

Henderson City-County
Planning Commission
August 2, 2016

The Henderson City-County Planning Commission held their regular meeting August 2, 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, Mac Arnold, Rodney Thomas, David Dixon, Kevin Richard, Kevin Herron, Herb Pritchett, Gray Hodge and Attorney Tommy Joe Fridy. Gary Gibson was absent.

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

(The following minutes were transcribed from an audio tape recording of the meeting on August 2, 2016. The audio tape recording is on file at the Planning Commission office and will be retained for a reasonable time.)

MEETING BEGAN AT 6:00PM

Chairman McKee: Good evening, I would like to bring this August 2, 2016 meeting of the Henderson City-County Planning Commission to order. Before we begin it's appropriate we welcome our newest member to the Planning Commission, Mr. Gray Hodge. Mr. Hodge brings a lot of expertise and experience to the table and we are very fortunate to have him, will you join me in welcoming Mr. Gray Hodge?

Chairman McKee: Next the Chair will entertain a motion to go into public hearing.

MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY RODNEY THOMAS TO GO INTO PUBLIC HEARING.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: Have you had an opportunity to review the minutes of the July 5, 2016 meeting. Oh excuse me, roll call, I got ahead of myself. Please call the roll.

Heather Lauderdale: Called the roll and those in attendance and those absent are set out in the first paragraph.

Chairman McKee: Now we will entertain a motion to approve the **minutes of the July 5, 2016 meeting.**

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY MAC ARNOLD TO APPROVE THE JULY 5, 2016 MINUTES.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: The minutes are approved as presented. I would like now to turn the meeting over to Mr. Brian Bishop who is going to give us a staff introduction.

Brian Bishop: What we would like to do is introduce, for your discussion, your consideration, a series of rules that Staff and our attorney Mr. Friday has prepared to help guide us through this.

PUBLIC HEARING AND MEETING RULES

If the Public Hearing and Meeting has not been sooner concluded and adjourned, it will stop at 9:00 P. M. and be recessed and reconvened the following night of Wednesday, August 3, 2016, at

6:00 P. M.; and likewise recessed at 9:00 P. M., and reconvened at 6:00 P. M., from night to night thereafter, until finished.

- 1. Those individuals, including attorneys and professionals, wishing to speak were asked to sign in at the door. The Planning Commission very much wants to hear your comments, positions, suggestions and questions you may have for the applicant.**
- 2. There will be no time limit on attorneys and other professionals representing Applicants and supporters and opponents (those against). Attorney and professionals will be allowed to speak first, beginning with the applicants and supporters, then opponents, as their presentations may cover all or part of what others may want to say or ask.**
- 3. Questions will be presented to the Chairman, and the Chairman will ask the question to the participant, questions may not be asked directly to another participant.**
- 4. Each speaker who signed up at the door will initially be given 5 minutes to speak. Applicants and supporters will go first, then opponents. As more full discussed below, additional 5 minute blocks will be allotted, after each round of speakers, until everyone has finished.**
- 5. Speakers are asked not to repeat something another speaker has said, but may come up and say they agree with one or more other speaker.**
- 6. Commissioners may ask questions and get responses after each presenter is finished.**
- 7. After everyone has had 5 minutes, if there are speakers who would like additional time, an additional 5 minutes will be given, and this procedure will be repeated, until everyone has had an opportunity to present all they desire to present.**

- 8. After the repeated rounds of 5 minutes per person, by both those for and against, those who signed up may agree or disagree with what the other side said or presented, and to ask questions, for up to 5 minutes each. Again, there will be no time limit on attorney and professionals. This is an opportunity to rebut anything the other side said during the original presentations, not a time to repeat or introduce new information (new information may be introduced only to rebut something the other side said). During this time those who signed up may present to the Chairman any questions they would like for the other side to answer.**
- 9. Commissioners, but not participants, may call speakers back to the stand for clarity or further needed information, after both sides are finished.**

At this time, Staff requests that the Chairman asks for a motion, second, discussion and vote to approve or change the rules as I have read them.

Chairman McKee: Are there any questions of Staff about the rules? Commissioners? Any questions? In that case, the Chair will entertain a motion to approve the rules as presented.

MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY KEVIN RICHARD TO APPROVE THE PULBIC HEARING AND MEETING RULES.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: The rules will stand. Mr. Bishop, will you please proceed with this application?

Brian Bishop: Yes sir. There are two (2) items on our agenda tonight; Staff requests that you hear both items in conjunction with one another but Staff requests that you make two (2) motions for the two (2) items on the agenda. The first item on our agenda is **REZONING #1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A-** Submitted by Corman-McQueen Golf, Inc., Daniel McQueen, President and MBTJ, LLC / Bobbie Chambers, for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse Area, for approximately 5.688 acres. Applicants are requesting a zoning change from Agricultural (AG) - Golf Course Restricted Use, to General Business (GB) with a narrative development plan. The Development Plan would limit or restrict the use of this 5.688 acres to: 1) A catering establishment, 2) eating or dining establishment – except, those having the principal character of a drive-in facility wherein food is served to the customer in his/her vehicle would not be permitted, 3) studio for music, dancing, or theatrical instruction, 4) wedding chapels or banquet halls, 5) nursing or day care facilities, 6) professional offices, 7) fruit and vegetable market, and, 8) accessory uses incidental to the above.

The second item is **Lot 2A Wolf Hills Golf Course Club House Area, Master Plan** - Submitted by Corman-McQueen Golf, Inc., Daniel McQueen, President and MBTJ, LLC/Bobbie Chambers for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse Area, PID #64-28.4), for approximately 5.688 acres. Applicants are requesting that the Golf Course Limited Use Restriction be removed from this 5.688 acres, subject to final approval of REZONING #1059.

Staff also requests that if you decide to approve these two (2) items, you make it subject to a Preliminary Plat being approved by the Planning Commission. I will do my best to answer any questions you have at this time.

Chairman McKee: Before questions, the Chair would like to ask counsel and Staff to help keep the proceedings according to the rules; and, the Clerk to help us keep the time; and, I will do my best to be cordial as I remind you of your time limits; and, we will try to stick with the rules as they are presented. Would you like to begin with the developer to present their applications? Legal counsel, would you please come to the podium sir? State your name and address.

Dorin Luck, legal counsel for the Applicant: Dorin Luck, my home address is 2533 Knoll Top Lane, Henderson, Ky.

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

Dorin Luck: I do sir.

Chairman McKee: Thank you sir, please proceed.

Dorin Luck: That's a dangerous rule you all have put in, giving the lawyers unlimited time to talk.

Chairman McKee: You can imagine who wrote that part.

Dorin Luck: I've got an idea. However, I'll be as brief as possible but we've got a lot to cover as this is a very serious matter. Let me start with ownership of this property because it's something we need to talk about. Corman-McQueen and MBTJ, LLC., which is Mike Chambers, LLC., have reached an agreement and have the property under contract to be purchased by Mr. Chambers. Quite candidly we thought we would have that done by now and we thought we would have it done by the time we submitted the application; that hasn't happened. That's why Corman-McQueen and MBTJ, LLC are both listed on both the original application and also the Narrative Development Plan. I will tell you that Mr. Chambers is here tonight and also Dan McQueen who is the principal, and one (1) of the two (2) shareholders, along with his wife, of Corman-McQueen Inc. They are both present in the audience. I fully anticipate that we will close on this property very soon. Again, quite candidly, we just didn't get it done before this meeting, but that's where

we are on the ownership of this property. I would anticipate that MBTJ, LLC., is who we will be dealing with solely in the very near future.

We are going to address this head on, this procedure in the way that we have submitted it for the simple reason that this is, I've been practicing law a long time and those who know me, and most of you do know me, know that I was a Planning Commission attorney and have represented not only the Planning Commission but people on both sides of the aisle, so to speak, in Planning and Zoning matters. I've not seen anything like this in my thirty-five (35) years now of practicing law. It's unusual because of the 1994 Master Plan that was put into place when this golf course was first developed. The Master Plan simply shows the golf course in the middle of the property surround by what will eventually, hopefully be real estate, residential development. That having been said, quite candidly, it's not a modicum of clarity as to what all that means. But we're going to assume, and we being MBTJ, LLC., and I'll probably start calling MBTJ, LLC., Mike Chambers, because he is the principal member of the LLC. We assume that the Planning Commission's position is correct in that in order for us to change the use of any part of that 165 acres that is the golf course, we've got to come in and ask for a revision to the Master Plan. That's why we've submitted an amendment to the Master Plan for the 5.668 acres, which we call the clubhouse property. You all have a drawing of that I'm sure, a plat of that in your packet. In addition to that, there's certainly that I could make and could be made that maybe the use that we would make of this property would be permitted under the original AG zone which this property is at this point in time. That having been said, I don't think that's acceptable, I don't think it's fair to the Planning Commission, I don't think it's fair to the developer and I don't think it's fair to the public not to just bring this matter to a head, present it at a public hearing and let's see where we land on this.

Briefly, again the history of it is that you've got a 1994 Master Plan that provides that this 165 acres, of which we're dealing with 5.668 acres, is a golf course. That's as far as the definition goes and it's as far as the restrictions go. The property in question is 5.668 acres with, I'm going

to say, an approximate 11,000 square foot clubhouse on it, and that's comprised of, I'm going to say, 5,600 feet above ground and the remainder in the lower level. The property has historically been used, and I'm going to assume, it's been used since 1994 or 95, I'm not exactly sure when the golf course property went into operation, but I will tell you that Corman-McQueen has owned that property since 1997, and I'm going to say, that they've operated the golf course and the clubhouse since 1997. The clubhouse has been used historically for a lot of different things. The one thing I'm going to start with though, in terms of facts that I'd like to present to you tonight is, that the golf course is gone forever. That's a fact and Dan McQueen is here and Dan McQueen, I'd like for him to get up and tell you that that's the case. He's given it the college try; he's done everything he can to keep that golf course in operation. It's not profitable and it won't be profitable and he was forced as a result of that to do the best he could to sell that property. He can't operate it and he can't find anybody to operate or make a living from it, that's the nature of the beast I'm afraid. I can have Mr. McQueen get up now and we can swear him in and we could have him give that testimony if that would be appropriate to you all. Dan will you come up?

Chairman McKee: Please come sir. Will you please state your name and address for the record?

Daniel McQueen: Daniel McQueen, 5616 Harrodsburg Rd, Nicholasville, Ky.

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

Daniel McQueen: Yes I do.

Chairman McKee: Thank you Mr. McQueen, please proceed.

Daniel McQueen: To share some of the facts with you, we actually were down here in 1994 to build the golf course. The golf course people who originally had it, Drew Augustine and can't think of the other gentleman's name, he was an irrigation man but somebody here probably knows it. Adler. Anyway they got to the place where they

couldn't build the golf course so Old National Bank had the loan, we took it over, we built the golf course and we operated it since 1997. The clubhouse we built, we actually operated the first two (2) years out of a trailer and after two (2) years we did build the clubhouse and operated out of that. The major problem that we've had is being three (3) hours away, we were an absentee owner. We had some good operators in there and we had some bad ones and I don't know how many people here play golf or are familiar with the state of golf right now but it's at an all-time low. So what's happened to Players Club of Henderson has happened all around the country. I think for every golf course that opens now, two (2) or three (3) close, so that's kind of what we're facing. When you talk about Henderson County, you have three (3) nine (9) hole courses and the private club, which has been here a long time and probably eighty (80) percent, seventy-five (75) percent of our play came out of Evansville. Of course, the last six (6) or eight (8) years that has fallen off. Over the last four (4) years my wife and I have funded this golf course to the tune of \$494,000. I will just tell all of you here, we're not rich people, the money we've made, we've made in the golf business and there were good times, even at Players Club of Henderson. It's not my idea to close golf courses; I'm a golf course guy and always will be. What happened here, we had two (2) guys that were both superintendents that did a good job as far as maintaining the golf course, but rounds got down so low that over the last four (4) years we've just basically had to fund it for them just to keep it open. So, we got to a point where we said hey, if somebody can't buy it and keep it a golf course, we talked to three (3) different people. We talked to those two (2) gentlemen and what they were willing to even pay on a lease was thirty (30) percent of what our mortgage payment was. On top of that we talked to Bill Rendell, he had a group at one time that had looked at it, he came over and looked at it and he said I can't make it work. We talked to Chris out at Bent Creek and he was kind of in the same position, he wanted to possibly lease it for a year, and if he saw after a year that it would work, then he would do something with us, but we couldn't go on anymore. So with Mike living there close and everything, we talked to him and he was interested in the property and

that's why we ended up selling the property to Mike Chambers. But we pride ourselves as good, decent operators, we've got a couple of courses in Central Kentucky, that struggle a little bit right now, but are still surviving, but I don't know too many people that can make that golf course work out there and that's just the facts.

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

David Williams: Mr. Chairman.

Chairman McKee: Yes sir.

David Williams: Mr. McQueen, has the basic reason for the lack of players been the downturn in 2009?

Daniel McQueen: I'm sorry?

David Williams: Has the basic, has the lack of players been the result of the downturn, the economic downturn in 2009?

