

Henderson City-County  
Planning Commission  
September 6, 2016

The Henderson City-County Planning Commission held their regular meeting September 6, 2016 at 6:00 p.m., at the Henderson Municipal Center, 222 First Street, 3rd floor assembly room. Members present: Chairman Herb McKee, Vice-Chair David Williams, Bobbie Jarrett, Dickie Johnson, Gary Gibson, Rodney Thomas, David Dixon, Kevin Richard, Kevin Herron, Herb Pritchett, Gray Hodge and Attorney Tommy Joe Fridy. Mac Arnold 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 September 6, 2016. The audio tape recording is on file at the Planning Commission office and will be retained for a reasonable time. A copy of the audit is on file in the Henderson City-County Planning Commission office.)*

**MEETING BEGAN AT 6:00PM**

Chairman McKee: I would like to call this September meeting of the Henderson City-County Planning Commission to order. Madame Clerk would you please call the roll?

Chairman McKee: The Chair will entertain a motion to go into **Public Hearing.**

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

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: So mote it be. Have you had the opportunity to review the August 2, 2016 Planning Commission Regular Meeting Minutes? Are there any additions or subtractions?

**MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY BOBBIE JARRETT TO APPROVE THE AUGUST 2, 2016 PLANNING COMMISSION REGULAR MEETING MINUTES AS DISTRIBUTED.**

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: August 2 minutes are approved.

Chairman McKee: Next are the August 11, 2016 Special Called Meeting Minutes.

**MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY GARY GIBSON TO APPROVE THE AUGUST 11, 2016 SPECIAL CALLED MEETING MINUTES AS DISTRIBUTED.**

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: So mote it be. Next on the agenda is the Henderson City-County Planning Commission 2015-2016 Fiscal Year Audit.

Chairman McKee: Are you going to make that presentation sir? Will you please state your name and address for the record please?

Jared Lindsay: Jared Lindsay, 3419 Imperial Place, Owensboro, Ky.

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

Jared Lindsay: Yes sir.

Chairman McKee: Thank you and please proceed.

Jared Lindsay: Good afternoon, my name is Jared Lindsay; I'm a CPA with Myriad CPA Group. I also have Mac Neel who is an audit partner with Myriad CPA Group and I'm here to present the audit package for the Planning Commission for the Fiscal Year ended June 30, 2016.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT TO ACCEPT THE HENDERSON CITY-COUNTY PLANNING COMMISSION 2015-2016 AUDIT.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda is **Lot #1 Jason and Jeanne Hundley Minor Subdivision**. Mrs. Wayne, are you going to lead that conversation?

Claudia Wayne: Yes sir.

Chairman McKee: Please proceed.

Claudia Wayne: This is Lot #1 of the Jason and Jeanne Hundley Minor Subdivision submitted by Jason and Jeanne Hundley for the property

located in Henderson County at 11060 Old Hwy 60 Loop #2. Applicants are requesting a minor subdivision approval which is located in a special flood hazard area.

This is before you because of our Flood Prevention Ordinance that requires all subdivisions in a special flood area to come before you, otherwise this would have been approved in-house as a minor subdivision. They're here if you have any questions of Mr. Hundley. Staff does recommend approval for this.

Chairman McKee: Questions for staff?

David Williams: Claudia?

Claudia Wayne: Yes.

David Williams: Just refresh me on this, it comes before us so we can see that there is not going to be any dwellings or any substantial buildings built in the flood zone at this point?

Brian Bishop: It really comes to the Planning Commission as a form of notification to any potential buyers. When a title opinion is performed, when they see the plat they are put on notice that this property is in a Special Flood Hazard area. We cannot legally deny them the right to build in a flood plain but, we can add certain restrictions like freeboard, which is basically the finished floor elevation has to be elevated above the base flood elevation. So it's more notification.

David Williams: Thank you.

Chairman McKee: Further questions for staff, any questions for the applicant?

Bobbie Jarrett: Are there any subject-to's on this?

Claudia Wayne: No.

Chairman McKee: Questions for the applicant? Chair will entertain a motion.

***MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY RODNEY THOMAS TO APPROVE LOT #1 OF THE JASON AND JEANNE HUNDLEY MINOR SUBDIVISION. SUBMITTED BY JASON AND JEANNE HUNDLEY FOR THE PROPERTY LOCATED IN HENDERSON COUNTY AT 11060 OLD HWY 60 LOOP #2.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: So mote it be.

Chairman McKee: Next on the agenda **Rezoning #1060 Assignment of Zoning Classification**. Mr. Bishop, are you going to lead that conversation?

Brian Bishop: Yes sir.

Chairman McKee: Please proceed.

Brian Bishop: The following action is before the Planning Commission because the City of Henderson has requested that we assign zoning to 41 (forty-one) parcels that are going to be annexed from the County of Henderson to the City of Henderson.

You'll notice on the map that the area highlighted in yellow are the properties we will be discussing tonight. We have done this a little different than we have in the past as far as rezoning and the reason

why is because with 41 (forty-one) parcels it's hard to distinguish which ones we're referring to at any given time. So what we have done is we have broken the 41 (forty-one) parcels down into sections of seven (7) of like zoning.

For example, what I mean by that is, if you look at Section 1 which is going to be parcel numbers 46C-15, 46-97,46-98 and 46-99 which is the portion on the Northern part of the map, those will be going from County R-2 to City R-2. What we have done, specifically to make it more digestible is to break these down in sections so we can talk about each section individually. I would request that you vote that way as we go down the list, if you don't mind.

John Stroud and I have met, we have gone out and reviewed the uses of the property as they are currently being used. We feel the proposed uses are the most appropriate uses that can be given during this process. I know this is a little different, do you guys have any questions before we really start digging into this? I know it's kind of weird and we have never had to do it this way.

Kevin Richard: Brian just one question for clarity on the map. It looks like in Section 6 there is one lot that is not going to be annexed?

Brian Bishop: That is correct. That one lot the property owner was not able to be contacted so therefore there was no annexation agreed to.

Kevin Richard: I just wanted to make sure that box denoted on that map.

Brian Bishop: It is. These properties were all part of the Hwy 41 A, Finley Addition sewer project so each property owner has agreed to be annexed. Are there any questions from anyone else?

David Williams: So you want us to, when the motion is made you want us to refer to each section, is that what you said?

Brian Bishop: Correct. There is a Staff Report for each section in your packet.

Chairman McKee: Any other questions for staff?

Brian Bishop: Ok. With that, I will get started with **Section 1**, which consists of parcels 46C-15, 46-97, 46-98 and 46-99. These parcels are currently zoned County-Residential 2, the property zone is proposed to be City-R2 which is Medium Density Residential. If you would, notice the orange portion of the map and, we have correlated the color on the map to the color they will be on the zoning map to try to make them more understandable. Do you have any questions for Section 1?

David Dixon: So the uses correspond?

