anyone else that would like to speak for or against?

David Dixon: I've got just one more question. The text in the amendment says that these uses shall be of the same general character or accessory to one another. Do we consider all the listed permitted and conditional uses for each zone to be of the same general character?

Brian Bishop: That is really an interpretation of the Codes Department. The Planning Commission does not interpret the zoning ordinance in that fashion that would fall on the Codes Department.

Dickie Johnson: Can you answer that John?

Chairman McKee: Mr. Stroud you're still under oath.

John Stroud: David the way I think I understand your question; most all of the uses are comparable. Now, with that being said the way our zoning ordinance works, this is Zoning 101, Highway Commercial sits here it has a specific thing listed here, General Business sits here and anything in General Business is also allowed in Highway Commercial. Highway Commercial has a big long list of things, anything allowed in Residential Office is also allowed....so there's like two hundred (200) things that are allowed so a quick answer to your question is there may be some that aren't comparable to each other.

David Dixon: But comparable is not the term that's used here, it says they shall be of the same general character or accessory and I'm just talking about the general character phrase.

John Stroud: There could be some that in all of those two hundred (200) uses that aren't, that won't fit that category.

David Dixon: That would be a decision of the zoning board then?

John Stroud: Yes. Like one of them allows body shops and garages, things like that and a daycare, those two may not fit well together and the Board of Zoning Adjustment will make that determination.

David Williams: I think between you and Brian and staff here my concern is about someone coming in with an obscene use of a property with an owner that does not care, they are going to be subject to conditional uses anyway, either permitted or conditional uses. So they won't be able to go into that building unless they meet the permitted use or conditional use?

John Stroud: Right.

David Williams: If it's a conditional use I have go before you correct?

John Stroud: If they are a conditional use they have to go in front of the Board of Zoning Adjustments.

David Williams: As our ordinance stands right now.

John Stroud: What this is allowing is more than one (1) use in that building. Obviously you may not think a convenient store and a restaurant are similar but they are accessory to each other.

David Williams: I guess what I'm getting to at this time is that to add the zoning board decision in this particular ordinance is actually extraordinary because we've already got it covered in our regular zoning ordinance.

John Stroud: On some of it I would say you're probably right, yes. If it's a conditional use is has to go in front of the Board of Zoning Adjustment but what this is allowing is the three (3) uses.

David Williams: Ok so we can allow up to three (3) uses and just let the regular zoning ordinance take care of what goes in there?

John Stroud: Yes.

Kevin Richard: So David, I struggle with the verbiage of the last sentence too if there is a need for that specific call out of that last sentence if those other things are check and balancing them anyway.

Penny Hahn: I have a question. You said in the original ordinance it was allowed but it wasn't the conditional uses, is that correct?

John Stroud: The original ordinance, it had a hole in it or whatever you want to say that you could have usually two (2) uses in a building

anything above two (2) was a shopping center. So we always interpreted that, zoning people get to interpret the zoning ordinance because you can't spell out everything exact. It can't be in black and white, it's grey. So there has to be some sort of interpretation by your zoning administrator in conjunction with the City Attorney or the Planning Attorney or there is always the attorney involved there for us but you could have two (2) because that hole existed. The ordinance, when it was changed in 2014 early 2015 that verbiage was wiped out, it was gone from the book. The thing that happened in the Gateway District that Buzzy was talking about, we probably could have looked at that and said yes these two uses are similar under the old ordinance we can allow that, under the new ordinance we're going down through it and there is nothing there, it says one (1) use only and that's it. What this is doing is this trying to be more business friendly to our community, allow them to do it but still retain some control over it.

David Williams: In your opinion was the old ordinance as written previously, was it working fine?

John Stroud: It was, sometimes and I want to use this word very broadly, I always liked the boards to determine a lot of things because a person can make a decision, one (1) person can make a decision that several people should, you get more input with several and I'm not alluding to being arbitrarily capricious but it could happen. So I think it's always good to have more minds thinking of these things so it's fair across the board for everybody.