Daniel McQueen: I think more so than anything. What happened, probably about four (4) years ago, it has kind of bottomed out it hasn't gotten any worse but it sure hasn't gotten any better. Golf, over the years is running in cycles and usually after a two (2) or three (3) year downturn it will start coming back but it hasn't come back yet. I think it's just what you said, it's basically the economy.

Rodney Thomas: The market got oversaturated too.

Daniel McQueen: Yes, you're exactly right.

Rodney Thomas: The Tiger Effect.

Daniel McQueen: It had enough golfers or you had too many courses.

Rodney Thomas: When Tiger was at his peak everybody was building golf courses and now their saturated.

David Williams: Do you see any possibility in the future of the amount, number of players, returning by any chance, or do you think this is going to be a permanent type of situation?

Daniel McQueen: Me personally, and I hate to tell you this, but I think golf is going back to a rich man's game, and that's my feeling. What you've got with your courses now, we went through a period of time through the nineties that you could make decent money in the golf business if you were a decent operator. You could build a quality golf course and people would come out and pay a reasonable green fee to play and a lot of people wanted to play, that's not happening now. So what you're seeing is that most of the courses that are going away are people like me. When you get into a State owned golf course or even City owned golf courses they can subsidize those or you get into a private club to where they have a couple of hundred members, if they want to keep it open they all split up what they're short at the end of the year and they keep going.

David Williams: Thank you.

Chairman McKee: Thank you Mr. McQueen, will you be available, well one more, Mr. Pritchett.

Herb Pritchett: You talked about rounds played?

Daniel McQueen: Yes sir.

Herb Pritchett: Five (5) years ago can you give us an idea of how many rounds were played and then versus the last year, 2015?

Daniel McQueen: We probably, ten (10) years ago maybe not five (5) but we played as many as 22,000 to 25,000 rounds at Players Club.

Herb Pritchett: Ok.

Daniel McQueen: Probably last year I guess they did somewhere around eight (8) or ten (10) (thousand).

Herb Pritchett: Ok.

Daniel McQueen: That's pretty normal for a lot of courses, I mean it's just what happened.

Herb Pritchett: And you're attributing that loss of rounds played just by the overall problems that the golf course industry at large is facing and millennials not wanting to spend four (4) or five (5) hours on the course and that sort of deal?

Daniel McQueen: The biggest amount of our play in Central Kentucky is from seniors. If we didn't play it would be worse than it is. This gentleman here hit it on the head.

Herb Pritchett: So the last four (4) years, how much did you put into the golf course subsidizing it?

Daniel McQueen: Well, we actually and I mean I'm willing to share this, my wife typed these up for you all.

Herb Pritchett: I mean what you said...

Daniel McQueen: I mean there are seven (7) copies here if you all want to look at any of these, I mean it's for public use.

Herb Pritchett: I would like to look at one.

Daniel McQueen: You can pass these out among the people really.

Chairman McKee: It's your desire to enter that into the record? Is it your desire to enter that document into the record?

Daniel McQueen: Yes we can, I mean that's fine. (Mr. McQueen entered **EXHIBIT "A"**)

Herb Pritchett: Thank you sir.

Daniel McQueen: Thank you.

Chairman McKee: Commissioner Williams?

David Williams: Can you tell me about how many holes are present within say a twenty-five (25) mile driving distance of Henderson? In other words, how many clubs, how many nine (9) hole clubs?

Daniel McQueen: Well, you have three (3) here in Henderson County. You have the City, then you have the State and then you have Bent Creek and the Country Club. Then beyond that, you know somebody here that plays golf would know better than me.

Rodney Thomas: You've got what, six (6), eighteen (18) hole courses in, I think, the Evansville area.

Brian Bishop: Then you also have Breckinridge in Morganfield.

Rodney Thomas: Then a couple of nine (9) holes, then Owensboro's probably got at least three (3), eighteen (18) holes, I know of, no four (4).

David Williams: Do I remember one being built down by Sebree?

Rodney Thomas: Yes.

David Williams: Is that one still operating?

Claudia Wayne: No.

David Williams: No, ok.

Rodney Thomas: No, that one closed.

David Williams: I don't play golf so I don't know.

Rodney Thomas: Then Breckinridge, Morganfield, they used be private and they have gone pretty much public. The Henderson Country Club struggles every year.

Chairman McKee: Thank you Mr. McQueen. Mr. Luck.

Chairman McKee: Mr. Luck.

Dorin Luck: I think Dan is going to hang around if any other questions come up. Thank you very much. One thing I want to bring up, as a procedural matter at the start, I've had a discussion with my clients and have correctly pointed out we submitted a Narrative Development Plan with, I think, seven (7) uses potentially for this property. We are prepared tonight to limit that even further and to remove from the Narrative Development Plan, item number two (2), which is an eating or dining establishment- except, those having the principal character of a drive-in facility wherein food is served to the customer in his/her vehicle would not be permitted, item number five (5), which is a nursing or day care facility, item number six (6), which are professional offices, and item number seven (7), which is a fruit and vegetable market. We are withdrawing those uses from the Narrative Development Plan which would leave a catering establishment; a studio for music, dancing or theatrical instruction; and wedding chapel or banquet hall.

Chairman McKee: Mr. Fridy do we need to take any action on...

Attorney Tommy Joe Fridy: (Inaudible)

Chairman McKee: Very good, thank you.

Dorin Luck: I appreciate Mr. McQueen, he can certainly...

Attorney Tommy Joe Fridy: Dorin, will you submit that in writing?

Dorin Luck: Sure, I'll be glad too, I'll be happy to do that. I appreciate Mr. McQueen getting up and telling us the state of the business, it's unfortunate but it's where we are.

The clubhouse in question, on the 5.668 acres, in addition to being used in the manner of a normal clubhouse, which would be a gathering place, before, after and during rounds of golf, has been used from time to time as a meeting hall. I can verify and have verified that there were three (3) uses that I know of for sure. One was a Sheriff's Association has had a meeting there, Realtors have had a meeting there and there has been a wedding reception there. I asked Danny before the meeting if he had any personal knowledge of any other uses and he said he was confident there were but he couldn't specify any. But none the less, this clubhouse has been used for meeting purposes in addition to its normal use as a clubhouse and if you've been out there it's a pretty good size structure. Both upstairs and down, but it's more than an average clubhouse I believe. The historical use of the property since 1994 and when I say the property, I'm talking about the 5.668 acres, has been commercial use. It's not residential property. It is adjacent to a residential subdivision, but the use of this property has been for commercial purposes. The unique thing about the property from our standpoint, and I want to point this out to you all, is that I'm going to say that this 5.668 acres is usable as is for a wedding or a banquet hall, which is arguably the use that my clients want to make of it. When I say that to you, it doesn't mean remodeling might not need to occur, it doesn't mean that something within the building might need to happen but I will remind the Commission that there's approximately one hundred-eighty (180) parking spaces already in place at this property. The property, as you

come into it off Wolf Hills Boulevard has screening in the way of berms or hills, whichever one you want to call them, from the houses to the right of the property as you enter; there's a tennis court sitting to the right, between the residences and the clubhouse; and the clubhouse is on up the hill, the clubhouse is located away from residences. Wolf Hills Boulevard, which services this property is in fact a boulevard and it is the primary means for ingress and egress not only to the property but to the other streets adjoining the property. It's not a situation where you go through one street and then another street and another street and at the end of the cul-de-sac you take the road up to the clubhouse. It's not designed that way and quite frankly wouldn't work as well for us. The point I'm trying to make is that if this property, if you were going to design it is almost ideal for the uses we are proposing in the sense that's it's located away from the residences, it's sitting off by itself, it's screened in certain places and it's got easy access to and from the property without driving within the subdivision, I guess is the best way to put it. The proposed use, in our opinion, is consistent with the historical use of the property which is a meeting place, for one of a better term, and that is what we would like to do with it. The submission that we made along with our application was an examination of the community's Comprehensive Plan and our idea as to why this property, under this set of facts, lends itself to certainly a strong argument that this rezone with a Development Plan, which is a Narrative Development Plan, which would limit the uses of the property, is in compliance with the community's Comprehensive Plan. I'm not going to read everything that I have previously submitted but I am going to point out to you that the Comprehensive Plan is considered to be a guide and not a strait jacket. The purpose of the Comprehensive Plan is to give guidelines to the community but is not to be interpreted literally where one can't develop. None the less, under Balancing Land Use in the

Comprehensive Plan on page 1-5, under paragraph A; the use of the golf course property and specifically the use of the clubhouse would be an area of opportunity for infill, redevelopment and adoptive re-use. We're faced with a unique situation that is dangerous in that if you can't use this property as a commercial purpose or you can't use it for a meeting house or banquet hall or wedding hall, what are you going to use it for? You don't want property within our community to go to disuse as a result of the inability to rezone it. I think under the definition it arguably is infill or redevelopment by using the same property for basically the same purpose or the same use that was made of it under the prior zoning.

The proposed rezone under Sub-Section 1-B; would guide development to an existing centralized area. We don't want to scatter this stuff out if we don't have to. Again, you're faced with a unique situation with 164 or 165 acres within an area surrounded by residences. I can't tell you what's going to happen to the rest of it but I can tell you we're trying to do with this 5.668 acres is make the best use we can of it under this set of circumstances and one that think will work for the surrounding residences. The proposed development under paragraph 1-C; would promote a mixed use neighborhood to create a vibrant built environment. What I think that means and what I see it meaning in this situation with 165 acres of ground is to provide a mixed use of this property that it's consistent with what's happened out there before. There is no secret there's been a clubhouse out there, there's been traffic out there, it's been used unfortunately not enough but it's been used. The Comprehensive Plan under paragraph 1-D: The proposed development and rezoned would strive for connected walkable and bike friendly neighborhoods, that's an ideal obviously, at this point we can't say what's going to happen to the rest of the course but we can say that this

development would lend itself certainly to access from the neighborhood to walking, bikeways or other means. Paragraph 1-E; the proposed development would promote aesthetically pleasing commercial development of appropriate access, signage and landscaping without encouraging strip-commercial development. Certainly our goal is not to create an office complex, our goal is not to create a shopping center. Our goal is to use this property in a manner that is sensitive to the residents, to the adjoining owners of property. It's no secret that the adjoining owners of property have, quite frankly been taken for a loop as a result of this golf course closing and we understand that. But this 5.668 acres could be used, rezoned and used in a manner we're suggesting without effecting these surrounding owners.

The Goals and Objectives under page 1-6 of the Comprehensive Plan references Healthy Neighborhoods, the Comprehensive Plan under paragraph 1-C on page 1-6 in fact provides; The Planning Commission should encourage flexible zoning criteria to exist in a redeveloping neighborhood and I'm suggesting to you, no matter what we want to call it that it's redevelopment of a neighborhood, it's redevelopment of this property. It's going to be a real challenge for not only the property owner but for this Commission in order to allow for the redevelopment of this property. Clearly if we keep this property open for commercial purposes, what we intend to do we're promoting the local economy and I don't think there's any question about that. When the alternative is for it to lay fallow versus keeping it open and providing what we believe to be a necessary and needed commodity in this community which is another banquet hall, somewhere people can have a wedding reception, where they can have a family reunion hopefully the people in that neighborhood as large as that neighborhood is would find this to be very convenient to use as a local meeting place but in any event it will certainly promote the economy.

Improving Community Services under the Comprehensive Plan under paragraph 1-E on page 1-10; let's encourage new or revitalized recreation facilities to support the needs of the community. Could this do it, would it help? I believe it would as a meeting place. It's hard to say what this thing will evolve in to, it may become a meeting place that is used regularly for the neighborhood. Again, I think that the community's Comprehensive Plan, in this instance as a result of what's being asked for and what is already out there and what has occurred out there is certainly in agreement with our Comprehensive Plan. If on the other hand and in the alternative you see differently that in fact it's not in the book and accordance to the Comprehensive Plan, the other way this property could be rezoned is if there had been major changes of an economic, physical or social nature as to the former golf course property. I can't think of anything that would fit better than the closing of the golf course out there. But I believe, I believe that this request is in accordance with the community's Comprehensive Plan and I believe it's a unique opportunity because of the similarities between the use of the property before and the proposed use of the property now. So we would ask obviously that this commission rezone the property with the Narrative Development Plan as we've modified and will submit in writing to the commission and also that the 1994 Master Plan be amended to allow the 5.668 acres to be developed in the manner that we're asking for it tonight.

Chairman McKee: Thank you Mr. Luck, will you be here for further...

Dorin Luck: I suspect I will.

Chairman McKee: Are there any other professionals on your team that wish to speak?

Dorin Luck: Mr. Branson will be here to answer questions.

Chairman McKee: Does that conclude the developer's presentation? Commissioner Williams has questions for Mr. McQueen. Mr. McQueen could you please come to the podium? I cordially remind you that you are still under oath, thank you sir.

David Williams: Mr. McQueen, when you put this property up for sale did you advertise it as for sale in a generalized manner that your adjoining property owners would have known that it was available?

Daniel McQueen: No sir. It was general knowledge that people knew that we were going to have to sell the golf course. Like I said, Mr. Rendell got ahold of us, came over and looked at it and they had looked at it before and he called me back and said we can't make it work.