Brian Bishop: They are, they are very similar. If I remember the City Zoning Ordinance correctly, you can have a little more density as far as number of units, that's the main difference. Also, I'm sorry Commissioner Dixon, let me retract that for one second. The County Zoning Ordinance in R-2 allows you to have manufactured housing where the City does not.

David Williams: Will there be any non-conforming uses?

Brian Bishop: Not in that section.

David Williams: Do you want the motion now?

Brian Bishop: If you would, go ahead and proceed with Section 1.

Chairman McKee: The chair will entertain a motion.

Kevin Richard: Mr. Chairman, do we need to ask if anyone would like to speak for or against each of these?

Chairman McKee: Do we need to?

Brian Bishop: I would, for each section.

Chairman McKee: Is there anyone who would like to speak about this rezoning? Excuse me?

Attorney Tommy Joe Fridy: Assignment of a zoning classification for the property as a result of annexation, we're making a recommendation to the City.

Chairman McKee: A recommendation to the City and, assignment of zoning classification as a result of annexation. I hope I don't have to repeat that every time. Is there anyone that would like to speak for or against? Hearing none, the chair will entertain a motion.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY DAVID DIXON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 1, CONSISTING OF PARCELS 46C-15, 46-97, 46-98 AND 46-99 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY MEDIUM DENSITY RESIDENTIAL (R-2). THIS REZONING IS APPROPRIATE SINCE THE PARCELS ARE BEING ANNEXED INTO THE CITY AND THE CITY'S ZONING CLOSELY MATCHES THAT OF THE COUNTY.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: So mote it be, Section 2.

Brian Bishop: Yes sir. Section 2 consists of parcel 46-100. The property is currently zoned County Light Industrial (M-1) and the proposed zoning is City Highway Commercial (H-C). This is the property in purple and, is currently being used as an office building. Mr. Stroud and I felt that this more appropriate for the current use. This structure has been used for several things, it's been an office building, a veterinarian's office and, from our observation it's never been used as anything that is consistent with Light Industrial zoning. So staff recommends a zoning of City Highway Commercial (H-C).

Chairman McKee: Questions for staff?

David Williams: Mr. Chairman.

Chairman McKee: Yes sir.

David Williams: Do you not foresee, since this is on an arterial street that there might be a manufacture that would like this in the future?

Brian Bishop: That is a valid question however, I believe the parcels odd shape and small area would limit it to its current use. Most likely, if that were to happen, it would be consolidated into a larger tract and, at that point, we would consolidate and rezone.

David Williams: Ok.

Chairman McKee: Further questions for staff?

Herb Pritchett: Mr. Chairman.

Chairman McKee: Yes sir.

Herb Pritchett: I appraised this some years ago and, I think it was an adult daycare center or something. Is that use no longer there?

Brian Bishop: I believe it is not. I would like to defer to Mr. Stroud on that if he would answer that question.

Chairman McKee: Mr. Stroud, do you still live in the City of Henderson? Do you swear the statements you are about to make are the truths to the best of your knowledge?

John Stroud: Absolutely.

Chairman McKee: Please proceed.

John Stroud: Offices and, they do offer some Res-Care. It's Res-Care is who it is. Light Industrial, I'm not sure how it got in there in the county. I know the veterinarian's office I believe was a Conditional Use in Light Industrial and Res-Care just kind of fell in after it. But mostly offices with some daycare, adult daycare; well, a type of daycare.

Herb Pritchett: And with the use to which it is now being put, it would be a permitted use, it would be permitted?

John Stroud: It would be a permitted use in Highway Commercial, yes.

Herb Pritchett: Thank you sir.

Chairman McKee: Further questions for Mr. Stroud? Thank you sir, any other questions? Would anyone like to speak for or against this proposed zoning designation for annexation into the City? Seeing none, the chair will entertain a motion.

***MOTION WAS MADE BY DAVID DIXON, SECONDED BY KEVIN RICHARD TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 2, CONSISTING OF PARCEL 46-100 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HIGHWAY COMMERCIAL (H-C). THE***

**REQUEST IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN AND MAJOR CHANGES TO ECONOMIC, PHYSICAL AND SOCIAL NATURE OF THE AREA HAVE OCCURRED AND, THIS PROPERTY HAS HISTORICALLY BEEN USED FOR COMMERCIAL USES AND THE PROPOSED ZONING IS MORE APPROPRIATE.**

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: **Section 3.**

Brian Bishop: Section 3 consists of parcel 46-100.1, the property is currently zoned County Light Industrial (M-1) and the proposed zone for annexation is City Heavy Industrial (M-2). This is the property you will see labeled #3. This property has a lot of industrial use. You will see some metal fabrication, you will see some concrete piping if I'm not mistaken if you look at the pictures. Mr. Stroud and I felt this is the best use of the property and it's also the City's most intense use so, they should be allowed to do any use they have and likely some others in the near future.

Chairman McKee: Questions for staff?

David Williams: This is Heavy Industrial. What is the green going to be, Section #7?

Brian Bishop: The green will be Residential Mobile Home district.

David Williams: Is there any screening or anything along those lines between these two (2) zones.

Brian Bishop: Not there Commissioner Williams because it is separated by Hwy 41 A and, this is all existing.

David Williams: Ok.

Chairman McKee: Any further comments or questions for staff?

David Williams: Mr. Bishop did you say that the parcel is currently being used as Heavy Industrial?

Brian Bishop: It is.

Chairman McKee: Any further comments or questions for staff?

Hearing none, would anyone like to speak for or against this proposed zoning designation for annexation into the City? Hearing none, the chair will entertain a motion.

***MOTION WAS MADE BY RODNEY THOMAS, SECONDED BY DAVID WILLIAMS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 3, CONSISTING OF PARCEL 46-100.1 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THE INFRASTRUCTURE UPGRAGES ALONG HWY 41 A HAVE SUBSTANTIALLY CHANGED THE PHYSICAL AND SOCIAL NATURE OF THE AREA TO FACILITATE THIS REZONING APPLICATION.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: **Section 4A.**

Brian Bishop: Section 4A consists of parcels 46B-15 and 46B-60. The parcels are currently zoned County Light Industrial (M-1) and the proposed zone for annexation is City Heavy Industrial (M-2). Staff feels

that this is again, the most appropriate use for this parcel because the current use is Heavy Industrial in nature.

Chairman McKee: Questions of staff?

David Williams: Would you read the parcels again please, it's not clear on my map.

Brian Bishop: That would be parcel 46B-15 and 46B-60. Commissioner Williams, if you look at the second page of your packet, we have each section with the parcel id numbers, just to make it a little easier to distinguish.

Chairman McKee: Further questions of staff?

David Williams: Brian, again, the current use of the land is Heavy Industrial?

Brian Bishop: Yes sir.

Chairman McKee: Further questions for staff? Would anyone like to speak for or against this rezoning for annexation for to the City? Hearing none, the chair will entertain a motion.