David Williams: Yes but to return to my original point, the Board of Zoning Adjustments would still get to make these decisions if we just said ok, we're going to allow up to three (3) uses in a building?

Tommy Jo Fridy: I don't think so; make sure you understand his question.

John Stroud: Is your question to be if we allow conditional use to have up to three (3) uses?

Kevin Richard: I think his question is if we moved it up to the permitted uses column, what does that do to the checks and balances? That was your question, right David?

David Williams: Yes. Let me make sure I make myself clear. What I'm saying is under our current zoning ordinances we have permitted uses and we have conditional uses and nothing will go into any of these three (3) slots that does not meet either the permitted uses or by going through the Board of Zoning Adjustments meets the conditional uses?

John Stroud: That's what this ordinance does now.

David Williams: Does that sound right to you?

Tommy Jo Fridy: Are you saying if you take out the wording in the proposed amendment so that you could put three (3) uses in the same building without getting a conditional use permit, is that your question?

David Williams: No, I would say...I'm wanting to take out the necessity of sending everything to the Board of Zoning. I guess what I would change; if I had to change the ordinance I would say allow the three (3) uses that meet correct zoning ordinance.

John Stroud: I think, to answer your question quickly like we talked about with David, the reason that you really want the boards involved is because Highway Commercial sits on top of General Business...so there is a hundred different uses that would be permitted in Highway Commercial, they might not be compatible they might not work for the

neighborhood because we have a lot of Highway Commercial and we have a lot of General Business that are around neighborhoods and things like that. So, that's why we wanted the Board of Zoning Adjustment involved to make those determinations.

Kevin Richard: That was my question for clarity if the word conditional is gone, does that take the Board of Zoning Adjustment out of the equation?

John Stroud: Yes.

Kevin Richard: Ok, that's what I wanted to clarify.

John Stroud: If you take that out it's carte blanche and you can do whatever you want to and have up to three (3) businesses.

Herb Pritchett: As long as they're permitted in that zone?

John Stroud: There again you could have a donut shop next to a car repair or something because Highway Commercial sits on top of all of these other ones.

David Dixon: I guess my question is it bad to have a donut shop next to a car repair?

John Stroud: Well I was just using that...

David Dixon: A lot of the examples we've given don't seem to be...

Rodney Thomas: But you could say I want to open up a third shift bar next to a daycare, which I could do.

David Dixon: Would that fall under a conditional use anyway?

John Stroud: No not if you allow everything to go in unconditionally.

David Dixon: What if all permitted uses?

John Stroud: He could have a bar and a, if you, let's say in Highway Commercial, what Rodney is probably talking about a bar and daycare they could be in the same building, yes.

Herb Pritchett: I have a problem with, we in the business call it tenant mix when you have a multi-tenant retail center we call it tenant mix and I've got a problem with us dictating to a landlord what his or her tenant mix should be.

John Stroud: That's what we constantly do in the zoning, that's zoning.

Herb Pritchett: Well now you do uses, you don't talk about the mix of those uses. Don Ershig doesn't need your approval for an individual tenant going into one of his shopping centers, he's in a shopping center so tenant as long as the uses comply with the zoning ordinance, you've got nothing to do with his tenant mix.

John Stroud: They do have to get the existing building verification form.

Herb Pritchett: Right.

John Stroud: To be sure the uses are comparable to the zoning.

Herb Pritchett: Right, but you don't say to a Don Ershig or someone, Don you shouldn't put a donut shop next to a daycare center it's just not working, that's a tenant mix issue. I'm in favor of what we're trying to do; I mean I'm in favor of the concept because we're making things easier. I've got problems with the language and when it comes up for adoption I'm going to ask what language are we voting on? The language on this single sheet or the language in this potential ordinance here but as a real estate practitioner and one who is concerned about property rights there is a tension between property rights held by individuals and the right of the community to have some say and I

understand that tension and we're just trying to figure out where along that scale we need to be in my way of thinking.