David Williams: So in other words, you sold the property because someone came to you to buy it, is that correct? You didn't actually offer it up for sale?

Daniel McQueen: I tried to really work something out with Kevin and Jeremy and they were paying us \$60,000 or \$5,000 per month on the lease and our mortgage payment was over \$100,000 for the year and they came back and they said they could pay \$30,000 and we just couldn't continue on with that.

David Williams: So how did it come about that you actually sold the property?

Daniel McQueen: I asked Mike if he would possibly be interested in it, I've known Mike for the twenty (20) years we've been down here.

David Williams: And a deal was struck... Ok, very well. Now this could not have been offered as parcels, correct? Am I correct on that, it would have had, it would have been a major subdivision if they had

divided into parcels so that wasn't a possibility, correct? It was kind of an all or nothing thing?

Attorney Tommy Joe Fridy: It's a possibility but it would be a major subdivision.

David Williams: Which is a lot more expensive, ok. Mr. Luck, what if...

Chairman McKee: If you don't mind Mr. Williams, can we ask Mr. Luck to please come to the podium so we can assure him on the record?

David Williams: God forbid, given the history of the property, what if this use fails?

Dorin Luck: I'm sorry?

David Williams: What if the uses that you are proposing fail to work out?

Dorin Luck: Well the simple answer is that you would have to come back for a rezone with a different Development Plan. I don't think you would have any other choice.

David Williams: So the property would remain...in other words we could be faced with the same sort of situation with an abandoned property more or less?

Dorin Luck: You could, the alternative to that obviously would be to rezone it without any Narrative Development Plan but it seems to me that that's more of a danger than a Narrative Development Plan. I can't sit here and tell you today that Bobbie Chambers will make a success of this but I bet she will. I failed to mention it but Mike Chambers' history in the community if you know it; Chambers Place on Highway 60 is his development, if you go out Graham Hill and you see those two (2) really

nice apartments on the right sitting on the slope that nobody ever wanted to build on, those are his. I simply say that to point out that I believe that they believe in quality development and I think they will do a good job and quite frankly I think there is a crying need in the community for this type of an operation. Back to your question, certainly if this doesn't work and we've got a different use that we would like attempt to make, we'll have to come back before this commission with another Development Plan.

David Williams: Alright, thank you.

Chairman McKee: Any further questions? Hearing none, should we go to the opposition?

Attorney Tommy Joe Fridy: See if anyone else wants to speak for.

Chairman McKee: Would anyone else like to speak for this application, speak for? Seeing none, we will entertain those would like to speak against. First, are there any attorneys on the side against the application? Are there any professionals? Seeing none, we will just start with the list. First on the list is Tammy Oxford. Let me make sure while you're on your way up, Warren Roberge, did you want to speak Mr. Roberge? You did not...ok thank you. Please come up Ms. Oxford. For the record will you please state your name and address?

Tammy Oxford: Tammy Oxford, 747 Constanza Drive, formerly 905 Kelly Ct. I moved to Constanza Drive two (2) years ago after the death of our relatives. I moved to Constanza Drive which is exactly two (2)...

Chairman McKee: One moment please, could you tell me that you swear the statements you are about to make are the truths to the best of your knowledge?

Tammy Oxford: I do.

Chairman McKee: Now please proceed Ms. Oxford, thank you.

Tammy Oxford: When I relocated here to the Tri-State area in March of 1996 I met with two (2) local realtors, Jim Collier and Paula Johnston. Both of them took me to this area of Henderson County stating this is the up and growing area, this is where you need to move to. I purchased a home, I and Old National Bank purchased a home, March of 1996. I have seen this area grow, I have seen all the areas flourish and I have seen the opposite. I am not a golfer. I had an uncle retired from the military, saw a house being built on Constanza Drive, you have got to come and see this house. It's not the house, it is the view. They purchased the home. Both of them are deceased. It was my responsibility so I sold my home on Kelly Court which was the only house in that area besides Denny Branson's in 1996 and I moved to Constanza Court for the view. Now I do not have that view. I do not object to the Chambers buying the golf course, I think it's wonderful someone wants to buy the area, I think it's wonderful someone wants to do something with the old clubhouse. All we're concerned about as homeowners on the area is keep it clean, keep it mowed and the value of our homes, that's what we're concerned about. How about the taxes? That's the big concern. No longer living on a golf course, what's the value of your home? Should it be reassessed? My opinion is yes. That is all I have, thank you.

Chairman McKee: Before you leave, are there any questions the commissioners would like to ask Ms. Oxford? Seeing none, thank you very much we appreciate your testimony.

Tammy Oxford: Thank you.

Chairman McKee: Next on my list is Alvey Bruce Kanipe. Welcome Mr. Kanipe, could you please state your name and address for the record?

Alvey Bruce Kanipe: My name is Alvey Bruce Kanipe, I live at 681 Constanza Drive, Henderson.

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

Alvey Bruce Kanipe: I do.

Chairman McKee: Thank you sir and please proceed.

Alvey Bruce Kanipe: I agree a lot with what Tammy said and I think the best use that Mr. Chambers and Mrs. Chambers is looking to do for that five (5) acres is a good project to do for that, if the adjoining people, I don't live around that, so I can't speak for them, but I believe that building is very conducive to doing that type of project there. So I don't have a problem with that and I'm here today not to be adversarial in any way or fashion, but I agree with Tammy. I moved to Constanza Drive about three (3) years ago. I retired and moved there and I bought specifically because it was on the golf course and it is awful nice to sit out there on my patio and have an iced-tea, other than what I normally drink, and watch them put on the second green. So it was really nice view and is. But again we all know, most of here, all these people, and probably a lot of the people behind, understand Economics 101. What we have here is a project that was conducive in 1994 or started in 1994, and we kind of see what's happened here. What I would like to enter the record, if it's ok, is the 1994 Narrative for the agreement on the Master Plan that was laid out. There were a lot of Deja vu's in there, I don't know if pronounced that right but there are some issues that need to be addressed. Like I said, the five (5) acres there, I think that's a great

project and I hope Mr. and Mrs. Chambers do very well on that and I hope they do very well on the 100 and so additional acres but there's a couple of ponds there or three (3) ponds there that have some issues. I spoke with Mr. Chambers and as far as I'm concerned at this point he is doing a great job by trying to alleviate those issues. Now with that all being said I agree with Tammy, I'm not sure what my house is worth now being next to a piece of property that we don't know what the development is going to be. I understand this meeting is not for that particular thing that we're talking about today, we're talking about 5.668 acres. But I would like to enter into the record that, I'm not sure what my house is worth now due to there not being a golf course there and I know that it's gone, that it's not going to be there. My concern is that whatever is developed there in the future, that this commission and all the planning people involved, make sure that it's done in a way that it doesn't affect the houses that's adjoining/adjacent. Mr. Chambers has expressively and directly told me he is going to a great job out there and I take his word for it. I don't believe him to be a shark or anything I believe he's going to do that. But again, I want to say today that I have some concerns, not so much the five (5) acres now, but the future in our backyards so to speak and there's a lot of backyards there. So with that being said again, I'm all for Mr. Chambers and his project and I hope they do well not only just on the five (5) acres but the entire one hundred sixty eight (168) acres whatever his future plans are. I do understand that whatever he does there he's going to be having to come back, as I understand it, with a Master Plan. So I feel comfortable with that, but again a lot of the issues we're talking about were brought up in the 1994 Narrative (**EXHIBIT B**), so if you've got a chance just to quickly read it again. I'm all for Mr. and Mrs. Chambers and their project.

Chairman McKee: Are you going to offer that document for the record?

Alvey Bruce Kanipe: I think...

Brian Bishop: It's already a matter of record, it's in the Planning Commission files.

Chairman McKee: We already have it?

Attorney Tommy Joe Fridy: But we'll make it part of this record.

Chairman McKee: Part of this record as well?

Brian Bishop: We can do that, yes. (What Mr. Kanipe called a Narrative, and what Mr. Kanipe introduced as EXHIBIT B, is actually an excerpt from the minutes of the Henderson City-County Planning Commission Minutes of March 1, 1994.)

Alvey Bruce Kanipe: I wish them the best of luck, I really do.

Chairman McKee: Questions for Mr. Kanipe? Yes commissioner.

David Williams: Mr. Kanipe when you bought the property, when you were looking at it, did anyone assure you that there would always be a golf course there?

Alvey Bruce Kanipe: No sir, not at all.

David Williams: Did anyone assure you of any particular use of that particular property?

Alvey Bruce Kanipe: No sir, that's about like am I going to live forever, you know, nobody gave me any guarantees whatsoever. I just assumed, like most people do when they buy a property next to a golf course. This is unique, I don't know of anywhere else this has happened. The key here is Mr. and Mrs. Chambers not only what they're doing right now but how they develop that property in the future because they can make our houses get better in prices rather than lowering in prices. I

don't know whether it's changed the pricing or not on our homes, I mean we just don't know until a realtor comes out and re-appraises it. But I don't see that's a reason to sit here and tell somebody that a golf course that just wasn't making it as Mr. McQueen said here, I've had projects the same way and you just have to look at them and say look, you know it's over with and we just have to hope that the people that come in and picks up the pieces, like Mr. Chambers has here, does a good job in the future and that's all I'm asking for is that there are some ponds there and some grass and if he maintains that property I'm happy, I'm not here like I say again to cause him any discord in any way. There is a lot of money, he's punching out a lot of money here, to do this stuff, so I'm all for anybody developing property.

Chairman McKee: Any more questions for Mr. Kanipe? Thank you Mr. Kanipe, we appreciate your testimony.

Chairman McKee: Next on my list is Darren Spainhoward. Mr. Spainhoward would you please state your name and address for the record?

Darren Spainhoward: Darren Spainhoward, 509 Hickory Wood Ct., Henderson, Ky.

Chairman McKee: Could you please answer the question; do you swear the statements you are about to make are the truths to the best of your knowledge?

Darren Spainhoward: Yes.

Chairman McKee: Thank you Mr. Spainhoward, please proceed.

Darren Spainhoward: Thank you. I would like to start by I guess maybe reiterating but not rephrasing what the previous gentleman said. Mr. Chambers has done a fantastic job to date on the property. He has

cleaned up the lakes, he's kept everything mowed and I have known Mike for some time and I think a lot of him and recently met his wife and just seems like a very honest, classic, ethical Henderson resident. So, this really doesn't have a whole lot to do with Mike, but I just had a couple of comments. By my count and I may have missed some but there's ten (10) golf courses in Evansville, Indiana and I lived in Evansville up until three (3) years ago. I think one closed in Darmstadt and is it true that rounds have declined. Absolutely they have declined; I don't doubt that for one minute. It does surprise me somewhat given the quality of that course when it was maintained in a pristine manner. It had a lot of play on it, I mean I lived in Evansville and I drove over here and played on it. It seemed to be doing pretty well until really the money quit flowing back into the project and then the losses. I'm sure they capitalized and continued. I'm certainly not up here to advocate for Mr. McQueen to continue writing a check every month, I mean businesses don't always make it and I get that and I'm very sympathetic; in my line of work I've seen it happen many times. I don't want to disparage him in any way. My question is who all; I mean how did he market this golf course? He didn't advertise it, I don't know if he contacted the City of Henderson. I'm not sure the City of Henderson would have had a reason to purchase it, maybe they could have leased it, maybe they had the capacity to bring it up to speed and I'm not sure if he approached them. It seemed like to me the quality was allowed to deteriorate, like I said causing the rounds to drop. The due diligence in choosing the operators to me appeared to be weak at best, at least when I moved in. The operators did not have the financial capacity to put any money into the course. They were putting dirt into the sand traps, there's weeds growing everywhere and who's going to play that when you have ten (10) across the river, I mean that's just not going to happen. So I guess, I mean, what qualified them to run it? Is it because

they had a checkbook and would cut into the losses temporarily or did they know what they were doing? I mean Mr. McQueen is the only one that can answer that but I'm not sure why he didn't and if he did I don't know, why he didn't try to market it to other people, to other golf course operators? So I have a little bit of concern with that. I live on the seventeenth (17) fairway and since Mr. Chambers has been cleaning up the lakes, it's beautiful. I do not believe that this is going to help my property value, I think at worst it will go down a little bit maybe a little more than I think but if it's maintained like he's maintaining it now, I don't have an issue with it not necessarily being a golf course. My concern is I don't want homes behind me, and I'd really rather not have a tobacco field behind me and what I would like to at least put into the record in some way, shape or form is due to Mr. McQueen's financial losses the residents are going to take a financial loss. I mean, I can't image the property going up in value because of this. So I approached Mr. Chambers not long ago about purchasing some of the land directly behind me and I'm not talking about an acre, I'm not talking about how ever many thousands of feet to the lake, you know, a couple hundred feet. I'll pay what the appraised value is, that will give me a little piece of mind and put some capital into Mr. Chambers or Mr. McQueen's pocket and then I know I'm not going to have anyone at least two hundred (200) feet and Mr. Chambers said that was certainly an option and he encouraged me to contact Mr. Branson but all the neighbors would have to go in and agree to sell it or agree to buy because of all the drafting and whatever has to be done surveying. But I would like to have an option to buy the land right behind my property and that would be very important to me and I'm not trying to get it for zero (0) either.

