

Henderson City-County  
Planning Commission  
October 6, 2015

The Henderson City-County Planning Commission held their regular meeting October 6, 2015 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, Gary Gibson, Rodney Thomas, David Dixon, Kevin Herron and Penny Hahn, Mac Arnold and Dickie Johnson. Kevin Richard and Taunya Eyre were absent.

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

*(A summary of the minutes from the meeting on October 6, 2015. A recorded audio tape is on file at the Planning Commission Office)*

**MEETING BEGAN AT 6:00PM**

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

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY MAC ARNOLD TO GO INTO PUBLIC HEARING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Have you had an opportunity to review the minutes from the September 1, 2015 minutes?

***MOTION WAS MADE BY GARY GIBSON, SECONDED BY RODNEY THOMAS TO APPROVE THE MINUTES FROM THE SEPTEMBER 1, 2015 PLANNING COMMISSION MEETING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda is the City-County Planning Commission 2014-15 fiscal year audit. Mr. Crafton, are you going to offer discussion?

Brian Crafton: I am.

Chairman McKee: Could you please come to the podium. Since we are in a public hearing I need to ask you to give your name and address.

Brian Crafton: Brian Crafton, Myriad CPA Group, 300 First Street, Henderson, Ky.

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

Brian Crafton: I do.

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY DAVID WILLIAMS TO APPROVE THE HENDERSON CITY-COUNTY PLANNING COMMISSION 2014-15 FISCAL YEAR AUDIT.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Before we close the public hearing, I would like to bring to your attention that our Assistant Director Claudia Wayne's mother, Mrs. Catherine Watkins is in grave health at the moment and

Claudia is with her tonight holding her hand and praying with her. If you will, please join me in a moment of silence and thought for Mrs. Watkins I would really appreciate it. Thank you very much.

The (inaudible) for us to go out of a public hearing for a non-public hearing item, the Chair will entertain a motion.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT TO CLOSE THE PUBLIC HEARING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: The first item on non-public hearing agenda is the **Revocation of Merritt Place Subdivision Lots 5-9**, Mr. Bishop are you going to lead that conversation?

Brian Bishop: Yes sir.

Chairman McKee: Please proceed.

Brian Bishop: The applicant has requested that the Planning Commission revoke the plat that you see on the screen. That is the final plat for Lots 5-9 Merritt Place Subdivision, the applicant has provided an affidavit stating that he is still the owner of all the lots and no lots have been so. Once the plat is revoked, the property will revert back to what you see here, you see Revised Lot 3 and Lot 4 and that is what the property will look like once the plat is revoked.

Chairman McKee: Any questions for staff? Would you like any information from the property owner or his representative? Hearing none, the chair will entertain a motion.

***MOTION WAS MADE BY DAVID DIXON, SECONDED BY BOBBIE JARRETT TO REVOKE MERRITT PLACE SUBDIVISION LOTS 5-9.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Now the chair will entertain a motion to go back into public hearing.

***MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY BOBBIE JARRETT TO GO BACK INTO PUBLIC HEARING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Out of an abundance of caution I am going to leave the room and let Mr. David Williams take over items B & C on the agenda, thank you.

Vice-Chairman Williams: The first item under the public hearing is **Re-Zoning #1052**, Mr. Bishop.

Brian Bishop: Re-Zoning #1052 was submitted by Dempewolf Properties, LC for the property located at 101 Eleventh St. (PIDN# 1-11-2-5), containing 18,916 square feet. Applicants are requesting a zoning change from Low Density Residential District (R-1), to Residential District (RF-4). The applicant is requesting a zoning change for the property you see here highlighted in blue. The applicant plans to consolidate this portion of the property with this portion. What will have to take place is the applicant will submit a consolidation plat which will join these two properties and once that is done you will have one lot that totals 39,195 square feet of RF-4 zoning. Staff requests that this re-

zoning be subject to the requirements that the lot be used for one family residence only. I will do my best to answer any questions you may have. I know it's a bit confusing and we've seen this a couple of times.