***MOTION WAS MADE BY DAVID DIXON, SECONDED BY DAVID WILLIAMS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 4A, CONSISTING OF PARCELS 46B-15 AND 46B-60 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THE CURRENT USE OF THE PROPERTY IS MORE AKIN TO HEAVY INDUSTRIAL.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Section 4B.

Brian Bishop: Section 4B consists of parcels 46B-54 and 46B-78 and the property is currently zoned County Highway Commercial (H-C) and the proposed zone for annexation is City Heavy Industrial (M-2). This property is also currently being used for Heavy Industrial use.

Chairman McKee: Questions for staff?

David Williams: Brian is it your opinion that all of these parcels we're referring are going to be requested to zone Heavy Industrial, that's their current use and even though the Comprehensive Plan may not have anticipated this use that is the use that is going in and the Comprehensive Plan would be in error at this point?

Brian Bishop: That is correct.

David Williams: And that a more appropriate use is Heavy Industrial?

Brian Bishop: Yes sir.

Chairman McKee: Further questions for staff? Would anyone like to speak for or against Section 4B? Hearing none, the chair will entertain a motion.

**MOTION WAS MADE BY DAVID DIXON, SECONDED BY DICKIE JOHNSON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 4B, CONSISTING OF PARCELS 46B-54 AND 46B-78 FROM COUNTY HIGHWAY COMMERCIAL (H-C) TO CITY HEAVY INDUSTRIAL (M-2). THE AREA HAS EXPERIENCED A MAJOR IN CHANGE IN THAT SANITARY SEWER FACILITIES ARE NOW ACCESSABLE. PREVIOUSLY, THIS AREA WAS SERVICED BY INDIVIDUAL SEPTIC SYSTEMS; THE INFRASTRUCTURE UPGRADES ALONG HWY 41A HAVE**

***SUBSTANTIALLY CHANGED THE PHYSICAL AND SOCIAL NATURE OF THE AREA TO FACILITATE THIS ZONING APPLICATION; THIS PROPERTY HAS BEEN HISTORICALLY USED FOR COMMERCIAL USES AND THE PROPOSED ZONING IS MORE APPROPRIATE.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: **Section 5.**

Brian Bishop: We're in the home stretch. Section 5 consists of parcel 46-131, the property is currently zoned County Light Industrial (M-1) and the proposed zone for annexation is City Heavy Industrial (M-2). This property has been used for industrial uses in the past, you may remember this as the property that housed lots of heavy industrial equipment for sale and is currently being used by a construction company. Staff feels this is the most appropriate zone for this property.

Chairman McKee: Questions for staff? No questions for staff? Would anyone like to speak for or against this re-designation? Hearing none the chair will entertain a motion.

***MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY BOBBIE JARRETT TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 5, CONSISTING OF PARCEL 46-131 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THIS REQUEST GUIDES INDUSTRIAL GROWTH TO EXISTING INDUSTRIAL AREAS AND ASSURES THEY ARE COMPATIBLE WITH SURROUNDING AREAS.***

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: **Section 6.**

Brian Bishop: Section 6 consists of parcels 46F-1 thru 46F-30 minus 46F-7, that is the parcel in which the city did not receive the signed annexation agreement. Staff recommends a change from County Two Family Residential (R-2) to City Medium Density Residential (R-2) and, these properties are all one (1) family residences so staff feels this is the most appropriate use for the property.

Chairman McKee: Questions for staff? Comments? Would anyone like to speak for or against this re-designation? Seeing and hearing none the chair will entertain a motion.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY RODNEY THOMAS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 6, CONSISTING OF PARCELS 46F-1 THROUGH 46F-30 MINUS 46F-7 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY MEDIUM DENISITY RESIDENTIAL (R-2). BEING THAT IS THE CURRENT USE OF THE PROPERTY AND RECOMMENDING THIS ZONING IS APPROPRIATE TO THE COMPREHENSIVE PLAN.***

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: **Section 7.**

Brian Bishop: Last one. Section 7 consists of parcel 46-134. The property is currently zoned County Two Family Residential (R-2) and the

proposed zone for annexation is City Residential Mobile Home (R-MH). If you will notice on the map, the area in green is Section 7 and this has historically been and currently used as a manufactured home park so, staff feels this is the most appropriate zoning for this property.

Chairman McKee: Questions for staff?

Kevin Richard: So Mr. Bishop, if we did rezone this as a City R-2 that would be a non-conforming parcel?

Brian Bishop: Yes sir.

David Williams: Mr. Bishop, how do you see this particular parcel developing over time? Do you think it will go manufacturing as other parcels in this area?

Brian Bishop: That's a very good question. To do so, that property would have to be purchased and consolidated with the adjacent property. If that were to happen, it would be a fairly large project that the Planning Commission would see a rezoning, consolidation and most likely a site plan for approval.

David Williams: How long has this been a mobile home park?

Brian Bishop: Numerous decades.

David Williams: So it's been an accepted use by the neighbors and you don't see any problems with it being a non-conforming use?

Brian Bishop: I can say this as the former County Codes Administrator, I never received complaints from the adjacent property owners. That's the best that I can speak to.

David Williams: I have no further questions.

Chairman McKee: Further questions for staff? Would anyone like to speak for or against this re-designation for annexation? Seeing and hearing none, the chair will entertain a motion.

***MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY DICKIE JOHNSON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 7, CONSISTING OF PARCEL 46-134 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY RESIDENTIAL MOBILE HOME (R-MH); BEING THIS IS MORE APPROPRIATE TO THE CURRENT USAGE AND HISTORICAL NATURE OF THIS PARCEL.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda is the Access Standards Variance, Mrs. Wayne are you going to present that?

Claudia Wayne: Yes.

Chairman McKee: Please proceed.

Claudia Wayne: I want to let you know up front that when you get to our non-public hearing items, you will have one (1) Commercial Development Site Plan and this Access Standards Variance goes with that but this is in the Public Hearing.

The Arnold Consulting Engineering Services, LLC., is requesting a variance from the Access Standards Manual, which requires a minimum frontage distance of 200' along a public roadway, when two (2) separate driveways are required. The applicant is requesting a 10.07 foot variance to meet the requirements located 2201 Hwy 41 N.

I will read Arnold Consulting's letter requesting the variance into the record:

"To Whom it May Concern:

The intent of this letter is to request a variance from the requirements in the Henderson City-County Access Standards Manual dated July, 1990. The manual states a minimum 200 feet of frontage is required for commercial properties to construct two (2) commercial entrances. The proposed development has 189.93 feet of frontage along Canary Lane which is 10.07 feet under the required 200 feet minimum. The second entrance will be used for employee parking and access behind the proposed building.

The existing development consists of two (2) pieces of property which are currently already developed and have two (2) entrances onto Canary Lane, two entrances onto Robin Road and one (1) entrance onto US 41. The proposed development consists of one (1) entrance onto Robin Road and two (2) entrances onto Canary Lane. The existing entrance onto US 41 will be removed and there will be no direct access to US 41. The proposed development reduces the number of total entrances from five (5) to three (3). Furthermore, the two (2) proposed entrances onto Canary Lane are located in approximately the same location as the existing entrances.