Chairman McKee: Mr. Spainhoward please forgive me but your five (5) minutes are up.

Darren Spainhoward: Ok, that's all I have.

Chairman McKee: You can come back later if you like and tag on some more.

Darren Spainhoward: No that's it, that's all I've got, thank you.

Chairman McKee: Thank you very much for your testimony, we appreciate that.

Chairman McKee: Next on my list is Don Kuester, is that correct? Mr. Kuester did you want to speak? We thank you for being here sir, thank you.

Chairman McKee: Next is Paula, is it Gersot? Gerson, I'm sorry. Did you wish to speak? Thank you very much.

Chairman McKee: Next on the list is Bobbie, is it Clark? Oh I'm sorry, that's Bobbie Chambers excuse me. I'm sorry, it's my glasses, please forgive me.

Chairman McKee: Mr. Marshall, did you wish to speak at this time? Thank you.

Chairman McKee: Mr. McQueen did speak.

Chairman McKee: Hamilton? Is it Curt Hamilton? As an individual or as an attorney? All right sir, would you please state your name and address for the record?

Curt Hamilton: My name is Curt Hamilton, my address is 961 Belle Wood Drive, Henderson, Kentucky 42420.

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

Curt Hamilton: I do.

Chairman McKee: Thank you, please proceed Mr. Hamilton.

Curt Hamilton: Thank you.

Herb Pritchett: Are you speaking as a golf caddy or just a citizen?

(Laughter)

Curt Hamilton: Somewhat, somewhat Mr. Pritchett. Mr. Chairman and members of the Commission. In 2003 my family and I, my wife Emily who is here, we purchased the home located just off the tenth green in the top right corner there on Belle Wood Drive. We purchased that property like many of the other people that live on Dylan Circle and live in the neighborhood specifically because this is a golf course property. It's a golf course neighborhood. The Master Plan that this commission and the City approved in the 1990's, told me and told every one of the owners in the neighborhood just like they told Mr. Kanipe and he assumed that this was always going to be a golf course property, a combined property. Now I've heard some things, we've all heard some things today which I don't think are necessarily, you're not hearing the whole truth at least from a golfer's perspective. I will tell you that, as I understand it, it was a fantastic golf course and I think it was a top ten (10), top twenty (20) in the state a few years back, I mean a fantastic, renowned golf course in the area. Players Club, for any of those who played the course in the early 2000's, mid 2000's always had more license plates from Indiana and elsewhere than it did Henderson, Kentucky plates because it was such a fantastic tract, wasn't it Mr. Thomas?

Rodney Thomas: It was.

Curt Hamilton: It really was a fantastic tract, well maintained, bent greens, etc. In fact I taught my young son how to play there who's now

the 2016 Henderson City Champion. He learned to play right outside my back yard in those few little holes we call our little backside on Players Club. Now as time went forward, you heard from Mr. Spainhoward, who did mention that he thought, as I gathered, it was very nicely put, but the business was mismanaged. The operators there, starting in the late 2000's didn't apply appropriate water for the golf course to keep it going, there was somewhat of a drought, but you know I was part of the group in 2010, which Mr. McQueen mentioned, with Bill Rendell the former head PGA Pro at Henderson Country Club, now he's at Boonville, but we had a group of investors, we put together a solid business plan because the lakes weren't dredged appropriately, the irrigation pipes weren't cleaned out right, and any of you who play golf know that you have to maintain the tiling, the drains in the sand traps, and I believe there were ninety (90) some odd sand traps out there that added to the course; that money wasn't invested in the course in spite of the fact that as Mr. McQueen testified it was getting twenty-two (22), twenty-three (23), twenty-four (24), twenty-five (25) thousand rounds a year. So we put together this business plan in 2010 after the depth of the recession hit and yeah golf is a tough business ok but it wasn't tough for Players Club until they quit watering it, until one of the operators as I understand it, not Mr. McQueen, he took money and put it in his pocket rather than backing the course, didn't pay the city water bills as I understand it, drained the lakes, over fertilized and basically killed the course for his own benefit; thankfully now he is long gone from the golf business. He also, if you'll remember Mr. Thomas, he made us no bargains for junior golfers whatsoever. He did nothing to market the property appropriately. Now, we offered in 2010 for the entire property, frankly far more than I understand the purchase price is for Mr. Chambers. Now we can't force or say to property owners you have to be smart businessmen and make good deals; that course could have been

saved then and it can be saved now. Here's the thing and really why I'm standing before you today, the adjoining property owners and of course I'm a little bit familiar with Planning and Zoning, nothing like Mr. Luck that's for sure, I've never appeared here as a lawyer but I know the Planning and Zoning is for the neighbors. It's not what I want to do with my property, it's what all my neighbors don't want me to do with my property ok, I understand that, I get it. But when Mr. McQueen bought this property as I understand it, he sold off all the adjacent lots here. You look at Green River Road; all of that empty area from the end of Constanza all the way around, all of Gray Stone Subdivision was sold off. There is no carrot for an investor to spend money on this golf course...

Chairman McKee: Mr. Hamilton, I'm so sorry to have to tell you but your five (5) minutes are up.

Curt Hamilton: One final thought Mr. Commissioner if that's ok Mr. Chairman, we all purchased based on the assumption that this was going to remain a golf course. I object to dividing the property up, they knew that they were buying a golf course and whether or not it's opened, it should stay a golf course and that's just the breaks and that's what should be, thank you.

Chairman McKee: We'll let you come back later and continue if you like Mr. Hamilton.

Curt Hamilton: It's ok, that's why I agreed to the five (5) minutes.

Chairman McKee: We appreciate you. Ok, did Mrs. Hamilton wish to speak Mr. Hamilton? He bargained for ten (10) minutes up front so if you would like to....

Chairman McKee: Next on my list is Gary Jennings. Dr. Jennings thank you for coming sir, would you please state your name and address for the record?

Gary Jennings: Gary Jennings, 981 Belle Wood Drive, Henderson, Kentucky, 42420.

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

Gary Jennings: Yes I do.

Chairman McKee: Please proceed Dr. Jennings.

Gary Jennings: First of all I would like to say sorry to Mr. McQueen, his business, he had business problems and I hate that for anybody and I'm sorry for everyone here who has had a problem because of it. I live in Belle Wood, just right next to Curt and my concern is and I know we're here tonight to talk about the five (5) acres, well I'm actually here to talk about the five (5) acres ok, so I've heard a lot of people talk about the other which will probably affect me more. But the five (5) acres, if you're going to split this up my big concern if you're going to use it for some of the uses is noise. If you're going to use it for a, what is it, some of the uses were a dance, I can't remember all of the uses but they sound like nice uses; a banquet hall and this and that. I'm just worried about outdoor music and noise. I know Mr. Chambers lives right next to it so he's probably, he probably wouldn't let that happen anyway but I would like to see if it does happen, I would like to see something in there about the noise from something like that and we haven't had a problem before because, you know golf courses and they haven't had music outside and things like that. That's my biggest concern for what they're asking to use it for, that's all I have.

Chairman McKee: Thank you Dr. Jennings. Any questions for Dr. Jennings before he steps down? Thank you, we appreciate your testimony.

Chairman McKee: Is there anyone else that would like to speak against this development? Please come forward sir. When you arrive will you please state your name and address for the record.

Taylor DeCorrevont: Taylor DeCorrevont and I reside at 767 Constanza Drive, Henderson, Kentucky.

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

Taylor DeCorrevont: Yes sir.

Chairman McKee: Please proceed.

Taylor DeCorrevont: I'm here as well about the 5.668 acres or whatever it is here. I am wholeheartedly against this in our neighborhood. As (inaudible) had said and I do want to ask one question before I make this statement. This was Agriculture with a golf course restriction, correct? As he stated that the clubhouse had been previously, when it was a golf course, used for some meetings, for different things that it probably should not have been, against this golf course restriction. So for them to say historically it's already been used for this, it may have been but in my opinion it was against what it was zoned for. So I'm wholeheartedly against approving zoning for something that was already against zoning, that doesn't make sense to me. Saying that, this really appears, in some of my reading and not being an attorney I don't speak as well as Mr. Hamilton, spot zoning. I cannot in my wildest dreams imagine having commercial zoning in the center of a residential neighborhood, are you kidding me. Ok. I'm not from here; I'm going to be blunter. I've been

here for twenty-five (25) years, I don't know maybe one (1) or two (2) people in this room so I'm not going to sit here and say people have been doing a good or bad job, I'll tell you it's been a bad job. I notified the codes commission, no less than five (5) emails about the grass and weeds. Yeah he mows, where the public can see it when they're driving around, that's it. The ponds are terrible, terrible; worse than when the golf course was operating. So I categorically deny, want you guys to deny this rezoning period. Thank you.

Chairman McKee: Thank you sir, we appreciate your testimony. Is there anyone else who would like to speak? Seeing none, seeing none; Commissioners would you like to ask questions? Mr. Pritchett?

Herb Pritchett: Can I ask an additional line of questions of Mr. Hamilton?

Chairman McKee: Mr. Hamilton will you please come to the podium? A man of your demeanor probably doesn't need to be reminded that you are still on the record.

Curt Hamilton: I am indeed, yes Mr. Pritchett.

Herb Pritchett: To make sure I understand one of the main thrusts of your testament, am I to understand that if you, that the rounds decreased from twenty (20) thousand down to eight (8) to ten (10) thousand is not a function of you believe the golf course over all environment rather a function of the condition of the course over the last ten (10) years and the lack of maintenance and management of that course?

Curt Hamilton: That is absolutely what my testimony is, yes. Because that course was an absolutely great course as anyone who played it in its heyday can attest.

Herb Pritchett: So in other words it would not be, the changing circumstances would not be of an economic nature but rather of a managerial nature relating to the decreased rounds played?

Curt Hamilton: I believe that's absolutely the case Mr. Pritchett and to the non-golfer members of the commission if you think about something that's a really good brand like say a Mercedes for instance; Mercedes has a great reputation for quality, right? Well if the wheel falls off of your new Mercedes the first time and then your neighbors wheel falls off of his Mercedes and then word spreads, guess what, no one is going to be buying a Mercedes any longer because its reputation is going to be terrible. Same thing we think happened here with Players Club. It was great but then the wheels started falling off and they weren't screwed back on appropriately. It was mismanaged. Again, not necessarily by Mr. McQueen, but by the people that he had retained or leased this property out to. This could easily be a golf course again. Frankly the property was a lot more valuable in 2010 because it still had greens, they just died this year. This year the greens and tees went dead, went fallow frankly in April and May.

Herb Pritchett: Two (2) other questions if I might Mr. Chairman?

Chairman McKee: Please Mr. Pritchett.

Herb Pritchett: Would it be fair to say that in 2010 when your group offered to purchase the course, it was not from a lack of interest that your group was unable to purchase it but rather the meeting of the minds between the buyer and seller did not occur?

Curt Hamilton: Correct. We made a bona fide offer for more than the property has sold this time and we just didn't, Mr. McQueen wanted some more money and we knew that we had to spend probably another

one million dollars (\$1,000,000) on top of the purchase price that we offered to make this golf course correct.

Herb Pritchett: And you all were prepared to spend that million?

Curt Hamilton: Absolutely.

Herb Pritchett: One final question, over the last five (5) to six (6) years if I'm not mistaken, the fairways have been changed from Bent Grass to Bermuda?

Curt Hamilton: Correct.

Herb Pritchett: Which is obviously much less expensive to maintain and operate and gives a better playing surface in the transition zone which we belong to here.

Curt Hamilton: Correct.

Herb Pritchett: What were the fairways in 2010?

Curt Hamilton: In 2010, if I recall correctly the fairways had just been over seeded with stripes of Bermuda at that point, it may have been a year or two after that. Again, my understanding was that it was over, it was over-treated with fertilizer combined with a drought and literally that course went from lush and green and beautiful views out our backyards to desert brown and terrible.

Herb Pritchett: I do know that Champions in Nicholasville when they had bent grass fairways would lose them periodically because of the problem with maintaining them.

Curt Hamilton: That's right, that was a small piece of it and again it didn't seem as though it was, the plan didn't have enough investment behind it and I understand, I'm in business as well and I think it's terrible and my whole crux here Mr. Pritchett and other members of the

commission was when you purchase a business you know what you sign up for. When you purchase a factory, it's a factory. You can make widgets, you can make different things, but it's a factory, you're not going to build an apartment complex right? Because that's what the Planning and Zoning laws say. The Master Plan here says this is a golf course, this is a golf course to all of the hundreds, whatever, hundred adjoining properties to this golf course is, and it's a golf course. It's not a farm; it's not a daycare or a senior citizen home. Certainly and I don't oppose them using it for whatever that central, the clubhouse, for things appropriate for a clubhouse; buying food and drink, it's already been operated as a restaurant that's part of the golf course. I don't oppose that it be used as a wedding chapel. I don't oppose for things that are consistent with what it's already been and they should have the opportunity to make that, to use it for that. But here's the thing, if you approve the subdivision of that six (6) acres or whatever it is away from the rest of the golf course, this is no longer a golf course and it never will be. But when you buy a piece of property and you know that it's zoned the way it's zoned I think you have to live with it. Because sure enough, all of the rest of us around that piece of property have to live with it. I'll entertain any other questions.