Vice-Chairman Williams: By doing this are we opening any doors for commercial use for the property.

Brian Bishop: I do not believe so and that is why we requested the use only be one family residences. If there were ever a proposed use that was not that, they would be required to come back to the Planning Commission.

Vice-Chairman Williams: Are there any other changes we need to be aware of as far as the zoning change.

Brian Bishop: There's not a zoning change, but later in the meeting the next item on the list you will see the subdivision that addresses the rest of this property but the zoning is not going to change on those properties.

David Dixon: Right now we're just considering the re-zoning of the L-shaped portion not a consolidation with other portions?

Brian Bishop: Correct. You are just considering this portion highlighted in blue. The consolidation will be considered a Minor Subdivision and can be approved in-office by staff.

Vice-Chairman Williams: Does anyone have any questions of staff? Would anyone like to speak either for or against this re-zoning? Yes ma'am, please state your name and address please.

Martha Beckett: Martha Beckett, 1029 N. Main Street.

Vice-Chairman Williams: Ms. Beckett, do you promise to tell the truth?

Martha Beckett: Yes I do.

Vice-Chairman Williams: Thank you.

Martha Beckett: I would just like to speak in favor of the proposal to limit this to single family residence. When this was initially re-zoned, the portion that's already re-zoned riverfront, that's going to be part of the new lot in addition to the part that's going to be the new subdivision. When that was re-zoned, it was explained to us that would be attached to the plan of development which was to have the single family homes. Once we revoke that plan then we're kind of leaving that portion of the lot with no plan of development and no restrictions at all and then we're going to add to it, this other portion and re-zone that. So, if we don't put the restriction on we're going to have almost an acre of land with no restrictions at all.

Vice-Chairman Williams: Would you please clarify what are you talking about, the blue area?

Martha Beckett: This is the part you are re-zoning. Down here is the portion that was previously part of the Merritt Place Subdivision that once that is revoked will have no plan of development.

Vice-Chairman Williams: That has already been revoked.

Martha Beckett: This part is already zoned RF-4. This part is what you are talking about re-zoning. Now this will be the new subdivision. Originally this is the old subdivision, all of that. So, this will be the new subdivision with its restrictions or whatever and three lots. But this then if the plan is revoked then what governs this lot?

Brian Bishop: You mean the three new lots?

Martha Beckett: The three new lots will be over here right?

Brian Bishop: Correct.

Martha Beckett: Ok, so this piece of land right here and this together will be almost an acre. But this piece right here previously was under the old plan of development which called for a single family home. Once that's revoked, it would seem there are no restrictions on this piece of land at all so if you don't restrict it to single family homes you will have all of this where you could essentially do whatever you wanted. Divide it into tiny lots or do whatever, does that make sense?

Vice-Chairman Williams: It's beginning to. Brian, can you address her issues?

Brian Bishop: That's the reason why we requested that the re-zoning be subject to the one family residence so that way it would address the concerns of some of the property adjoiners and from speaking to Mr. Branson I believe that is the intent of the applicant. Denny can speak to this better than I can; I believe that is completely within the scope of what the applicant would like to do with the property.

Vice-Chairman Williams: Ok so we are going to call for restrictions of what we are seeing here, this odd shaped lot as being one...

Tommy Joe Fridy: Let's ask them how they are doing it and once we hear that it will probably be a lot more simple.

Vice-Chairman Williams: Mr. Branson will you state your name and address please?

Dennis Branson: Dennis Branson, 916 Kelly Ct.

Vice-Chairman Williams: Are you going to tell the truth tonight?