Chairman McKee: Is there anyone who does not fully understand this proposed language that is on here, do you need clarity on what it's actually saying, does anyone need clarity? Would anyone like to speak about it, Herb would you like to continue I didn't mean to interrupt you? Anybody else like to speak about it, express their opinion?

Herb Pritchett: What are we going to be voting on? Are we going to be voting on the language here that is in our packet or the language on this single sheet? I mean ultimately what will we be recommending?

Chairman McKee: If I may I'll ask Mr. Fridy if he'll comment on that.

Tommy Jo Fridy: You have basically three (3) choices. You can recommend you can make a motion to recommend the proposed language to the City Commission.

Dickie Johnson: That's what is in the packet.

Tommy Jo Fridy: That's what is in the packet. You can make a motion that the City Commission use different language or you could, as a group, pass a motion recommending that the City Commission not allow multiple uses in one (1) building. So, they have sent it here for you to have a public hearing and for you to make, you being the Planning Commission not you Herb Pritchett, for the Planning Commission to make a recommendation back and it's not...you're not limited to that proposed motion, that proposed motion is a guideline. If you were to make a motion and it passed, if you were to make a motion that you change the wording then I happen to have another piece of paper that I've used other times that you put some different language in there but you still need that same structure. If you make a motion and get a

second and it passes, you could make a motion that you recommend to the City Commission that they not do this at all that you stay with one (1) use in a building. Have I talked to much or have I not talked enough?

Herb Pritchett: Just right.

Chairman McKee: Anybody else need clarity?

Tommy Jo Fridy: We'll have to lower these screens I have trouble seeing over... I didn't know I could do that, excuse me, thank you.

Dickie Johnson: But we can, we don't have to vote either up or down we can make a recommendation for the City to change a particular sentence in a paragraph or several paragraphs...

Tommy Jo Fridy: Or you can make a motion with a concept and ask it to go back to staff and give you proposed language. So, all of that is part of you making a recommendation and it's not set in stone what you're recommendation can basically be anything that you want it to be.

Dickie Johnson: So like David and I don't disagree, in almost every one of these proposed changes the last sentence just doesn't fit when you say uses shall be the same general character or accessory to one another. As long as they are permitted uses and are comparable and the Board of Zoning Adjustments agree to allow it then I don't have a problem with it. Because say two (2) different uses may not be exactly the same the way the language is in here, uses shall be the same general character. As long as this is a permitted use I don't have a problem with it.

Rodney Thomas: I agree with that.

Chairman McKee: Did I understand you to say Commissioner that if they are among the permitted uses in the zoning ordinance and the Board of Zoning Adjustments approves it as a conditional use?

Dickie Johnson: Yes.

Chairman McKee: Ok, so the last sentence is unnecessary as long as it meets those other two (2) criteria.

Dickie Johnson: That is my opinion.

Chairman McKee: That is what you just said?

Dickie Johnson: Yes.

Rodney Thomas: I'll agree with that.

Chairman McKee: Mr. Taylor would you like to address the commission? Let me remind you you're still under oath, please continue.

Alan Taylor: If you're writing language yes I would like to address one sentence there. It's really hard to look out in the future when you are creating a law basically it's going to affect people, what could possibly happen? I'm going to be the devil's advocate here and just throw this scenario out with the current wording that's in front of me. Where it says but no more than three (3). Let's say I had Herb McKee's money and I walk down there and just pull it out of my wallet and paid IBT for the property and because I'm such a good guy being Herb McKee, I'm going to donate the use of that building for an incubator, business incubator. Then I would have to go and there might be twelve (12) there might be twenty (20) businesses incubating in that three-story, several thousand feet facility. Each one of them would have to go get a permit to do their business and this ordinance would shut that down

because it says only three (3). My question simply is this; why do you even have but no more than three (3) in the language? What's wrong with four (4)? Who decided three (3)? Did God intervene here or who came up with three (3)? What about four (4), what about five (5), what about six (6)? Why any number as long as they are permitted business that won't create a safety, parking, traffic hazard? That's my question.