Chairman McKee: Are you finished Mr. Pritchett?

Herb Pritchett: I'm finished, thank you Mr. Chairman.

David Williams: Curt I have a couple of questions as far as expectations for a golf course. If the business fails which it seems to have failed, what are your expectations then? Because if it's failed as a golf course it's going to revert to a natural state if no one maintains it, correct?

Curt Hamilton: Well the natural state would still include areas that are greens, it would include elevated areas, it would include as I understand

it, double irrigation pipes on pretty much every hole out there, it needs to be sold as a golf course and I think there was not and this is just a personal opinion of mine but I had no knowledge of any facts about the sale. I understand Mr. Chambers has a good business plan and I get it, I get it, we're neighbors. But I think when you purchase a golf course the expectation would be to sell it as a golf course and it would stink if it's a loss of money, but the next investor needs to buy it as a golf course, not as something else.

Chairman McKee: Are you finished Mr. Williams?

Chairman McKee: Mr. Thomas?

Rodney Thomas: One quick, one question; do you know somebody who wants to buy it?

Curt Hamilton: I think the value now has been, the value has definitely diminished because of the fact that the plug was pulled on this property and the greens are dead and the fairways are terrible and the rough, at least in my corner it's been mowed a little bit but I've seen a lot of the rough that gets waist high.

Rodney Thomas: I thought the greens were sold off.

Curt Hamilton: Excuse me?

Rodney Thomas: I thought the greens were sold off.

Curt Hamilton: I know our green on number ten (10), brown as can be so I think it was just not watered. I don't know if it was sold off or not but it can still work as a golf course, but I do not know anyone that wants to buy it at this point.

Chairman McKee: Anybody else have questions for Mr. Hamilton? Thank you sir. Questions for others?

Chairman McKee: Mr. Kanipe. Mr. Kanipe you are still under oath on the record.

Alvey Bruce Kanipe: Yes sir. I just want to speak again, I can understand my neighbors, I'm kind of the new guy in town on this so I can understand the people that have played golf over the years and those that have had, like I do, a nice view in their backyard. But another thing that I'm concerned about and it's up to you all to decide about the larger piece of property which I think is the big deal that you have a hard decision for but those ponds, those lakes as I understand it are a detention and again Mr. Chambers has begun to clean those up but one thing that really concerns me right now that could be a health issue is the moss that's in those lakes. Especially the one closest to Constanza in particular because it's totally covered and if anybody lives in an area where there's ponds like that, you'll be able to see that that moss is an ideal place for mosquitos. So again I would implore the commission here to talk to Mr. Chambers and make sure that the moss is taken care of. He has indicated to me personally that he was going to take care of that but again I want to make a comment to that fact and as far as the golf course is, the gentlemen just spoke, again I think that it's going to have to be up to this commission to make some hard decisions that those people, including my property values don't go down with future development if that's what is done other than a golf course.

Chairman McKee: Questions for Mr. Kanipe before he steps down?
Thank you Mr. Kanipe.

Chairman McKee: Would anyone else like to speak? Please approach, please come up.

Darren Spainhoward: I guess I didn't realize what Mr. Hamilton said about having a buyer or an investor group to purchase it a few years ago. But again, I found out it was closing...

Attorney Tommy Joe Fridy: Sir, will you please state your name for the record again?

Darren Spainhoward: Darren Spainhoward, 509 Hickory Wood Court, Henderson, Kentucky.

Chairman McKee: I'm sorry Mr. Spainhoward, thank you.

Darren Spainhoward: Ok, I'm still under oath. I just wonder was he approached about having the said investor group maybe getting back together. No? I live on the course, I found out about it by the grapevine, I mean so how, I mean I didn't know it was going to close. Someone said well by the end of this month it's going to close and everything, it was kept quiet. And I want to clarify, I do know the economics, I do know golf is down but it's an eighteen (18) hole course in Henderson, Kentucky that was in pristine shape, that had plenty of rounds on it just like some of the nicer ones in Evansville and it doesn't have, I mean if it would have been, the money would have been re-invested in it I think it would have continued to grow.

Chairman McKee: Thank you Mr. Spainhoward. Would anyone else like to speak?

Chairman McKee: Mr. Luck.

Dorin Luck: Just to address a couple of issues. One is Mr. Jennings, he is concerned about noise and he's concerned about outside music; I think both of those would be addressed. The City of Henderson has a noise ordinance which is, as far as I know enforced but outside music would certainly be limited in time, we put hours on this facility. We don't

intend to disrupt neighbors at all; we are neighbors so that would be addressed. As to the assertion that this is spot zoning...

Attorney Tommy Joe Fridy: Dorin, are you proposing to amend your Development Plan?

Dorin Luck: We could do that if it's the desire of the commission.

Attorney Tommy Joe Fridy: I mean you're offering it and I'm asking what you're offering.

Dorin Luck: We can do that. We're not attempting to run a night club with all hours of the night with outside bands playing 24/7; it's just not going to happen. But if that is a concern and I understand that, we can address that. As far as the assertion that this is spot zoning, I think it's the opposite of spot zoning in a sense that regardless of the zone that's being proposed here, the use of the property is effectively the same as it was before. Spot zoning the arbitrary assigning of a zone without any basis in reality, that's not the case here. The property is being sought to be rezoned, in fact is used in a very similar manner to the use that we're proposing.

Chairman McKee: Any questions for Mr. Luck?

Chairman McKee: Commissioner Williams.

David Williams: I have one question for you and in that sense is there ever a golf course that's created without a clubhouse per se?

Dorin Luck: My guess would be no. Without ever having ever played unless it was in my backyard I would say that's correct.

David Williams: So having this facility would be partial to granting a golf course.

Dorin Luck: I think that it would be a part of the golf course but it's our position that the golf course is gone. That in fact economic circumstances have caused it to go. We're not buying it to be operated as a golf course and Mr. McQueen didn't sell it to be operated as a golf course. It's unfortunate but that's where we are.

David Williams: Can you state the opposite argument for expectations of the property owners around this development here to expect there to be a golf course?

Dorin Luck: It's the crux of the matter. It will be and by your last statement it could be the crux of the matter when it comes to the rezone. The question is; that if a business that operates in a zone and fails, is any purchaser of that property bound by the zone that is in place when he buys it? Certainly he's bound until he comes before this commission and asks for a rezoning of the property with a Development Plan, that's the whole purpose of rezoning, change things. This is not the first piece of property that's had a use fail on it and been rezoned as a result of that. If that were the case we'd never see any development at all.

David Williams: So if Mr. Chambers bought this property and said ok, I'm just going to tear down the clubhouse, would there be any argument as far as how this property can be used in the future as an Agricultural zone in the golf course?

Dorin Luck: Yes. I think he has the right to tear down the clubhouse if he wanted to. I think he has a right to come before this commission and petition this commission to have this property, the Master Plan changed so that he could use it for Agricultural purposes, but that's not why we're here and I'm just going to come out and say that. That's not our purpose, that's not our purpose to grow corn where there is now scenery, I guess is the best way to put it. But it's going to be a process. When

you get past this process which I still believe there's a proper rezone of the property, it's going to be a challenge. It's going to be a challenge for the community, for the neighbors and residents out there, for the developer and for this commission and I freely acknowledge that.

David Williams: Thank you.

Chairman McKee: Other questions for Mr. Luck?

Chairman McKee: Mr. Branson, will you please state your name and address for the record as you have so often done?

Dennis Branson: My name is Dennis Branson and I live at 916 Kelly Court.

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

Dennis Branson: I do.

Chairman McKee: Please proceed Mr. Branson.

Dennis Branson: I just wanted to clear up a couple of things. One is there seems to be some confusion by some people that when Mr. Chambers bought this property it was a golf course. I wanted to be clear that unlike the analogy that's been given; he didn't buy a golf course. The golf course closed prior to him buying it and the analogy that; I just don't want anyone to get this stuck in their head that if you buy a widget factory that you know you're buying a widget factory. Even if the widget factory is closed what you're buying is the building, what he bought is the land, not the business operation. So, when you buy that building that used to be a widget factory you're buying the building not the widget making business if it's already been ceased. That I just wanted to get off my chest.

The lakes that people talk about are not lakes. These are storm water detention basins. There are three lakes out there and none of which have been, had any major problems with them. The lakes that people are concerned about and rightfully so, are storm water detention basins and we're working right now with HWU (Henderson Water Utilities) on solutions and the State of Kentucky Extension Office, University of Kentucky Extension Office in ways to address the algae problems in those lakes and trying to clean them up. We have several alternatives in mind to do that, none of which we've landed on. We might be draining them, they are not lakes they are storm water detention basins. They are not designed to hold water in a non-rain event. The fact that they're holding water was a function of the depth that they were dug below the outlet elevations so that water could be pumped out of them for the golf course but they were designed twice and re-dug as storm water detention basins. They may in the future become dry if we just can't figure out a way to make them work more cost effectively. We've spent nearly \$200,000 out there since buying the property, not including land cost on maintenance, mowing, storm water detention basins, all of the things that Mike has been burdened with having to do to try to keep the property in a good, as well manicured as possible manner as he can for the surrounding residents. So, it's a herculean task that he's been asked to undertake and I think he's done an outstanding job so far but on the basin issues, I just want to let the commission know even though that's not before us tonight, that has been addressed and we are still working with HWU on ways to make those things better or to cure the problems entirely on those.

Chairman McKee: Questions for Mr. Branson.

Chairman McKee: Mr. Williams.

David Williams: Mr. Branson, the two (2) ponds that are having problems, can you put the aerial photograph back up there, can you point those out?

Dennis Branson: Yes. There is a series of five (5) storm water detention chain basins. One (1) there, two (2), three (3), four (4), five (5).

This one right here at Constanza, right there, has been the one that's been the most problematic. We will probably end up draining that one and making that a dry detention basin. We just, that one now still has algae in it, but we've had a hard time getting the weeds around the edges eradicated or removed, that's been done as of today. This one up here at Wolf Hills Boulevard has been a little bit of a problem, not quite as much weed control as the one here at Constanza, that one's been a problem. That's a design basin, that's a design basin and the rest of them are lakes and they're all in pretty good shape.

David Williams: Ok, so what's the major drainage area for those two (2) problem areas?

Dennis Branson: Right here. The City has an easement here David that they got from the Hoge Estate many years ago for storm water detention to try to alleviate some storm water problems in Frontier. We were involved in that. It still exists and when that's developed over there and that belongs to Joe and Brad, they'll have to address that too. But these basins were designed to accommodate the subdivision that was built at the same time that the golf course was built and they were dug deeper intentionally to try to provide water source for the golf course.

David Williams: So are the two (2) problem areas then, I'm not going to refer to them as ponds or detention areas at this time but the two (2) problem places, are they being fed directly by residential lots?

Dennis Branson: Some.

David Williams: The reason I'm asking this is I'm wondering if residential chemicals applied to lawns may be the source of the nutrient problem there.

Dennis Branson: Well that's a different, that's a multi-tiered answer to what appears to be a simple question. The majority of the storm water that comes through this storm water system right here comes from the Grantwood and Audubon State Park area. Was it the 2003 flood? The 2003 flood, all of this series of basins failed because they were not constructed according to design and flooded Villagebrook Drive down here in the Hills Subdivision. I live right down there but it flooded Villagebrook Drive and flooded this entire area because they weren't constructed correctly. What we saw, we've got video of it, what we saw at that time was the majority of the water that contributed to that was coming from the other side of Green River Road from Grantwood Hills and Audubon State Park area. It's quite a serious and huge drainage basin that those accommodate. They have been reconstructed, redesigned; we've re-certified all of those basins in the chain there to accommodate the storm water runoff from the Wolf Hills Subdivision as well as Audubon Park and Grantwood Hills Subdivision.

David Williams: Ok so I've misconstrued, I thought the drainage was that direction but it's actually this direction. So it's getting as much drainage off the golf course as it is, direct drainage off the golf course as it is any residential properties, correct?

Dennis Branson: The majority of the water that comes through there is off-site not; it's from the other side of Green River Road. It does accept water in that same basin though.

Mac Arnold: Denny, if understanding right, these detention areas will have to stay in place, right?

Dennis Branson: The detention basins must stay in place and they are, I believe, at capacity I'm not sure we have not proven that yet. But we've had many conversations with HWU about those and we're really concerned about making sure they are not overburdened in the future.

Chairman McKee: Any other questions for Mr. Branson? Thank you Mr. Branson.

Dennis Branson: Thank you.

Chairman McKee: Would anyone else like to speak?

Chairman McKee: Mr. Kanipe.

Attorney Tommy Joe Fridy: Sir, wait until you get to the mic.

Chairman McKee: Come on up. Before you start talking get to the microphone so we can get you on the record please. I will remind you that you are still under oath and on the record. Please proceed Mr. Kanipe.