Dennis Branson: I do. Very astute observation Martha, I hadn't even considered the fact once that plat is revoked or rescinded the conditions on that division, which were single family only, are gone as well and

there will be a brief period of time where there won't be actually any restrictions other than what's placed by City Ordinance in the RF-4. I can tell you that all of Lot 4, as you see there, proposed Lot 4 and the consolidation is there too and the three (3) lot Minor Subdivision you will see later will all have a restriction that will limit the use of all of that property to single family dwellings, that's our intent.

Tommy Joe Fridy: You could do a verbal development plan with the consent of your client tonight, to make the audience feel good as to what you are going to do.

Dennis Branson: Right. We have discussed that and the property owner, Mr. Dempewolf is here and he is aware he is the one that has instructed me to put the single family dwelling restriction on all the division, not just Lot 4 but the three lot minor subdivision that's also up tonight.

Tommy Joe Fridy: I'm not trying to dictate what you do or don't do but if you're doing that why don't you affirmatively do it. If you're not doing it that's fine you can propose whatever you...

Dennis Branson: I thought I did but you tell me what I need to do. We are restricting it to single family dwellings.

Tommy Joe Fridy: Ok.

Dennis Branson: And it's going to be on the face of the consolidation plat for Lot 4 and it will be on the plat for the three lot Burbank Subdivision.

Tommy Joe Fridy: So the owner is agreeing that it's restricted to single family, all of it?

Dennis Branson: Yes. Do you need to hear that from Tommy?

Tommy Joe Fridy: You're his representative.

Dennis Branson: Ok.

Tommy Joe Fridy: I'm not trying to get involved other than to hold down discussion for a long period of time on something that you have now agreed to.

Dennis Branson: Martha had a good point, I hadn't thought about the fact there would be a brief period of time where the other lots or the other remainder of the property would not be restricted other than by City Ordinance.

Vice-Chairman Williams: Anyone have questions for Mr. Branson? Thank you. Are there any other remarks or questions? Martha, are you satisfied with what you have heard tonight?

Martha Beckett: Yes, thank you very much.

Vice-Chairman Williams: Any other questions for staff? Would the staff like to make any other comments?

Brian Bishop: No sir.

Vice-Chairman Williams: I will call for a motion.

Brian Bishop: If you have any questions about the motion, if you will look at your staff report there are some recommendations there if that helps.

***MOTION WAS MADE BY RODNEY THOMAS, SECONDED BY DICKIE JOHNSON TO APPROVE RE-ZONING #1052 FROM R-1 TO RF-4 IN FINDING IT'S IN AGREEMENT WITH THE COMPREHENSIVE PLAN FOR THE FOLLOWING REASONS; THE REQUEST FULFILLS HOUSING OBJECTIVE 4. THE LOCATION AND PLACEMENT OF THE PROPOSED HOUSES AT***

***THE LOW POINT IN THE TOPOGRAPHY OF THE LAND IN THIS AREA TAKES INTO CONSIDERATION THE VIEW SHEDS BY PRODUCING LIMITED OBSTRUCTIONS TO THE SURROUNDING NEIGHBORS; THE SINGLE-FAMILY USE OF THE HOMES IS CONSISTENT WITH THE SURROUNDING NEIGHBORHOOD CHARACTER AND PROPERTY VALUES AS FOUND IN HOUSING OBJECTIVE 6; THE REQUEST IS CONSISTENT WITH DOWNTOWN HENDERSON OBJECTIVE 5, WHICH EMPHASIZES THE REDEVELOPMENT OF THE RIVERFRONT. A VITAL PART OF BUILDING A HEALTHY DOWNTOWN AND RIVERFRONT, IS ADDING RESIDENTIAL DEVELOPMENT/RESIDENTS TO SUPPORT IT AND IS RESTRICTED TO SINGLE FAMILY DWELLINGS.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Vice-Chairman Williams: Next thing on the agenda is the **Burbank Subdivision Lots 1, 2 and 3**, Mr. Bishop.