If there are any questions, or comments, please contact our office.

Thank You,

Brandy Zackery, PE

Project Manager”

Claudia Wayne: I have a letter from the City Engineer, Doug Boom.

“Dear Brian,

The petitioner has requested variance to the HCCPC Access Standards Manual as follows:

Variance from the frontage distance required for the number of driveways along a commercial lot fronting a public roadway. Access Standards require a minimum frontage distance of 200’ along the public roadway when two (2) separate driveways are requested. The frontage distance along Canary Lane is 189.93 feet; petitioner is requesting a 10.07 foot variance to meet the 200 foot requirement. Based on the information provided, the first driveway along Canary Lane from US 41 North intersection will serve as a customer entrance, the second driveway will serve as employee parking area. It is the opinion of this office, that this variance be granted.

Sincerely,

Douglas R. Boom, P.E.

Engineer”

Claudia Wayne: We can bring it up where I can show you all what they are requesting. It’s kind of hard to see. But, along Canary there are two (2) entrances, the entrances along here and you’ll see the entrance along there and, then on this side is where there is one (1) entrance there and one (1) here and, there’s only 189.93 feet between those two

(2) entrances. So they need to request that 10.07 feet in order to have the accesses.

If you all have any questions, Brandy is here also and, Doug.

David Dixon: This is going eliminate an entrance directly onto US 41 North?

Claudia Wayne: Yes sir.

Chairman McKee: Questions for Mrs. Zackery? Questions for staff or Mrs. Zackery?

Claudia Wayne: I have a sheet for you all that says what it should be subject to, it's a white sheet with yellow highlights. This should be subject to the approval of the Warren Commercial Development Site Plan also, which is coming up.

Chairman McKee: So if that Site Plan fails, this request will also be negated, correct?

Claudia Wayne: Yes.

Chairman McKee: Are there any comments anyone would like to make about this request for the variance from the Access Standards? Hearing none, will you help us phrase this motion the way you need it to be phrased?

Claudia Wayne: The 10.07 foot variance from the Access Standards Manual to be approved and, subject-to the approval of the Warren Commercial Development Site Plan.

***MOTION WAS MADE BY HERB PRITCHETT, SECONDED BY DAVID DIXON TO APPROVE THE VARIANCE FROM THE ACCESS STANDARDS***

**MANUAL, WHICH REQUIRES A MINIMUM FRONTAGE DISTANCE OF 200 FEET ALONG A PUBLIC ROADWAY, WHEN TWO (2) SEPARATE DRIVEWAYS ARE REQUESTED. APPLICANTS ARE REQUESTING A 10.07 FOOT VARIANCE TO MEET THE REQUIREMENTS FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON AT 2201 US HWY 41 NORTH. SUBJECT TO THE APPROVAL OF THE WARREN COMMERCIAL DEVELOPMENT SITE PLAN.**

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: The chair will entertain a motion to go out of Public Hearing.

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

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: The first on the non-public hearing items agenda is the Planning Commission Finance Report for August 2016, Mrs. Curtis do you plan to lead that conversation?

Theresa Curtis: Yes. We just need approval for the Finance Report as submitted.

**MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY RODNEY THOMAS TO APPROVE THE PLANNING COMMISSION FINANCE REPORT FOR AUGUST 2016 AS SUBMITTED.**

**ALL IN FAVOR: AYE**

***OPPOSED: NONE***

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

Claudia Wayne: We have Warm Residences II, Section 2, we are reducing the amount to \$31,215 and releasing the entrance and extending it one (1) year.

Rivers Edge Subdivision, Section 1, we had accepted the water and sewer so we want to reduce that down to \$156,120 and, we still have streets, sidewalks and erosion control and, it's extended for one (1) year.

Chairman McKee: Any questions for staff on the Bond Report?

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY DAVID DIXON TO APPROVE THE PLANNING COMMISSION BOND REPORT AS SUBMITTED.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda is the **Warren Commercial Development Site Plan**, Mrs. Wayne.

Claudia Wayne: The applicants are proposing a 4,302 square foot building for an AT&T store. The property is in two (2) parcels at this time but it will be consolidated and the existing buildings on the property will be demolished. There will be screening required to the back of the property that is next to the residential area. They do have a landscape plan in their packet. We do have all approvals from the utilities and, also I would like to compliment Brandy on their lighting

plan if you all would look in the big plans. It's very, very explanatory. It's a really good plan and easy to understand the night light friendly lighting and shows how it will not go off the premises. I thought you all would like to see that.

Chairman McKee: Now who is going to be responsible for going out there and checking it and making sure there's not...

Claudia Wayne: John Stroud.

Chairman McKee: John will do that? Ok, thank you.

David Williams: Do you have your measuring tape John?

(Laughter)

Claudia Wayne: This also is going to be subject to and on your same white sheet of paper I have the subject-to's for you on that. It will be subject to the bonding for sidewalks, screening, entrances and, erosion control; written approval from KYTC for drainage and encroachment permit; approval of the consolidation plat and, approval of the 10.07 foot variance from the Access Standards Manual. Staff does recommend approval and we have all of the utilities approvals in hand and, Brandy and them are here if you all would like to talk to them about anything or I'll try to answer anything I can.

Chairman McKee: First of all, questions for staff?

Kevin Richard: I guess just a question of interest; normally we're looking to add access to Hwy 41 so we have to approval from the State of Kentucky. When you are removing an access do you have to have approval as well?

Claudia Wayne: Yes you do, Brandy can answer that.

Chairman McKee: We don't have to swear you in Brandy but would you please introduce yourself.

Brandy Zackery: Brandy Zackery with Arnold Consulting Engineering. Any work that we do within the right-of-way, we do have to get their approval. Even if it's just where we're going to tear out, right now the existing development; their curb line and parking lot goes all the way almost out to 41. So we'll be removing all of that asphalt and curb and just putting sod back down in the right-of-way but, we still have to get permission from the Highway Department to do so.

Chairman McKee: Any other questions for Brandy?

Dickie Johnson: If this is approved tonight, when is construction going to start Brandy?

Brandy Zackery: I will actually let; this is Phil Warren which will be the developer/owner so I will let him speak to that schedule.

Chairman McKee: Welcome Mr. Warren, glad you're here.

Phil Warren: We anticipate closing on the property in mid-October roughly and, construction will commence once we get building plan approval, I would imagine sometime in mid-November.

Claudia Wayne: Did you tell them about the new logo, the building.

Phil Warren: Sure, so obviously there is an AT&T store currently in Henderson, they are looking to approximately double their size to adequately serve the community. If you will notice on the front, they recently went through a re-organization and they purchased Direct TV

so they have re-branded themselves. There is an elevation that shows kind of a different color scheme. To my knowledge, we've been working with them for about 12 (twelve) years and to my knowledge there is actually not one of these new, branded, brand new prototype, brand new design stores in the country right now. This will be one of the first ones, I think there's some maybe under construction at this point but, there's none open. So we're pretty excited about it.