Chairman McKee: Just out of clarity, there is another group that sits around this table that sent that language to us. We are here to review and do one of those three (3) things.

Alan Taylor: I understand I know the process.

Chairman McKee: Thank you sir, any questions for Mr. Taylor before he sits down? Thank you Mr. Taylor.

Claudia Wayne: Buzzy said the City is good with taking that last sentence out because it's leaving it up to the Board of Zoning Adjustment to make those calls.

Chairman McKee: Did everybody hear that? The City is good with taking out that last sentence. Any other comments, Mr. Newman would you still like to address us? You're still under oath.

Buzzy Newman: I clearly understand your dilemma, the Board of Zoning as I said earlier can place conditions on any request based upon the facts that are presented. We understand that maybe trying to look at what's in general, the same characteristics. At least the person petitioning that board has a group of peers that will make that decision and it's won't be a decision based upon one (1) individual as to what is general in character. Do you all agree? John, are you ok.

John Stroud: Yes.

Chairman McKee: Any questions for Mr. Newman on that or any other point? Thank you sir.

Buzzy Newman: Thank you all.

Chairman McKee: Is there anyone else that would like to speak? Are there additional questions of staff or anyone who has testified?

David Dixon: So the Board of Zoning Adjustment can still perform its function and place conditions, right? Even by striking this, we're just eliminating the kind of nebulous terminology?

Claudia Wayne: Yes.

Chairman McKee: I think it's appropriate to thank everybody who gave their views and their testimony this evening, it's very helpful to the Board of Commissioners as they approach this decision. Thank you very much. If there are no other comments or questions, take a deep breath and the Chair will entertain a motion.

David Williams: Mr. Fridy I have a question as to how this would be presented. We have before us a recommended motion I believe...

Tommy Jo Fridy: Should you choose to make a motion to recommend it with the change being to delete the last sentence in each of the zoning categories, that's what I'm trying to pencil in. I'm not trying to structure a motion; I'm not trying to take sides.

David Williams: The clarification is appreciated.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY GARY GIBSON TO THE HENDERSON CITY BOARD OF COMMISSIONERS (THE "CITY") ORIGINATING A PROPOSAL TO AMEND THE TEXT OF THE CITY ZONING ORDINANCE TO PERMIT THE CITY BOARD OF ZONING ADJUSTMENTS TO***

**GRANT A CONDITIONAL USE PERMIT FOR UP TO THREE (3) USES IN THE SAME STRUCTURE, AND THE CITY REFERRED THE PROPOSED TEXT AMENDMENTS TO THE PLANNING COMMISSION. THE PLANNING COMMISSION HELD A PUBLIC HEARING ON THE PROPOSED TEXT AMENDMENTS, AFTER NOTICE; AND, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE CITY APPROVE ALL SUCH TEXT AMENDMENTS FOR THE FOLLOWING REASONS AND WILL LEAVE THE MOTION OPEN FOR OTHER MEMBERS OF THE PLANNING COMMISSION TO ADD REASONS IN SUPPORT OF THIS MOTION:**

**THE PROPOSED AMENDMENT; 1) WILL ALLOW MORE EFFICIENT USE OF EXISTING INFRASTRUCTURE, 2) WILL ALLOW MORE EFFICIENT USE OF BOTH EXISTING AND NEW STRUCTURES, 3) WILL ALLOW MORE DENSITY, 4) WILL CREATE A MORE BUSINESS FRIENDLY CLIMATE BY ALLOWING A BUSINESS TO CONDUCT MORE THAN ONE COMPATIBLE BUSINESS/USES OR BUSINESS/USES OF THE SAME GENERAL CHARACTER IN THE SAME STRUCTURE, 5) WILL ALLOW THE PUBLIC TO ALLOW INPUT ON A CASE BY CASE BASIS , THROUGH THE REQUIRED BOARD OF ZONING ADJUSTMENTS CONDITIONAL USE PROCESS.**