Brian Bishop: This is, as you know, the property we were just speaking of. The area that we were speaking of before, this will be the area that's consolidated with the area that was just re-zoned so you will have three (3) new lots in this portion here. This is considered a minor subdivision and staff felt it would be prudent to bring this back in front of the Planning Commission. This is actually a minor subdivision and is not required to have approval of the Planning Commission but after speaking to the applicant, Mr. Branson thought it wise to bring this back to you so you could see what is going on with the property due to its high profile and some of the potential controversy we had before. I'll do my best to answer any questions that you may have.

Vice-Chairman Williams: Thank you Mr. Bishop. Are there any questions for staff?

Bobbie Jarrett: This is also subject to the single family residences right?

Brian Bishop: In essence it will be Bobbie in that there will be a note on the plat that will be signed by staff and all the appropriate governing agencies and the property owner.

Bobbie Jarrett: Ok.

Rodney Thomas: Are there going to be four (4) or five (5) lots?

Brian Bishop: Three (3), this portion in red.

Rodney Thomas: I mean overall.

Brian Bishop: In this subdivision there are actually three (3).

Rodney Thomas: Ok, gotcha.

Vice-Chairman Williams: Are there any comments, questions from the audience for staff or commissioners or anyone to speak for or against this proposal. Mr. Branson?

Dennis Branson: I would just like to make a note, a point of interest that you guys might be interested in. This is the last of the original lots of the Town of Henderson that was laid out in 1797 to be divided. This property has never been divided since 1797, it's the last one acre lot that we have in the entire town that has never been divided. It was acquired by a guy by the name of Burbank, which is why used that name, in 1858 and has been held in the Burbank family and inherited by George Whittington and his brother David up through just ten (10) years or so in the same family and never been divided. That's just an interesting point I thought you would like to know. You are seeing history kind of being made here in the first division of the last, whole one acre lot and there

were four (4) of those per block in the forty (40) remaining blocks since the James Alves (inaudible) in 1825. Just thought you would like to know that.

David Dixon: Is that what this Exhibit C refers to in our handout?

Brian Bishop: It does. I was going to yield to Denny's expertise on that if you had any questions because he is the one that did all the research.

Dennis Branson: Just thought you would like a little bit of Henderson history.

Vice-Chairman Williams: Are you speaking as County Surveyor or as a representative of the property owner?

Dennis Branson: I'm speaking as me. We've done the research on all of the blocks in the City of Henderson all the way back to 1797 and brought them forward. We've got books on every block and when I was doing the research to count the number of divisions in the block to make sure that this could be a minor subdivision, it just occurred to me this is the last of the Mohicans here, it's the first time this one (1) acre lot has ever been divided.

Vice-Chairman Williams: Any other comments or questions? Mr. Bishop, are we calling for approval of this subdivision, is that what we're doing?

Brian Bishop: We are, we are requesting the Planning Commission approval just because of the high profile nature of the subdivision.

Vice-Chairman Williams: Ok, then I will entertain a motion.

***MOTION WAS MADE BY DAVID DIXON, SECONDED BY GARY GIBSON TO APPROVE BURBANK PLACE SUBDIVISION LOTS 1, 2 AND 3 SUBMITTED BY DEMPEWOLF PROPERTIES FOR THE PROPERTY LOCATED ON MERRITT DRIVE CONDITIONED ON SINGLE FAMILY DWELLINGS ONLY.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Vice-Chairman Williams: Next on the agenda is rezoning of, wait a minute, now we need to bring him back in. I am going to relinquish the chair to Herb McKee who is the Chair.

Chairman McKee: Next on the agenda is **Rezoning #1048** with Development Plan submitted by Aaron G. Bugg for the property located in the City of Henderson between Burdette Street and CSX Railroad )2-25-13-5) and containing 25,642 square feet. The applicant is requesting a zoning change from Inner City Residential District (R-3) to Light Industrial District (M-1) for proposed mini-storage units. Mr. Bugg would you mind to come to the podium please? Will you please state your name and address?