Chairman McKee: Thank you Mr. Warren, are there any questions for Mr. Warren? Thank you sir.

David Williams: Claudia, I brought this up and I would like to get it in the record; sidewalks along 41, there is sufficient room should the State decided to put sidewalks in along 41?

Claudia Wayne: There will be an easement granted on the Preliminary Plat.

David Williams: Ok, thank you.

Chairman McKee: Any further questions or comments?

Kevin Richard: Just to clarify my earlier question; we do not have the approval yet from KYTC?

Claudia Wayne: No, it's subject to.

Kevin Richard: So it needs to be a subject-to in our...

Claudia Wayne: Yes sir.

Chairman McKee: Does everyone have their subject-to's.

Kevin Richard: Ok, I see it. The Encroachment Permit covers what I was asking.

Chairman McKee: Any further questions or comments? Hearing none, the chair will entertain a motion.

**MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY DICKIE JOHNSON TO APPROVE THE WARREN COMMERCIAL DEVELOPMENT SITE PLAN, SUBMITTED BY THE ROGER'S FAMILY AND WARREN COMMERCIAL REAL ESTATE FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON AT 2201 HWY 41 N; SUBJECT TO BONDING FOR THE SIDEWALKS, SCREENING, ENTRANCES AND EROSION CONTROL; APPROVAL FROM KYTC FOR DRAINAGE AND ENCROACHMENT PERMIT; APPROVAL OF THE CONSOLIDATION PLAT AND APPROVAL OF 10.07 FOOT VARIANCE FROM THE ACCESS STANDARDS MANUAL.**

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: So mote it be.

Claudia Wayne: I will get the bonding amounts to you.

Chairman McKee: Next on the agenda is the **Rezoning #1059 Players Clubhouse Findings of Facts**, which were tabled at the August meeting.

Mr. Bishop, would you like to lead that conversation?

Brian Bishop: I would sir, but I would also like to defer to the esteemed counsel Mr. Fridy to discuss a few items with you as far as procedure.

Chairman McKee: Please proceed.

Attorney Tommy Joe Fridy: As you will remember at the last meeting, you the Planning Commission, voted to recommend to the City Commission that Rezoning #1059, you recommended Rezoning #1059,

and as part of your motion you moved and it was determined that there would no further discussion tonight, there would be no input from the public that your discussion would be limited to removing the item from the table, and adopting finding of facts that are consistent with that motion to recommend rezoning.

So, the first thing you would do is make a motion to remove from the table, and after that you can handle the proposed findings in two fashions. If you choose to make conditions, corrections or changes to those proposed findings, you could do it before they are read aloud or request that staff read them and then you can make motions or have discussions, and have discussions about any changes. Then vote on the proposed, then vote on the actual findings.

Your vote tonight is not a vote for or against the rezoning, you've already voted on that. The majority has determined to approve the rezoning, to recommend approval of the rezoning to the City. You're only voting on findings that are consistent with the record, based on the record to support that majority decision. Does anyone have any questions of me?

Kevin Richard: No, thanks for clarifying.

Chairman McKee: I believe in your packet you have a guide for whichever way you choose to proceed. First thing that needs to be dealt with is taking the balance of the Rezoning #1059 off the table.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT THAT THE CORMAN-MCQUEEN GOLF, INC., AND MBTJ, LLC., APPLICATION TO REMOVE THE GOLF COURSE LIMITED USE RESTRICTION BE REMOVED FROM THE TABLE.***

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: Next on the agenda is the **Findings of Fact**.

Brian Bishop: Mr. Chairman, I will read into the proposed findings of facts we have this evening. I would like to commend Mr. Fridy for his work on this, he has done a very good job. With that, I will proceed.

**Proposed Findings of Fact:**

The Planning Commission voted at the August 2, 2016, regular meeting to recommend that the Henderson City Board of Commission (“City Commission”) 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), for approximately 5.688 acres; and, the matter was tabled until this meeting for staff to propose findings of fact which are consistent with the record of the August 2, 2016, public hearing, for the Planning Commission to consider.

I move that the following be adopted as findings of fact in support of such recommendation, ***and I leave the motion open for other members of the Planning Commission to add findings of fact in support of this motion:***

The existing zoning classification of Agricultural (AG) - Golf Course Restricted Use, is inappropriate and the proposed zoning classification of General Business (GB) with a narrative development plan is

appropriate. The Narrative Development Plan would limit or restrict the use of this 5.688 acres (the “Parcel”) to: 1) A catering establishment (19.02(j)), 2) studio for music, dancing, or theatrical instruction (19.02(ff)), 3) wedding chapels or banquet halls (19.02(ii)), and, 4) accessory uses incidental to the above (19.02(pp)). The Narrative Development Plan also provides that occupants or users of the Parcel shall not play outdoor music past 10 pm. This recommendation is subject to approval of a preliminary plat subdividing this 5.688 from the golf course remainder; and, is subject to the Planning Commission removing the golf course restriction from this 5.688 acres. Because:

- The City of Henderson Codes Department declined to issue a permit or license for the “Clubhouse” to continue to be used in the manner it has been historically used; the Applicants did not appeal that decision to the Board of Zoning Adjustments; and, the Applicants filed this Application for rezoning.
- The Clubhouse contains 11,000 square feet, 5,600 square feet on the top level and the balance on the bottom level.
- Applicants limited the Narrative Development Plan (further restricting the permitted uses) at the Public Hearing, as reflected above.
- The Clubhouse has been historically used for the purposes set out in the Narrative Development Plan.
- The use of the Clubhouse has historically been used for commercial purposes.
- There are 180 parking spaces.
- The Clubhouse has a berm which screens it from the houses.
- There is a tennis court between the Clubhouse and the houses.
- The Clubhouse is located away from the houses.
- The Clubhouse has direct access from the main road without

driving around within the subdivision.

- The proposed use is consistent with the historical use.
- If you can't use the Clubhouse for a commercial use, it will fall into disrepair from nonuse.
- The Applicants stated that it was their goal to use the Clubhouse in a manner that is sensitive to the residents and the adjoining property owners.
- If the golf course was reopened, and if the Clubhouse was rezoned as the Applicants are requesting, with the Narrative Development Plan, there would be no reason the Clubhouse couldn't be leased to the golf course and used as a clubhouse, for the uses they have specified in the Narrative Development Plan.
- 6 area residents testified at the Public Hearing and most of them were not against rezoning the Clubhouse, with the Narrative Development Plan but were concerned about the golf course which was not the subject of the Public hearing.

**As part of the recommendation, the Planning Commission Staff shall forward the following, among possibly other things, to the City Commission:**

A Transcript of the August 2, 2016, Public Hearing.