Alvey Bruce Kanipe: What I would like to read from is the 1994 Narrative (What Mr. Kanipe called a Narrative, and what Mr. Kanipe introduced as EXHIBIT B, is actually an excerpt from the minutes of the Henderson City-County Planning Commission Minutes of March 1, 1994), that was spoken under oath, I assume just like this meeting here, when they made the Master Plan for the golf course. There are three (3) excerpts I would like to read and it shouldn't take me more than two (2) or three (3) minutes I hope. The first one is Mr. Denny Branson stated; "Any lakes that we build will have to be classified by Soil Conservation Services as to their hazard to public safety, health and welfare. I don't

see that we're going to have any Class A lakes, Class A lakes would be a lake, the most serious lake, would be one that you should have a bridge in the dam and it would cause serious threat to life downstream. It can also involve the height of the structure I understand. We are not going to have any of those that I know of. We've got a series of three (3) lakes in this ditch right here. These lakes are not going to be recreational type lakes. They are going to be for storm water control and for irrigation purposes, so I don't see we're going to have any large...,and this is my opinion, we're not in a design phase yet Bob, so this is not a definitive answer, but I don't see that happening."

And then there were some other talks there and Mr. Doran and Mr. Branson again and then Mr. Duncan then Mr. Branson again said; "They'll be deep enough for algae control purposes and growth purposes I would imagine."

So involving the lakes that he's talking about, I'm an old dirt and excavation man, that last pond that's right beside my house and I'm the closest person to that pond. All that water that comes off those properties flow, not in a direct line but through those lakes to that last pond. So yes, that last pond catches most all the chemicals from even the yards past I think the Green River Road. So there's a major problem there with algae and grass. With that being said, let me just again, bear with me here for another quick paragraph and this is answers to a lot of the people here that are the golfers. I call this a Déjà vu paragraph.

This was done by Mr. Humbert that was testifying; "I think that a lot of us who own property in this area certainly don't mind the idea of a golf course in the region, but since this is a large project one would be very concerned about the economic feasibility of putting in a development and then have that development fall upon hard times and having an un-built golf course. I would urge you to require that the golf course be

constructed before any homes are built back there. I realize that's difficult economically but that's just fair to the people that already live there. Looking at the zoning aspect, we don't see any particular reason why any of this should be rezoned as R-2."

Basically, it's in reverse of what is happening now as the gentleman so eloquently put it back there, the lawyer.

Then I have one (1) other paragraph I just want to read and I would again implore everybody here on this that's making a decision to read through this here because pretty well all the questions we're hearing today is brought here.

Again, this is an excerpt from Mr. Branson, Denny; "It's not the golf courses, this is a real unusual scenario. It's not like the golf course is an added perk to the development. The golf course makes or breaks the development. The golf course doesn't exist, the development doesn't work."

This is over twenty (20) years ago that this same Planning Commission made this statement. (Applause from the crowd.)

Mr. Farmer goes on to say basically that he is satisfied with Mr. Adler and all and then Denny goes on to say, "I'm absolutely positive about that. The golf course has got to go, it just has to, so that's not a problem."

So then Mr. Farmer states, "And provides the protection I think that Dr. Humbert asked for as well is reasonable for Mr. Adler."

Then Denny Branson says, "Right."

So again, I'm not up here, like I say, I'm not a big golfer, I play when somebody asks me which is not very often and I can understand a lot of

folks behind me and I'm not an advocate up here for a golf course or what, I'm an advocate to make sure our homes prices do not go down. Whatever you do because again, everything here is in this commission's hands, and like I say I think Mr. Chambers and his wife are admirable people to step up and try to take this. With that being said, again I would ask the commission to read this. Thank you.

Chairman McKee: Thank you Mr. Kanipe.

Chairman McKee: Mr. Hamilton did you want to add? Thank you sir. Would anyone else like to speak?

Chairman McKee: Mr. Luck.

Dorin Luck: What we talked earlier about, about the concerns about noise, we can put into the record as a part of the Development Plan. Obviously it would comply with the noise ordinance, that's a given, you have to but also we would limit any outside music to 10 o'clock. We don't anticipate outside music but we would limit that to 10 o'clock at night, we offer that up as part of the Development Plan. Without arguing too much legally and without far outfield we need to understand that the options here that are being presented by some of the opponents or that it's an either/or, that this zoning can't change. I don't believe that for a second. I don't believe that this Master Plan can't be amended in order to allow this property to develop. If in fact Mr. McQueen is correct and I have no reason to believe he isn't because he says he lost the money, you're faced with a situation where an owner of this property is being told he's either going to have a golf course or nothing. That's not acceptable and I don't believe that's in compliance with the community's Comprehensive Plan. So you're looking at the alternative of having somebody own one hundred sixty-five (165) acre piece of property in the middle of a developed, residential group of subdivisions

who will have no other alternative other than to cut the weeds three (3) times a year or any time the City comes out and enforces their property maintenance code. I don't think that's what any of us want. I will suggest to you that the first step in the next phase of this property, in the future of this property begins tonight with this rezone of the 5.668 acres.

Chairman McKee: Thank you. Questions for Mr. Luck?

Herb Pritchett: Mr. Chairman.

Chairman McKee: Mr. Pritchett.

Herb Pritchett: Mr. Luck, just to make sure that I'm clear I wasn't here in 1994 and I have not read that 1994 Master Plan or restriction but, and I think everybody here understands that this may well be the camel's nose under the tent in terms of the five (5) acres versus flowing through the one hundred sixty (160) some odd acres.

Dorin Luck: Yes.

Herb Pritchett: So let us assume that this commission says no, we want to keep everything as it is. So what you are saying is there is no other alternative use other than to just mow the one hundred sixty (160) some odd acres and let the clubhouse gradually deteriorate or be demolished?

Dorin Luck: Actually I'm saying the opposite. The alternative use is to do what we're trying to do tonight and then develop a plan for the remainder of this acreage and come up with a plan that will work not only for the developer but also for the community and the residents.

Herb Pritchett: But assuming that we say no, we want this 1994 plan and group of restrictions to stay, then there is no other alternative use but to just mow it.

Dorin Luck: My argument there would be certainly we'll have to re-group. I mean that's not a flip answer, that would be the answer.

Herb Pritchett: Ok, thank you sir.

Chairman McKee: Any further questions for Mr. Luck. Thank you Mr. Luck.

Chairman McKee: Denny?

Chairman McKee: Mr. Williams has questions for Staff.

David Williams: Okay, Brian I'm just going to let you involved whomever, to take answers correctly, who can answer it. If we say no, what happens to the property if they don't maintain it, as a golf course?

Brian Bishop: I would prefer to have Mr. Stroud answer that.

David Williams: Mr. Stroud, John?

Chairman McKee: Is Mr. Stroud in the audience? Mr. Stroud, welcome to the podium. Would you please state your name and address.

John Stroud: John Stroud, City of Henderson.

Chairman McKee: All over, just look for you anywhere?

John Stroud: Present.

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

John Stroud: Yes sir.

Chairman McKee: Thank you.

John Stroud: Obviously, as you know, property maintenance, 10 inches maintain the ponds, things like that, we have to cite you so many times.

State law is changing. House Bill 422 is creating more teeth for things like this. Once the bills to cut...let's say that we take them to court and that doesn't work, we remedy by cutting it so many times. Once our lien's get up to a certain point, we could eventually foreclose on the property and take it, and then what would we do with. We would sell it at the courthouse door and be sold as foreclosure.

David Williams: Okay, given it was a golf course, whichever side of this fence you want to be on, do they have to maintain it as a golf course? Do they have to maintain the greens, fairways, tees?

John Stroud: By our ordinances, they have to maintain it within 10 inches or less.

David Williams: They do have to maintain the retention areas, right?

John Stroud: The retention areas?

David Williams: Yes retention areas.

John Stroud: They have to be cut-around them, trimmed around them. It's the same...

David Williams: What about the depth of them?

John Stroud: We don't measure the depth on retention areas. The capacity would be Henderson Water Utility would certify the depth, and whether they are working or not, and they would notify us and we would work together with them on redeeming the solution.

Brian Bishop: That question is probably better suited for Tom Williams.

David Williams: So they would have to maintain it for 10 inches, right? Okay, thank you John.

Chairman McKee: Thank you Mr. Stroud.

Chairman McKee: Would you like to speak to Mr. Williams?

David Williams: Yes.

Chairman McKee: Mr. Tom Williams, please come up. State your name and address for the record.

Tom Williams: Tom Williams, City of Henderson.

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

Tom Williams: Yes sir.

Chairman McKee: Thank you sir.

Attorney Tommy Joe Fridy: Would you state your position for the record?

Tom Williams: I'm General Manager for the Water Utility.

David Williams: Okay, on these retention areas here, what would be going forward providing that this property is a closed golf course, no longer operating as a golf course, what's going to be the owner's responsibilities here?

Tom Williams: Let's talk about the general idea of detention, is that in this case these are wet lakes, so we have a pool of water surface. We don't control anything below that pool level, because that's not related to detention. So, as far as the depths of the lakes after it stops raining, and they stop overflowing, I don't think anybody controls that. What we are worry about is the volume from the pool elevation to the overflow elevation. We would not allow them to fill in the visible part of the lakes. As long as they maintain that volume, our requirements are met. Does that make sense? We are not worry about the aesthetics of the lakes at pool elevation. The thing that's going to control algae though is

to keep those lakes fairly a consistent depth, because shallow water makes more algae than deep water.

David Williams: Thank you.

Chairman McKee: Any further questions for Mr. Williams? Thank you Mr. Williams.

David Williams: Brian, what is the recourse if the current owners do not follow through with their development plan, which is the golf course? What happens if they say “I just don’t have the money to maintain this as a golf course”, what happens to our original ruling, where not ours, but the Planning Commission ruling on this development? Does it revert back to Agricultural use, Agricultural zoning?

Brian Bishop: TJ, you want to answer that?

Attorney Tommy Joe Fridy: No, you have asked a several part question, and let’s break it down, and I may not remember all the parts. But it does not revert to Agricultural. It is subject to the pleasure discretion ruling of the Planning Commission. It would remain Agricultural exclusive golf course use, which means that you couldn’t use it for anything other than a golf course, unless this Commission approved a change.

Mac Arnold: It doesn’t mean that you have to operate it as a golf course?

Attorney Tommy Joe Fridy: It does not. The Planning Commission cannot force someone to operate a golf course.

David Williams: Now, the spot zoning issue has come up. Is it reasonable to assume that if someone has a golf course, that they are

going to have a clubhouse, and the commercial use of that clubhouse is not considered a spot zone? Do you see where I'm going here?

Attorney Tommy Joe Fridy: I see where you are going, and I will try to help you, but it comes back to being a factual determination of the Planning Commission and not a pure legal conclusion. Where I think you are trying to go is if you do approve this application to rezone, is that spot zoning?

David Williams: So could it...and you can tell me no, you can't answer this question, but I'm going to ask you your legal opinion, would this be spot zoning?

Attorney Tommy Joe Fridy: Spot zoning is such a complicated answer...such a complicated question that it has so many factors that and it is based primary in case law, but that case law was incorporated into KRS 100. So it is...the old still valid but the historic spot zoning cases and laws were brought into the KRS 100, our current planning/zoning subdivision and property...and the Board of Zoning Adjustments. It's all in that statute, not totally but primary. And to give you a flat footed answer that this would be spot zoning, I can't do that. It's a factual determination and it really is a lot of what you the Planning Commissioners feel about, would you be doing a bad thing if you approve this rezoning allowing that clubhouse to continue to be used or allowing that clubhouse to be used, and the same way or maybe in a different way.

David Williams: So we can take into consideration what the possible condition of that clubhouse would be if it's not used as a commercial facility? We are looking likely that it would be deteriorating in time?

Attorney Tommy Joe Fridy: I think that's a dangerous way to approach this decision. I don't think it will have precedence on a future case

including that of when they bring the golf course itself back, but you are going to hear it come back to you, if you make the decision on that basis, and you have heard testimony here tonight that the reason the golf course failed was because the owner didn't maintain it and you had people offer more money than they are selling it for. So, there are two sides. I'm not taking sides. I think there are plenty of facts to make this decision either way. You have heard good factual testimony that would allow a finding to be made to support a decision either way. But, I hope you wouldn't make it on that basis.

Chairman McKee: Mr. Bishop?

Brian Bishop: Commissioner Williams, just a friendly reminder to everyone, the Planning Commission does not actually rezone the property. We make a recommendation to the City Commission. At that point, any enforcement to that rezoning is done by the City Codes Department. I think that was one of your questions about who would enforce the master plan or development plan if it were not.

David Williams: Really what I'm trying to get to is what's going to happen to this property given one decision versus the other.

David Dixon: I have a question?

Chairman McKee: Commissioner, please proceed.

David Dixon: The proposed uses, or the required uses, or limited uses, in the amended version...I think we are down to catering; studio for music, dancing, or theatrical instruction; instruction instead of performance is an interesting word; wedding chapels or banquet halls; accessory uses incidental to the above, which I guess we will call a get to. Are those uses allowed in other golf clubhouses?

Brian Bishop: I would say that's probably a John Stroud question, because uses are defined by the zoning ordinance.

Attorney Tommy Joe Fridy: Enforced by the Codes Department.