Aaron Bugg: Aaron Bugg, 4322 St. Olaf Circle.

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

Aaron Bugg: Yes sir.

Chairman McKee: I need to ask you at this point if the variance that you are requesting next is not granted, do you want to proceed with the Rezoning request?

Aaron Bugg: Yes.

Chairman McKee: The answer is yes, you want to proceed with the rezoning?

Aaron Bugg: Yes sir.

Chairman McKee: Very good sir. Mr. Bishop, are you going to lead, you may either stay at the podium or take your seat and when Mr. Bishop is finished giving us his conversation, we may call you back, thank you Mr. Bugg, Mr. Bishop please proceed.

Tommy Joe Fridy: Point of order.

Chairman McKee: Yes sir.

Tommy Joe Fridy: Pursuant to our zoning ordinance we're required to hear E and F the rezoning , D and E whatever numbers they are we're required to hear the rezoning of this parcel and the request for the variance and there are two (2) variances in the same public hearing. At the end we can and probably should make separate motions but it has to be a joint hearing, the statute says that and our ordinance says that.

Chairman McKee: So we need to go ahead and discuss D and E at the same time.

Tommy Joe Fridy: Discuss the variance and then we can proceed. He wants the rezoning even if he does not get the variance so you can separate them out in your discussions and motions but you can go back and forth and talk about one and the other and you can make your motion regarding a rezoning conditioned on the variance or you can do the variance first and I know I am making it more confusing that I would like to but we're required by law to do them both at the same time.

Chairman McKee: So at the same time we're going to be discussing item E the **Rezoning #1048 variance requested.**

Tommy Joe Fridy: Yes sir.

Chairman McKee: Code of Ordinance, City of Henderson, Kentucky Appendix A, Zoning Article 27, Schedule B and Article 23, Section 23.04, Mr. Bugg is requesting two variances: a 25' side yard setback variance adjacent to Residential properties on the Northeast side and a 21' front yard setback variance for the property between Burdette Street and CSX Railroad. So now Mr. Bishop, you can discuss both items simultaneously if you will sir.

Brian Bishop: Thank you sir. As Mr. Fridy said, we are discussing two (2) issues; the first being a rezoning from R-3 to M-1 and the second is two (2) variances. The first variance is requested for these two (2) structures. The City Zoning Ordinance requires that any Light Industrial zone have a fifty (50) foot setback from a Residential zone. The development plan shows a twenty-five (25) foot setback and a six (6) foot wood fence to help provide buffer. The second variance is for the construction of an office that will be attached to the existing car wash that is on the property, this is where the twenty-one (21) foot variance comes into play. So, if these variances are approved you are essentially granted a twenty-five (25) foot variance on this portion of the property and then allowing this setback only to be twenty-nine (29) feet where the City Zoning Ordinance requires it to be fifty (50) feet. At this time, if you would, take a look at the handout we gave you, since this is the first time the Planning Commission is actually doing a variance request I wanted to give you a background and thanks to the help of Mr. Fridy we have prepared this handout.

Section 4.16 of the City of Henderson Zoning Ordinance and KRS 100.203(5) and (6), empowers the Planning Commission to hear and finally determine variances and conditional use permits when the applicant's proposed Development Plan requests a zoning map

amendment and requests that the Planning Commission grant one or more variances; and this Applicant has so applied. In this limited instance, the Planning Commission assumes the powers and responsibilities of the Board of Zoning Adjustment pursuant to KRS Ch. 100 and the City Zoning Ordinance.

The City Zoning Ordinance provides that the applicant cannot withdraw the application and then file an application with the Board of Zoning Adjustments; nor could the applicant file a request with the Board of Zoning adjustments after an application was denied or turned down by the Planning Commission. A denied application may not be refiled with either the Planning Commission or Board of Zoning Adjustments within one (1) year after denial.