The following documents relating to the Rezoning:

- Applicant's Rezoning Application with the applicant's attachments, as follows:
  - Applicant's three (3) page supplement to application
  - Exhibit Map #1
  - Corman-McQueen Resolution

-MBTJ, LLC., Resolution

- Rezoning Notice Letter sent to area residents, and the address list to which the letter was sent.
- Newspaper advertisement receipt.
- Planning Commission Agenda for August 2, 2016, and related documents as provided to the Planning Commission members in advance of the meeting:
  - Proposed Public Hearing and Meeting rules
  - Staff Report – Regarding Rezoning #1059
  - Pictures & Maps of property
- Attendees at the Public Hearing were asked to sign it at the door. Four (4) pages of sign in sheets are attached and incorporated by reference. One sheet is for 4 professionals and the other 3 sheets are for 15 individuals.
- Narrative Development Plan signed by MBTJ, LLC.
- Narrative Development Plan signed by Corman-McQueen Golf, Inc.

KRS 100.211(2)(f) requires a summary of the evidence and testimony presented by the proponents and opponents; such summary is as follows:

**Dorin Luck**, attorney for the Applicant MBTJ, LLC. (Mike Chambers and Bobbie Chambers) (“Chambers”) spoke in favor of the Application:

- Mr. Luck stated that the purchase of the Players Club Golf Course Property (“Players Club”), including the 5.688 acres, which is the subject of this Application for rezoning, is under contract between the current owner, Corman-McQueen Golf, Inc., and MBTJ, LLC.,

and that he anticipated it closing in the near future.

- Mike Chambers is the principal member of MBTJ, LLC, which is one of the Applicants.
- Gave a history of the development.
- The Clubhouse contains 11,000 square feet, 5,600 square feet on the top level and the balance on the bottom level.
- Applicants limited the Narrative Development Plan (further restricting the permitted uses), as reflected above.
- The Clubhouse has been historically used for the purposes set out in the Narrative Development Plan.
- The use of the Clubhouse has historically been used for commercial purposes.
- There are 180 parking spaces.
- The Clubhouse has a berm which screens it from the houses.
- There is a tennis court between the Clubhouse and the houses.
- The Clubhouse is located away from the houses.
- The Clubhouse has direct access from the main road without driving around within the subdivision.
- The proposed use is consistent with the historical use.
- Mr. Luck went through a lengthy narrative of how the Applicant believes the proposed rezoning is in agreement with the Comprehensive Plan.
- If you can't use the Clubhouse for a commercial use, it will fall into disrepair from nonuse.
- There is no secret there has been a Clubhouse out there and that there has been traffic out there.
- It is the Applicants goal to use the Clubhouse in a manner that is sensitive to the residents and the adjoining property owners.
- "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."
- "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."

- The proposed use would provide a convenient meeting place for the community.
- "There will be no golf course on this property from this point forward".

**Daniel McQueen**, President of Corman-McQueen Golf, Inc., spoke in favor of the Application:

- The major problem we've had is being 3 hours away.
- The golf course has lost money for the last 4 years.
- He recently talked to 3 different groups about buying it;  
Bill Randall group;  
Chris from Bent Creek; and,  
Mike Chambers
- Hard to profitably operate a privately owned golf course that isn't subsidized somehow.
- Introduced financial information into the record.
- The golf course was not advertised for sale.
- Mr. McQueen asked Mike Chambers if he was interested in it.

Six (6) area residents spoke in opposition to the Application; and a majority of their testimony was about the golf course and not the Clubhouse. The opposition testimony included; 1) a concern the golf course could not operate if the 5.688 acres was subdivided off and operated pursuant to the Application, 2) noise, 3) a decrease in their

property values, 4) their view, 5) the appearance and maintenance of the golf course area and the ponds. Many of them testified they were not opposed to the Application to rezone the Clubhouse. One resident testified it was inappropriate to allow a commercial zone in a residential neighborhood.

Area Resident **Tammy Oxford** summary:

- Purchased a house on Constanza Drive because of the view.
- Now I do not have a view.
- It is wonderful someone wants to do something with the old Clubhouse.
- All we're concerned about as homeowners is keeping it clean, keeping it mowed and the value of our homes.
- Should be reassessed for taxes as we are no longer living on a golf course.

Area Resident **Alvey Bruce Kanipe**:

- Kanipe agreed with a lot of what Tammy said.
- Kanipe doesn't live around the Clubhouse but believes the proposed use is a good project and the building is conducive.
- Purchased on Constanza Drive because of the golf course view.
- Entered an Excerpt from the Minutes of the March 1, 1994, Henderson City-County Planning Commission Meeting dealing with the golf course development, into the record and read several passages from the minutes into the record. (Mr. Kanipe referred to the Minutes as a Narrative.)
- Expressed concerns about the ponds.
- Expressed concern about the value of his home.
- Understands this meeting is about the 5.688 acre Clubhouse and not the golf course.

- Acknowledged the golf course is gone.
- Concerned any future use not adversely affect property values.
- Expressed concern about the future of the golf course property, which he referred to as his back yard.
- Understands Chambers will be required to come back to the Planning Commission with the balance of the 168 acre golf course property.
- A lot of the issues being dealt with today were brought up in 1994.
- Requested everyone read the Excerpt from 1994 Planning Commission Minutes dealing with this area.
- No one guaranteed him the golf course would always be there, he just assumed it would be.
- The Planning Commission is going to have to make some hard decisions so property values don't go down.

Area resident **Darren Spainhoward:**

- Agreed without reiterating what Mr. Kanipe said.
- Chambers has done a great job to date working on the lakes and mowing.
- Formerly lived in Evansville and played the course here. The golf course had a lot of play until they stopped maintaining it. Not advocating owner fund losses.
- Stated McQueen (the "owner") didn't advertise the golf course for sale or lease. Ask if the owner contacted the City.
- The maintenance was allowed to deteriorate, causing the rounds of play to drop.
- Due diligence in choosing an operator was weak. Operator did not have the financial capacity to put any money in the course. What qualified the last operators to run it?
- Why didn't the owner market it to other golf course operators?

- He lives on the 17<sup>th</sup> fairway.
- Is concerned with his property value but, if it is maintained like it is now he doesn't have an issue with it not being a golf course.
- Doesn't want houses built behind him or a "tobacco field".
- Approached Chambers about purchasing at least 200 feet behind his property. Chambers ask him to contact Mr. Branson and Mr. Spainhoward testified Mr. Branson told him all the neighbors would have to agree to buy an area behind their respective houses because of the cost of drafting, surveying, etc.