Chairman McKee: Would you like to address that question to Mr. Stroud?

David Dixon: Yes please. Whoever enforces this, tell me.

John Stroud: That would be incidental to the principal use. The principal use being the golf course, the clubhouse would be incidental to that, so yes, they could have a wedding at the...

David Dixon: So, why can't I have one at this location right now?

John Stroud: Is it a golf course anymore?

David Dixon: That seems to be an issue. It has kind of the look of a golf course.

John Stroud: To have an accessory use, you have to have a principal.

David Dixon: Okay.

John Stroud: They do not have right now at this point in time. The principal use I assume is growing grass.

David Dixon: These uses would be allowed if it was an operating golf course?

John Stroud: Yes.

David Dixon: And they were allowed when it was?

John Stroud: Yes. The one thing to remember, they have limited themselves to (4) four uses. If you go into General Business, General Business sits on top of (3) or (4) other things. There are approximately

(83) allowed uses in General Business, which General Business stacks on top of something else, which stacks on top of something else. There are approximately (83) allowed uses in General Business, and they have limited themselves to (4).

David Dixon: All those four (4) would be allowed in an operating golf clubhouse?

John Stroud: Yes.

David Dixon: And if converted to a clubhouse, it would still be allowed?

John Stroud: But I don't believe they have, I don't remember seeing it, I don't believe they have put in there a snack bar or bar, or things like that. I don't believe that's in there anymore, is it?

David Dixon: Catering establishment; studio for music, dancing, or theatrical instruction; wedding chapels or banquet halls; and whatever accessory uses incidental to the above.

Gray Hodge: John, what you are saying is that because it's not a golf course right now, and it's not a clubhouse, so therefore they can't use it for any purpose. They can't do anything to that building right now?

John Stroud: Store hay in it.

Gray Hodge: Well that would be Agricultural.

John Stroud: It's an Agricultural piece of property, with a golf course restriction.

Gray Hodge: So they could farm the property?

John Stroud: No they couldn't. Not at this point in time. It's kind of a catch 22.

Gray Hodge: Right now, they have a piece of property they can't do anything with.

Chairman McKee: Is that all Mr. Hodge?

Gray Hodge: Yes.

Chairman McKee: Thank you sir.

David Williams: John, if Mr. Chambers buys the property, and he says "Okay it was restricted to a golf course, and I want to call it a golf course, and I will keep the grass cut at 10 inches, and if you can find a hole, you are welcome to knock it in there". Is that a golf course?

John Stroud: That may be better directed toward one of the attorneys in here. A golf course is a golf course. How many times do you have to play for it to be a golf course? I don't know.

David Williams: It doesn't matter, we are obviously looking at a golf course that wasn't played enough, and that's the reason why we all are here tonight. But the question I have is then could the clubhouse be used for all those uses that was used before as a clubhouse?

John Stroud: It could be used for meetings. It could be used in anything that's...well zoned agricultural, but the golf course it was...the clubhouse was accessory to the principal use. So, without the principal use it can't be an accessory.

David Williams: But, if he says it's a golf course, and he is maintaining code as far as he keeps it mowed to 10 inches, right? It doesn't say that he has to maintain tees or greens, or fairways, right? It just means 10 inches...

David Dixon: He doesn't have to have any golfers does he?

David Williams: So, in other words, what I'm getting at is...Mr. Fridy, do you have a comment here?

Attorney Tommy Joe Fridy: I don't for a very practical reason. The City and I disagree about this, and it's not my jurisdiction. It's not our jurisdiction.

David Williams: So would it be Dawn Kelsey's jurisdiction in that case?

Attorney Tommy Joe Fridy: Yes...not for us to take it to Dawn Kelsey but for John. And I don't know what Dawn's position is, but I know what John's position is.

Brian Bishop: Mr. Stroud, would you explain to the Planning Commission what the process is if someone disagrees with your interpretation.

John Stroud: Anyone that does disagree with any Code Official's determination, they can appeal to the Board of Zoning Adjustment, and should the Board of Zoning Adjustment...if they are aggrieved by any decision, and that is straight out of KRS 100. If the Board so feels that the Code Official made the wrong judgment, they can override it. If they agree with the Code Official, then the next remedy is Circuit Court.

Attorney Tommy Joe Fridy: So, the owner could have appealed his decision, that because they weren't playing golf that could not use the structure for the uses they used it for before.

Chairman McKee: Other questions for Mr. Stroud? Thank you sir.

Rodney Thomas: Mr. Chairman, I wasn't here for the Bent Creek development, but when they started out with nine (9) holes and then put

the back nine (9) in, what happened when they decided to close the back nine?

Brian Bishop: Rodney, are you asking as far as what happened to the actual golf course?

Rodney Thomas: Yes.

Brian Bishop: If I remember correctly, the back nine was just maintained as a pasture. It was mowed every so often.

Rodney Thomas: I played it two or (3) times.

Brian Bishop: The back nine?

Rodney Thomas: Yes.

Brian Bishop: After it was closed?

Rodney Thomas: No, not after it was closed. I'm saying what happened before it was closed, who made that decision, and what happened?

David Dixon: Was there a zoning change?

Claudia Wayne: Yes, they came to the Planning Commission and asked to rezone to Residential development on the back nine.

Attorney Tommy Joe Fridy: You had a different situation. They weren't closing the whole course and you didn't have houses built on the back nine. You had streets that were not completed. You did have some lots sold. You may have had a house or two, but practically no houses, and you didn't have streets constructed. You had bonds posted, and the bonds were not sufficient to complete the construction. To me the facts are not the same. They may be to you, but it's your decision not my decision.

Chairman McKee: More questions Mr. Thomas?

Rodney Thomas: No.

Chairman McKee: Any further questions Commissioners? Would any Commissioner like to make a comment? Mr. Williams.

David Williams: One of the things when this first came up, was the spot zoning issue, and it does concern me as far as setting a precedent here. So, I think it would be dangerous for us to allow a use to continue when the primary use is not there. But, given that the primary use doesn't have to necessarily go away, they could still operate it in a way to concede to operate it now as a separate parcel, and probably with less restrictions, then what they are proposing now. Then, I'm kind of curious if we say no, then the owner of the property has no recourse but probably to come back to this Commission and ask for a rezoning maybe to Agricultural, stating that there has been significant economic changes that say that the current zoning is not correct.

Claudia Wayne: David, it would go...either recommendation would be sent to the City. Then the City can override our decision or...

David Williams: Correct, but they general thought of what we recommend so far. There is always that first time. So, my statement here is that I would like to see us reach an agreement that would not allow this property to deteriorate any further than what it already has. We had the strip mining issue that came up, and good friends of mine were on the border of the strip mine. But couldn't deny the mineral owners on the other side of that line not to be able to use their property, and we can't deny these gentlemen the right to use their property. I would say that, if it came to me "as is", I would deny...my decision, if I can say this, would be deny it on the spot zoning issue. Because I do not want to set a precedent where we are allowing a change of use. I think

the adjoining landowners need to take in consideration what their options are here, and what really down the road will best suit them.

Chairman McKee: Thank you Commissioner.

Chairman McKee: Mr. Pritchett.

Herb Pritchett: Mr. Chairman, I too am really conflicted. I'm conflicted because the number of people bought homes and made significant investments out there not believing that a golf course would be there. As an appraiser, a real estate appraiser, in other markets in which I have studied, there is a definite correlation between value when your home backs up on a golf course, and when it does not. We have heard two different assertions. One is that the golf course failed due to the general economics surrounding golf courses. The other is that it failed due to a lack of competent operation. I have done feasibility studies relating to golf courses and have used the statistics compiled by the National Golf Foundation. I have seen nothing of that here. Just on the back of the envelope calculation, the Madisonville, KY area has forty-five (45) golf holes. The Hopkinsville, KY area has fifty-four (54) golf holes. With the closing of Henderson, there are forty-five (45) golf holes...the closing of Player's Club there are forty-five (45), and if it reopens there's sixty-three (63). That tells me generally that there has got to be some play from Evansville to support the viability of Player's Club. I am a golfer and I thought Player's Club had the best golfing track in Henderson. I was delighted to play it. I would like to see some sort of study from someone saying, given the present economics and the present trends of golf, that Player's Club is no longer viable even under competent operation. We heard one person say over five years ago that they were willing to buy it and invest seven figures of additional monies in it. I personally know of another group made up of an assistant PGA and a former golf course superintendent of who I'm a personal friend,

who also wanted to buy it within the last ten years. And I'm concerned that if it was not competently marketed as an appraiser, I estimate value assuming exposure on the market and a competent marketing operation associated with the merchandise of that property. The testimony that has been given right now, it was not openly exposed on the open market, and may not have been marketed to the widest possible audience. A group out of Colorado bought Victory National, and the market for this property may have been someone outside Henderson that was interested in investing in a good track. So, those are my comments right now, and I think we may well be well served to further investigate the specifics relating to the Henderson golf market before...this zoning here I believe is the camel's nose under the tent. If we rezone this and it is no longer utilized as a clubhouse, you can color the golf course gone in my opinion, because there is no other place to have a clubhouse, and you need a clubhouse for a golf course. So, thank you for allowing me to make those comments.

Chairman Herb McKee: Thank you Mr. Pritchett. Anybody else? Any Commissioners won't to make a comment?

David Dixon: If this is rezoned, this specific issue before us tonight, if this is rezoned to General Business with these restrictions, it can no longer function as a golf clubhouse, because that is not one of the uses listed, correct?

Brian Bishop: The use police is John Stroud.

John Stroud: Golf courses are a permitted use in Agricultural. Now, the clubhouse is an accessory use to the golf course like we talked about before. I don't know that there is any reason why it was zoned General Business in a separate parcel from the golf course that it could not be

leased by a golf course and operated as a business, but they have limited their uses by what they are telling you...

(Tape 2 Side B)

To say they are going to allow banquets, whatever the four things are, and a golf pro-shop.

David Williams: Unless they do it right now?

John Stroud: Yes.

David Dixon: Thank you John.

Chairman Herb McKee: Thank you Mr. Stroud. Anybody else? Any other Commissioner's questions or comments? Comments?

Dickie Johnson: Mr. Luck, did you hear what John spoke about the use of the clubhouse?

Dorin Luck: Yes.

Dickie Johnson: And in the rezoning?

Dorin Luck: Yes.

Dickie Johnson: And David brought up...unless you all do it at this meeting agree to amend your use to allow it to be used as a pro-shop for a golf course. If that golf course would happen to rejuvenate itself for some unknown reason, somebody could come in and put ever how so many millions, it would take to redo all the fairways and the greens.

Dorin Luck: My premise one, when I got up here the first time was that was not going to happen. There will be no golf course on this property from this point forward. I'm guessing that my clients are not going to agree to allow a pro-shop to be a use on this property when we have no

intention whatsoever to have a golf course on this property, so the answer is that we decline to do that at this point.

Dickie Johnson: Okay.

Chairman McKee: Any other comments? Questions? Anyone else like to speak? Mr. Bishop will you remind the Planning Commissioner's the form and content that you would like to hear a motion begin.

Brian Bishop: In your packet you will see a sample motion that Mr. Fridy was kind enough to help us on. If you will humor me, I will read this to you now. This is a sample motion to recommend approval or disapproval and to allow staff to prepare a proposed motion and finding to be considered at the next regular meeting:

I move that staff prepare a proposed motion and findings of fact, consistent with the record, recommending **approval** /or/ **disapproval** (**PICK ONE OR THE OTHER**) of **Rezoning # 1059 with a Narrative Development Plan for New Proposed Lot #2A** - Submitted by Corman-McQueen Golf, Inc., Daniel McQueen, President and MBTJ, LLC / Bobbie Chambers, for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse Area, containing approximately 5.688 acres); that the public hearing not be reopened at the next meeting (that no additional public comments will be heard at the next meeting); that the recommendation will not be reconsidered at the next meeting; that discussions at the next regular meeting regarding this Rezoning be limited to the motion and finding of fact supporting the recommendation; and, that this vote **not** be considered final action; that the matter be tabled until the next regular meeting. This motion is in regard to Applicants' request for a zoning change from Agricultural (AG) - Golf Course Restricted Use, to General Business (GB) with a

narrative development plan. The Development Plan would limit or restrict the use of this 5.688 acres to: 1.) A catering establishment, 2.) studio for music, dancing, or theatrical instruction, 3.) wedding chapels or banquet halls, 4.) accessory uses incidental to the above.

David Dixon: What about the noise restriction?

Brian Bishop: It would also need to be subject to a preliminary plat, and the restriction that the operation not go past ten (10) p.m. in the evening for outside live music.

Chairman McKee: So, all of that language with the basis for either making a motion to approve or making a motion to disapprove. Mr. Fridy, would you like to add anything?

Attorney Tommy Joe Fridy: No. I don't think you have to read the motion at that time.

Chairman McKee: You could just make a motion to include that language, for approval or disapproval. Does that make sense to everybody? You don't have to read all the way through that thing again, because it's in the record. Just a motion to approve, or a motion to recommend disapproval. And now if you are ready, the Chair will entertain a motion. Have we ever sat here and not had a motion?