**I RECOMMEND THIS CHANGE; THAT WE DELETE THE LAST SENTENCE IN THE PROPOSED CHANGES; ~~{USES SHALL BE OF THE SAME GENERAL CHARACTER OR ACCESSORY TO ONE ANOTHER.}~~**

Chairman McKee: Before we go further to a second, is that motion clear to everyone on the commission, are there any questions? Let's get a

second then. We have a motion and a second. You said you will entertain additional supporting statements to go with the motion?

David Williams: I have.

Chairman McKee: Would anyone like to add supporting statements to that motion?

Herb Pritchett: The motion does not go as far as some would like but I think it is a change for the better and I think it makes development easier now than it would have been but for the passage of this and I therefore think it is a good motion and is worthy of our support and affirmative consideration.

Chairman McKee: Any other discussion, any other discussion? Hearing none, Madame Clerk will you please call the roll?

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: We are going to a five (5) minute recess.

## **5 MINUTE RECESS**

Chairman McKee: The Planning Commission is back in session. Judge Ershig wanted to address us again before he leaves. Judge let me remind you that you are still under oath, please proceed.

Harvey Ershig: I really came down here because of the gleaner article and I was going to complain about the Gateway Zone but you say that is out of the question. But something else here that I really haven't addressed because it was a small matter but it is an important matter to the community. When the City passed this sign ordinance it changed a lot of things and one of the things that bothers me is that and I got this

letter because a tenant of mine made an application for a sign and it was in an old building out in the backwoods of Henderson and the letter that we got from the City says that you submitted a sign permit application for your business located at a particular location but because of the non-conforming use of this property we cannot issue a sign permit. As I mentioned in our conversation because this property is located in a R-3 zone, it prohibits any sign being placed on or around the building according to the City of Henderson sign ordinance. Now ladies and gentlemen there are just a lot of old buildings in Henderson and a lot of them are in R-3 zones and if you don't permit people who want to rent these properties from advertising their wares these buildings are going to continue to fall into disrepair because nobody can make any money if they can't identify what they are and where they are. I would ask you to look into this, the Codes Department says well; can you prove that there was a sign up there before the sign ordinance? Well, yeah I lived a half block from there and I look at that building as a grocery store and a doctor's office and as a beauty shop for years, they all had signs up. But that's not good enough, I've got to have a picture and well I don't. But what I'm saying is if you have restricted the placement of signs in an R-3 zone, you're restricting a lot of these people who have little money to pay for the upkeep of a building. You go down Washington Street, Powell Street you know there are a lot of these little places that used to be a grocery store or maybe a tavern and the bottom line is I can't rent this property because nobody can advertise. It's there and there are other buildings that I drive by and they are falling in disrepair because they don't have any tenants in them. I think you need to look at that. Thank you.

Chairman McKee: Thank you Judge. By a way of comment, I don't think we have purview over that sign ordinance do we? That is the City. There was a large committee formed to re-draft the sign ordinance and I

don't think the Planning Commission, we participated, but we weren't involved in the recommendation of it were we?

Buzzy Newman: I think you're correct.

Chairman McKee: Thank you.

Buzzy Newman: I am going to walk out with Mr. Ershig and talk to him.

Chairman McKee: Thank you sir, I appreciate that Mr. Newman. Next on the agenda is the **Proposed Henderson City-County Planning Commission 2016-17 Fiscal Year Budget**, Mr. Bishop.