Area Resident **Curt Hamilton:**

- Lives just off of the 10<sup>th</sup> Green on Belle Wood Drive.
- Purchased the property specifically because of the golf course.
- The Master Plan the Planning Commission approved in 1994 told me and everyone else it would always be a golf course.
- You're not hearing the whole truth from the owner.
- It was mismanaged, the operator didn't apply appropriate water.
- Mr. Hamilton testified he and Bill Rendell, the former PGA Pro from the Henderson County Club, and a group of investors developed a business plan in 2010, at the depth of the recession, and offered the owner far more than Mr. Hamilton understands Chambers is paying for the golf course. Hamilton's group anticipated spending probably another \$1,000,000.00 on top of the purchase price to make the golf course correct.
- The operator put the money in his pocket and didn't pay the water bill, quit watering, drained the lakes, over fertilized, and basically killed the course.
- The owner did nothing to market the golf course appropriately.
- The course could have been saved then and it can be saved now.
- Planning and Zoning is for the neighbors.
- "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 open, it should stay a golf course and that's just the breaks and that's what should be."

- Decline in play is because of mismanagement (poor condition of the course) not the economy.
- ".....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."
- It needs to be a golf course.
- "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."

- The value is less because the plug was pulled.

Area resident **Dr. Gary Jennings:**

- Lives on Belle Wood.
- Would like to see something in there about outdoor music and noise.

Area resident, **Taylor DeCorrevont:**

- Against the 5.688 acre Clubhouse rezoning.
- If it were historically used for anything other than a Clubhouse it violated what it was zoned for.
- “I can’t imagine in my wildest dreams imagine having a commercial zoning in the center of a residential neighborhood, are you kidding me.”
- They have been doing a bad job, he has notified the codes department no less than 5 times about the grass and weeds.
- He mows where the public can see it driving around.
- The ponds are terrible.

Applicant’s Consultant and surveyor, **Dennis Branson:**

- Chambers did not buy a golf course, the golf course closed before he bought it.
- “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.”

- The one at Constanza 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."

**John Stroud**, with the City of Henderson Codes Department:

- Discussed enforcing the mowing ordinance.
- Answered questions for the Planning Commission about the interpretation of the zoning ordinance from a codes perspective.
- If the golf course was reopened, and if the Clubhouse was rezoned as the Applicants are requesting, with the Narrative Development Plan, there would be no reason the Clubhouse couldn't be leased to the golf course and used as a clubhouse, for the uses they have specified, in the Narrative development Plan.

**Tom Williams**, General Manager of the City of Henderson Water Utility:

- Discussed the detention basins.
- The City Water Utility, that deals with the detention basins, is not worried about the aesthetics of the lakes at pool elevation.

That is all of the proposed findings of facts.

Chairman McKee: Did everybody have the opportunity to follow along and understand?

David Williams: Mr. Chairman.

Chairman McKee: Yes.

David Williams: On page nine (9), Brian misspoke about, he said, "The course could not have been saved", and it should read "That the course could have been saved then and it could be saved now."

Brian Bishop: I apologize.

David Williams: I would recommend, Mr. Fridy if you can support me or not on this, that we submit a written copy of Brian's statement into the record as the official statement because of, to take care of any misspoken words or...

Attorney Tommy Joe Fridy: The proposed motion is exactly that. That you are adopting as findings of facts, if you choose to, the written proposed findings have been presented to you for several days and that were handed out here tonight.

David Williams: Thank you.

Attorney Tommy Joe Fridy: The reading into the record is something that is a good thing to do, but you would be actually adopting the written version.

Dickie Johnson: Printed.

Attorney Tommy Joe Fridy: The printed version, excuse me. Thank you.

Chairman McKee: Any further comments? Hearing and seeing none, the Chair will entertain a motion.

David Williams: Mr. Fridy the zoning has been accepted, right? The zoning change has been voted on and approved by the Planning Commission?

Attorney Tommy Joe Fridy: Yes, we're only adopting Findings of Facts to support the motion decision that has already been made.

David Williams: Ok. So what we're doing now is just, more or less, a house cleaning activity to move it forward? I would, I did not vote for the original motion but in the interest of moving things forward I'm going to motion that the, excuse me, Brian is this the recommended motion here?

Brian Bishop: It is.

Attorney Tommy Joe Fridy: The twelve (12) page Proposed Motion.

David Williams: Yes sir, thank you, I just want to make sure I get it straight.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT THAT THE 12 (TWELVE) PAGE PROPOSED MOTION AND FINDING OF FACT, WHICH HAS JUST BEEN READ, WHICH INCLUDES A SUMMARY OF THE EVIDENCE AND TESTIMONY OF THE AUGUST 2, 2016 PUBLIC HEARING, IN SUPPORT OF RECOMMENDING APPROVAL OF REZONING #1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A- SUBMITTED BY CORMAN-MCQUEEN GOLF, INC., AND MBTJ, LLC., 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, CONTAINING APPROXIMATELY 5.688 ACRES) WAS DISTRIBUTED TO THE MEMBERS OF THE PLANNING COMMISSION IN ADVANCE OF THIS,***

**SEPTEMBER 6, 2016, MEETING, WAS OFFERED/DISTRIBUTED TO ATTENDEES OF THIS PLANNING COMMISSION MEETING AND WAS READ ALOUD INTO THE RECORD OF THIS MEETING BY STAFF. I MOVE THAT SUCH 12 (TWELVE) PGAE MOTION AND FINDINGS OF FACT, AS SO DISTRIBUTED, BE ADOPTED, IN ITS ENTIRETY, AS THE MOTION AND FINDINGS OF FACT IN SUPPORT OF SUCH RECOMMENDATION, AND I LEAVE THE MOTION OPEN FOR OTHER MEMBERS OF THE PLANNING COMMISSION TO ADD FINDINGS OF FACT IN SUPPORT OF THIS MOTION.**

Brian Bishop: Commissioner Williams, there was a small type-o in the second sentence that says August 9 and it actually should be August 2.

David Williams: I'm sorry, I didn't pick that up. So moved.

Chairman McKee: Amended to August 2. We have a motion. We have a second. Discussion? Mr. Pritchett.

Herb Pritchett: Speaking only about the Findings of Fact, I'm reminded of a story that Abraham Lincoln used to tell about a farmer and two (2) children. The farmer had a beautiful daughter that had just graduated from high school, and he had a son that was not so smart, elementary school. One day the farmer was out plowing and his not so smart son came running up and said, "Daddy, daddy, come quick something bad is about to happen." And the farmer said, "Son settle down, what bad is about to happen?" And he said, "Well I went back to the barn and my sister was up in the hayloft with the neighborhood boy and she was pulling up her dress and pulling down her underwear and the boy was doing the same thing and, Daddy if you don't come quick they're going to pee all over that hay and ruin it!" The farmer looked at the boy and

said, "Son you've got your facts straight but your conclusions are all wrong."

I think Tom, Mr. Fridy, accurately depicted what happened at the Public Hearing. I think some of it was fact and some of it was unsubstantiated opinion but, in that respect it's correct but, I can't obviously agree with the recommendation but, I thought the story was sort of funny so I thought I would share it with you tonight.

Chairman McKee: We have a motion and a second, is there any other discussion? Madame Clerk, will you please call the roll?