Dickie Johnson: It has happened several times. We have sat here a long time before somebody has enough nerve to make an attempt for a motion. This is very simple motion. It's already in the record, and all we have to do is decide. So, I know it is very difficult for each and every one of us sitting up here to make a decision on which direction we need to go in regards to this piece of property. But, I'm really reluctant to do anything on a piece of property that we change the zoning on recently regarding the golf course, but after looking at it and researching it, I have come to the conclusion that it wasn't going to financially be possible to run it as a golf course any longer, and it's the same way I

think with this piece of property. So, I'm going to move that this rezoning #1059 be approved.

Attorney Tommy Joe Fridy: And incorporate all the former motions that Brian has read, including the subject to the preliminary plat, and subject to amending the development plan in the ways that Dorin stated including the live music after 10 p.m.

Dickie Johnson: Yes.

Chairman McKee: All incorporated, we have a motion.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY MAC ARNOLD TO APPROVE REZONING # 1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A - SUBMITTED BY CORMAN-MCQUEEN GOLF, INC., DANIEL MCQUEEN, PRESIDENT AND MBTJ, LLC / BOBBIE CHAMBERS, FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON AT 800 WOLF HILLS BLVD., (ALSO KNOWN AS THE PLAYER'S CLUB GOLF COURSE CLUBHOUSE AREA, CONTAINING APPROXIMATELY 5.688 ACRES); THAT THE PUBLIC HEARING NOT BE REOPENED AT THE NEXT MEETING (THAT NO ADDITIONAL PUBLIC COMMENTS WILL BE HEARD AT THE NEXT MEETING); THAT THE RECOMMENDATION WILL NOT BE RECONSIDERED AT THE NEXT MEETING; THAT DISCUSSIONS AT THE NEXT REGULAR MEETING REGARDING THIS REZONING BE LIMITED TO THE MOTION AND FINDING OF FACT SUPPORTING THE RECOMMENDATION; AND, THAT THIS VOTE NOT BE CONSIDERED FINAL ACTION; THAT THE MATTER BE TABLED UNTIL THE NEXT REGULAR MEETING. THIS MOTION IS IN REGARD TO APPLICANTS' REQUEST FOR A ZONING CHANGE FROM AGRICULTURAL (AG) - GOLF COURSE RESTRICTED USE, TO GENERAL BUSINESS (GB) WITH A NARRATIVE DEVELOPMENT PLAN.

THE DEVELOPMENT PLAN WOULD LIMIT OR RESTRICT THE USE OF THIS 5.688 ACRES TO: 1) A CATERING ESTABLISHMENT, 2) STUDIO FOR MUSIC, DANCING, OR THEATRICAL INSTRUCTION, 3) WEDDING CHAPELS OR BANQUET HALLS, AND, 4) ACCESSORY USES INCIDENTAL TO THE ABOVE. ALSO, SUBJECT TO THE PRELIMINARY PLAT, AND AMENDING THE DEVELOPMENT PLAN IN THE WAYS THAT DORIN STATED INCLUDING NO LIVE MUSIC AFTER 10 P.M.

Chairman McKee: It's very possible that we have exhausted all discussion but would you like to have further discussion?

Dickie Johnson: I do not need any.

Chairman McKee: Hearing none, Madam' Clerk would you please call the roll.

VOTE YES: MAC ARNOLD, DICKIE JOHNSON, RODNEY THOMAS, KEVIN HERRON, AND GRAY HODGE.

VOTE NO: DAVID WILLIAMS, BOBBIE JARRETT, KEVIN RICHARD, DAVID DIXON, AND HERB PRITCHETT.

Chairman McKee: The clerk counts it at (4) no, and (5) yes.

Brian Bishop: Can we double check that please. My count is 5 to 5.

Attorney Tommy Joe Fridy: Just call the roll again.

VOTE YES: MAC ARNOLD, DICKIE JOHNSON, RODNEY THOMAS, KEVIN HERRON, AND GRAY HODGE.

VOTE NO: DAVID WILLIAMS, BOBBIE JARRETT, KEVIN RICHARD, DAVID DIXON, AND HERB PRITCHETT.

Chairman McKee: You know what happens in the case of a 5 to 5 vote on the additional vote? The chair has to break the tie. The chair would like to call a thirty (30) minute recess, because I need a drink of water.

David Williams: Thirty (30) minutes?

Chairman McKee: Thirty (30) seconds, I'm sorry.

(Recess for 30 seconds)

Chairman McKee: Commission is back in session. I don't relish this opportunity, and I want to let you know because there are emotions, and financial considerations on both sides of this application, but I have become convinced that this property can no longer operate as a golf course either and that this zoning application should be granted, so I vote YES.

Brian Bishop: I'm sorry, Mr. McKee, we also need a separate motion to approve the master plan if the Planning Commission sees fit, for Item (B) on the agenda for **Lot 2A Wolf Hills Golf Course Club House Area, Master Plan.**

Chairman McKee: So, the chair will entertain a motion?

Brian Bishop: Correct.

Chairman McKee: To do that?

Brian Bishop: Correct.

Attorney Tommy Joe Fridy: Make sure that you put that last phase in there, subject to final approval of Rezoning #1059, whichever way, if it happens to pass.

Chairman McKee: Would anyone care to make that motion?

Attorney Tommy Joe Fridy: You need to read Item (B) in a form of a motion, either for or against. You are either making a motion to remove the golf course restriction from the clubhouse property, or not to.

Chairman McKee: So, as it stands, we have a recommendation for the City Commission, to rezone the 5.688 acres from Agricultural to General Business.

Attorney Tommy Joe Fridy: With the Golf Course restriction.

Chairman McKee: But it still has the Golf Course restriction on it until we do this?

Attorney Tommy Joe Fridy: Correct.

Dickie Johnson: Well, you may have to help me, but I'm going to make a motion.

David Dixon: We just voted to ask the Staff to prepare a proposed motion and findings of fact, to bring that back to us to vote on again correct?

Attorney Tommy Joe Fridy: For the motion to approve the rezoning, but it is a separate issue even though we heard them both in the same public hearing to remove the golf course restriction from that same area. I know it sounds like the same thing but we need two motions.

David Dixon: My understanding is, we are going to vote again on the original first motion?

Attorney Tommy Joe Fridy: No, we are going to vote on Item (B).

David Dixon: They are going to prepare a proposed motion of findings

of fact and bring it back to us?

Attorney Tommy Joe Fridy: They are going to prepare the motion...

Dickie Johnson: And we are going to agree to the findings of fact that you all...

David Dixon: Yes.

Attorney Tommy Joe Fridy: Correct, but we still need a motion on item (B) that you recommend...

David Dixon: I understand that. We are going to vote again on item (A) and (B) for a table, for (A)...

Brian Bishop: Item (A) will come at the next regular meeting in September.

Chairman McKee: When will item (B) come?

Brian Bishop: Item (B) is done tonight.

Attorney Tommy Joe Fridy: But it is subject to the rezoning. It's subject to the rezoning being approved by the City, or not heard by the City and then...Circuit Court.

Chairman McKee: So, the vote has been taken for the rezoning recommendation, we are just asking Staff to do the findings of fact, etc?

Attorney Tommy Joe Fridy: Correct.

David Dixon: We are going to have to vote on it again.

Chairman McKee: We will have to vote on the findings of fact, not the motion.

Attorney Tommy Joe Fridy: We will come back, Staff will come back with a proposed motion and findings of fact that agrees with your recommendation. But we also need a separate motion...

David Dixon: I understand that. I understand that there is a second step, which is related, but the first step has to be revisited according to what we have done this evening.

Attorney Tommy Joe Fridy: Correct.

Chairman McKee: May I make sure there is clarity. There is no chance that there could be a vote to recommend the denial of this rezoning request, only the findings of fact?

Attorney Tommy Joe Fridy: That's your motion. Your motion was that you will not revisit, recommending approval of the rezoning.

David Dixon: But we can still vote against it again?

Attorney Tommy Joe Fridy: You can't.

David Dixon: It's going to be voted on again.

Attorney Tommy Joe Fridy: Yes you can. Yes you can.

David Dixon: I just wanted to make that clear to everybody.

Brian Bishop: Is everybody clear?

Chairman McKee: Let me make sure that I understand. If somebody changes their mind between tonight and the next meeting, what happens?

Attorney Tommy Joe Fridy: The way the motion is worded, it's

envisioned that you won't change your vote.

David Dixon: It kind of depends on the findings of fact, don't you think?

Attorney Tommy Joe Fridy: Of course it does.

Brian Bishop: But you have directed Staff to find findings of fact...excuse me guys, could y'all please...we need to hear this.

Attorney Tommy Joe Fridy: To make recommendations. But the findings of fact are ultimately your decision. Staff can bring recommendations, and you can say we don't like it and we are striking this out and adding that.

David Dixon: So, there is still work to be done is what I'm saying?

Attorney Tommy Joe Fridy: Yes sir.

Chairman McKee: Correct me if I'm wrong, but have we not asked Staff to bring back findings of fact to support the decision?

David Dixon: We have not voted to accept those findings of facts?

Chairman McKee: That is different from what I was understanding you to say. Thank you.

Brian Bishop: Is everybody good?

Kevin Richard: I think the point that Tommy Joe is trying to make is that even though we voted on item (A), and item (B) has the same wording and everything, it's actually a different order of business. Item (A) is totally not related to...item (B) is not totally related to anything we just voted on. It's a totally separate order of business.

David Dixon: It's subject to the final approval of item (A).

Kevin Richard: If someone puts it in a motion, yes.

Mac Arnold: Mr. Bishop, let me ask you a question on (B). If I'm understanding this right, the first motion basically was to with a narrative plan limited to all the items that were listed there, catering and dancing and that wedding chapel and all. I know we have discussed if they wanted to add the golf course pro-shop to it, and they deny that. But, this right here, if the second one was not approved, is it still considered a pro-shop, even though it's not...

Attorney Tommy Joe Fridy: It still has a golf course restriction, but there are two (2) elements. So, we need a motion to be consistent with your first motion, we need a motion to remove the golf course restriction, subject to the rezoning being finally approved. Now, this (B) motion does not go to the City. This (B) motion is within the jurisdiction of the Planning Commission to amend the...well, it may be more than amending the master plan. You are voting to remove the golf course restriction.

David Dixon: So it would just be Agricultural?

Attorney Tommy Joe Fridy: Well, it's...no it won't be Agricultural, because the motion would be to remove the golf course restriction subject to the rezoning passing that it be General Business with the master plan restricting it to those four uses.

Chairman McKee: So, if it does not pass at the City level, it doesn't pass at our level either, because we made it subject to their action?

Attorney Tommy Joe Fridy: Yes.

David Williams: Mr. Fridy, we are making, as far as item (B) is concerned, we are just still talking about the five (5) acres, right?

Attorney Tommy Joe Fridy: Still talking about the five (5) acres.

David Williams: We are not talking about the larger parts, because we are not removing that restriction?

Brian Bishop: Correct, that restriction stays intact.

Attorney Tommy Joe Fridy: It seems neater to me to do this tonight, but you could table it and do at the next meeting after you adopt whatever findings of fact you choose to adopt, motion and findings of fact.

Chairman McKee: What is your pleasure, to vote tonight, or to table it until the following meeting? You may indicate your feelings by a motion. The chair will entertain a motion.

Dickie Johnson: I really don't see any problem with us tabling this until we come back and do the final approval of the findings of facts.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY MAC ARNOLD TO TABLE LOT 2A WOLF HILLS GOLF COURSE CLUB HOUSE AREA, MASTER PLAN UNTIL THE NEXT REGULAR MEETING.

Chairman McKee: Any discussion? Madam Clerk, please call the roll.

VOTE YES: DAVID WILLIAMS, BOBBIE JARRETT, MAC ARNOLD, KEVIN RICHARD, DICKIE JOHNSON, RODNEY THOMAS, DAVID DIXON, KEVIN HERRON, HERB PRITCHETT, AND GRAY HODGE.

**ALL IN FAVOR: AYE
OPPOSED: NONE**

Chairman McKee: Is there any other Business tonight?

Brian Bishop: Only that I would like to remind everyone that we have a Special Called Meeting on August 11th, in this room at 6 p.m. We will have several things that we did not want to incorporate with this meeting, because we knew this would be lengthy. So, we will handle that business at the August 11th meeting.

David Dixon: And it will be here?

Dickie Johnson: The 11th, is that on a Thursday?

Brian Bishop: It is on a Thursday. That Tuesday, City Commission is being held at 6 p.m.

Chairman McKee: Chair will entertain a motion to adjourn.

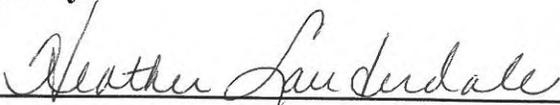
MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT TO ADJOURN THE MEETING AT 8:50 P.M.

ALL IN FAVOR: AYE

OPPOSED: NONE

CERTIFICATE

I, HEATHER LAUDERDALE, hereby certify that the foregoing is a true and accurate transcription of the Henderson City-County Planning Commission Meeting of, August 2, 2016, to the best of my ability.



Heather Lauderdale, Secretary Senior/Address Technician