Brian Bishop: I will try to be expedient in this because I know we have had a lot of lively discussion. The proposed budget for the 2016-17 year is \$692,332 that has decreased from the previous year's budget of \$756,991 that is an 8.5% reduction. There is a total reduction of \$64,659 mainly due to us not replacing personnel and that is where the majority of the savings is coming from.

Chairman McKee: Any questions for Mr. Bishop or for the staff? Any questions? Hearing none the Chair will entertain a motion to approve the budget as submitted.

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY RODNEY THOMAS TO APPROVE THE HENDERSON CITY COUNTY PLANNING COMMISSION/GIS 2016-17 COMBINED BUDGET AS PRESENTED.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: The Chair will entertain a motion to go out of public hearing.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY KEVIN RICHARD TO GO OUT OF PUBLIC HEARING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda under non-public hearing items is the **Planning Commission combined Finance Report for March 2016**, Mrs. Curtis are you going to review that with us?

Theresa Curtis: If anyone has any questions, the Committee signed off on it. Bobbie, would you mind making a recommendation?

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY GARY GIBSON TO APPROVE THE HENDERSON CITY-COUNTY PLANNING COMMISSION FINANCE REPORT FOR MARCH FOR 2016 AS PRESENTED; WE ARE 65% OF BUDGET WITH THREE (3) MONTHS REMAINING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda is the **Bond Report**, Mrs. Wayne.

Claudia Wayne: I went over the Bond Report with the Bond Committee and I think they have a recommendation.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT TO APPROVE THE BOND REPORT AS SUBMITTED.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Mr. Bishop would you discuss the need for this consultancy etc. before we can get to appointing the committee.

Brian Bishop: You may remember last month we spoke about an outside consulting group reviewing our development process. I have spoken to the Mayor and the Judge and they both welcome that study. It would be my suggestion that the Planning Commission have a Steering Committee and the Mayor and the Judge or their designee serve on that committee as well. What I would like for us do is come up with a scope of work and when we do that scope of work we will decide what we want to review and what questions we would like to ask why they think Henderson is business friendly or why don't think it's business friendly. Once we have a scope of work I would like to submit an RFP for proposals and at that point outside consultants can give us their costs of what they think that analysis, what it would cost. For example, if we do the scope of work and we get RFP's back that we are not comfortable with we're not out any money whatsoever.

Chairman McKee: Any questions? I would like for this committee to meet in the evening hours so people can participate in the 5:30 to 6:00p.m. range. I would also like to make it public, the general public to attend, so whatever the location needs to be to accommodate that as well as any Planning Commissioners who are interested to sit in and comment. With that in mind, I would like to ask David Williams, Rodney Thomas and David Dixon to join the Mayor or his representative and the County Judge-Executive or his representative with me on this consultancy oversight Steering Committee without objection. So mote it be.

Next on the agenda is **Continued Education**, Mr. Bishop.

Brian Bishop: We have gotten out of our habit of having continuing education every month or two so I would like to ask you guys what do you think is necessary and what do you think we need to talk about for continuing education? In the past we've had discussions on making motions which Mr. Fridy helped out a whole lot on and he is very knowledgeable on that. I can provide training on flood plain, flood plain management and we have also been in contact with the gentleman that helped us with the screening, Mr. Rideout who works at the Extension Office. He has been willing to meet with us and give us some continuing education on landscaping and screening requirements that we often discuss and I know a lot of times we don't fully understand what we're requiring. So, we have some options so I guess I would like to get the feel of the commission of what you guys would like to have a continuing education session on.

Chairman McKee: May I suggest you send an email to each commissioner asking them to respond to you on what their interest of continuing education may be and then we can bring it up and talk about it in priority the next time we meet?

Brian Bishop: Yes sir.

Chairman McKee: Anyone disagree? Having said all of that and all that came before, the Chair will entertain a motion to adjourn.

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY DAVID DIXON TO ADJOURN.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

**MEETING ADJOURNED AT 7:50P.M.**