***AYE: DAVID WILLIAMS, BOBBIE JARRETT, KEVIN RICHARD, DICKIE JOHNSON, GARY GIBSON, RODNEY THOMAS, DAVID DIXON, KEVIN HERRON, GRAY HODGE.***

***NAY: HERB PRITCHETT.***

Chairman McKee: And your audit of that vote would yield what number, since I was in error the last time we did this?

Heather Lauderdale: 9 (nine)yes, 1 (one) nay.

Chairman McKee: 9 (nine) yes, 1 (one) nay. Motion carried.

Chairman McKee: Next on the agenda, administrative business, Mr. Bishop.

Brian Bishop: Yes sir. I would like to ask if there were any questions or comments about the packet that I handed out at the last meeting. The packet consisted of the proposal from TSW Design Group about our development analysis study.

Attorney Tommy Joe Fridy: Wait, wait, we've got another...

Brian Bishop: I apologize, I got way ahead of myself. It was wishful thinking, I apologize.

Herb Pritchett: You were still thinking about that hayloft weren't you?

Brian Bishop: It threw me for a loop.

Brian Bishop: Next we will see **Lot #2A Wolf Hills Golf Course Area, Master Plan**, tabled at the August 2, 2016 meeting, 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. The applicants are requesting that the Golf Course Limited Use Restriction be removed from this 5.688 acres, subject to final approval of Rezoning #1059.

You will also notice you have a sample motion for this Master Plan. It is the second page and it is titled; **Sample Motion to Remove Golf Course Restriction from Lot #2A Wolf Hills Golf Course Club House Area, Master Plan**, containing 5.688 acres.

I will do my best to answer any questions that you may have.

Chairman McKee: Questions for staff?

***MOTION WAS MADE BY DAVID DIXON, SECONDED BY BOBBIE JARRETT THAT THE CORMAN-MCQUEEN GOLF, INC., AND MBTJ, LLC., APPLICATION TO REMOVE THE GOLF COURSE LIMITED USE RESTRICTION BE REMOVED FROM THE TABLE.***

**AYE: DAVID WILLIAMS, BOBBIE JARRETT, DICKIE JOHNSON, GARY GIBSON, RODNEY THOMAS, DAVID DIXON, KEVIN HERRON, GRAY HODGE AND HERB PRITCHETT.**

**NAY: KEVIN RICHARD**

Kevin Richard: One opposed.

Chairman McKee: One opposed. Motion carries.

Chairman McKee: Next is to **Remove Golf Course Restriction** from **Lot #2A Wolf Hills Golf Course Club House Area, Master Plan**, containing approximately 5.688 acres.

Dickie Johnson: We have already heard testimony and it was included into the original motion, correct?

Attorney Tommy Joe Fridy: Correct.

Chairman McKee: There is a sample motion in your packet if it expresses your desires.

David Dixon: Ok, we've approved a rezoning for this property, correct?

Attorney Tommy Joe Fridy: You've recommended it, yes.

David Dixon: And, now we're being asked to remove a Golf Course Limited Use Restriction from this property?

Attorney Tommy Joe Fridy: From the 5.688 acres, subject to it being finally approved.

David Dixon: What if in lieu of the rezoning being approved, what happens if this restriction is not removed? Then it still has to be a golf course? Even though it's rezoned to something else?

Attorney Tommy Joe Fridy: I guess so. I haven't given that a lot of thought because I assumed if you recommended that it be rezoned, you would follow suit and recommend that the Golf Course Limited Use Restriction be removed on that area.

David Williams: But if we don't approve this, we're going to leave the landowner in limbo and, we've already recommended the zoning change and, personally I think it would be irresponsible for us to leave him with no options here. It could still go back to being a golf course if he so chooses.

Herb Pritchett: It could still go back to being a golf course?

Dickie Johnson: It can right now under the zoning change that we are recommending. It can still be used as a clubhouse...

Brian Bishop: Not a golf course. We are specifically talking about the 5.688 acres.

Herb Pritchett: Right.

Brian Bishop: Now we're on the Master Plan.

Dickie Johnson: Yes.

Herb Pritchett: So the 5.688 acres could be used as a golf course clubhouse?

David Dixon: According to these findings of fact.

Dickie Johnson: Yes.

David Dixon: For the testimony that presented at the Public Hearing.

Brian Bishop: I believe that was Mr. Stroud's testimony.

**MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY DAVID DIXON THAT THE CORMAN-MCQUEEN GOLF, INC., AND MBTJ, LLC., APPLICATION TO REMOVE THE GOLF COURSE LIMITED USE RESTRICTION FROM NEW PROPOSED LOT #2A, 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), CONTAINING APPROXIMATELY 5.688 ACRES, BE APPROVED, SUBJECT TO SUCH SUBDIVISION BEING APPROVED AND SUBJECT TO REZONING #1059 BEING FINALLY APPROVED FOR SUCH PROPERTY.**

Chairman McKee: Are there any questions about that motion?

David Williams: I will entertain any additions.

Chairman McKee: We have a motion and a second, any discussion?

Hearing none, Madame Clerk will you please call the roll?

**Aye: David Williams, Bobbie Jarrett.**

Heather Lauderdale: Kevin Richard?

Kevin Richard: For consistency, since I voted no on the rezoning I vote no on this as well.

**Aye: David Williams, Bobbie Jarrett, Dickie Johnson, Gary Gibson, Rodney Thomas, David Dixon, Kevin Herron, Gray Hodge.**

**Nay: Kevin Richard, Herb Pritchett.**

Chairman McKee: Motion carries.

David Williams: What was the final vote on that?

Heather Lauderdale: Aye 8 (eight), Nay 2 (two).

Chairman McKee: Is it now time to move to Administrative Business?

Brian Bishop: I hope so.

Chairman McKee: Mr. Bishop, would you please proceed?

Brian Bishop: Yes sir. Last month, as I said before, we gave you a copy of the proposal from TSW Design Group. I requested you take a look at it and, I requested you take a look at the contract. So, if there are no questions or comments I would like to request that the Planning Commission **authorize Mr. Fridy and myself to finalize the contract with TSW Design Group** so that we can start our development analysis study.

Chairman McKee: So a motion would be in order for Mr. Bishop and Mr. Fridy to negotiate and finalize the contract with the consultant?

Brian Bishop: Correct sir.

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY RODNEY THOMAS TO AUTHORIZE PLANNING COMMISSION EXECUTIVE DIRECTOR BRIAN BISHOP AND ATTORNEY TOMMY JOE FRIDY TO NEGOTIATE AND FINALIZE THE CONTRACT WITH TSW DESIGN GROUP.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: So mote it be.

Chairman McKee: **Motion to Adjourn?**

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY DAVID DIXON TO ADJOURN THE SEPTEMBER 6, 2016 MEETING AT 7:45 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, September 6, 2016, to the best of my ability.**

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**Heather Lauderdale, Secretary Senior/Address Technician**