In order for the Planning Commission to grant the variance, the Applicant must prove and the Planning Commission must find all of the following:

1. The granting of the variance will not adversely affect the public health, safety or welfare.
2. The granting of the variance will not alter the essential character of the general vicinity.
3. The granting of the variance will not cause a hazard or a nuisance to the public.
4. The granting of the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

In making these findings, the Applicant must prove and the Planning Commission must consider all of the following and make consistent findings:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
3. The circumstances are the result of actions of the applicant taken subsequent To the adoption of the zoning regulation from which relief is sought.

**The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.** Which is not the case with this application.

If you will notice, we have provided a sample motion and we have also given you some items to consider when you make your motion to approve or deny. I will do my best to answer any questions and I know this is going to be a learning curve but Mr. Fridy and I spent some time today, he was very helpful and it was a very educational experience so if I cannot answer the question I will most certainly turn it over to Mr. Fridy.

Chairman McKee: Further advice Mr. Fridy?

Tommy Joe Fridy: Do you the Planning Commission want to hear staffs comments on the zoning or do you want to consider the request for the two (2) variances and let the public comment on these and then move to the rezoning?

David Williams: Could you explain the pitfalls if any?

Tommy Joe Fridy: I don't think there are any it's just getting the ground rules established. This is un-chartered territory and none of us; we're all going to learn by the process. I don't see any downside to doing it either way.

Chairman McKee: It would seem to me we ought to discuss the variances first and the re-zoning second in terms of public comment, in terms of questions from commissioners of staff. Anyone disagree with that.

Brian Bishop: Are there any questions I can attempt to answer at this time?

David Dixon: There are two (2) lots involved here right, in this development? One of them is already zoned light industrial, right?

Brian Bishop: Yes. Mr. Dixon, this is what I think you're referring to; this shows the consolidation of all the properties and as you can tell there were lots of smaller lots when these lots were divided a long time ago. There has also been a closure of Helm Street right here which you will notice fifty (50) foot of this has been added to Mr. Buggs property. That had gone thru the proper procedure thru the City Commission and that property is now added to Mr. Buggs property.

Tommy Joe Fridy: Is part of it zoned Light Industrial now and if so what part?

Brian Bishop: This portion is zoned Light Industrial and this is the portion that is zoned R-3.

David Williams: The property is currently being used, I know part of it is being used for a carwash, what's the other part being used for? Is it vacant?

Brian Bishop: I believe it's vacant at this time.

David Dixon: Then the proposed structures would, at least two (2) of them would stretch across that line between the two (2) lots.

Brian Bishop: But the lot will be joined, it will become one (1) lot not two (2).

David Dixon: Just by means of rezoning or there will have to be a consolidation?

Brian Bishop: No, that consolidation plat will be approved by the staff in-house because it is considered a minor subdivision, I'm sorry I left that point out.

Tommy Joe Fridy: You can condition whatever motions you make on that (inaudible- speaking too low)

Gary Gibson: Could you show the two (2) places the variances are going to be located?

Brian Bishop: Gary the twenty-five (25) foot variance is for these two (2) structures and the twenty-one (21) foot variance is for this proposed office which is being added to the existing carwash.

Gary Gibson: Is that a street down there by that carwash, how do you get in there?

Brian Bishop: This area? This is Burdette Street; there is an existing entrance here.

Gary Gibson: Ok.

Brian Bishop: There is a larger copy of this development plan laid around so you can see...

Gary Gibson: The back is going to have a six (6) foot wooden fence separating that from the houses?

Brian Bishop: Correct. This is what this note states: There is a six (6) foot wooden fence along this property. I think Clifton can comment better than I can.

Chairman McKee: Do you intend to comment sir?

Clifton Krahwinkel: Yes.

Chairman McKee: Would you please state your name and address?

Clifton Krahwinkel: Clifton Krahwinkel, 505 Canoe Creek Dr., Henderson, Ky.

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

Clifton Krahwinkel: I do.

Chairman McKee: Please proceed.

Clifton Krahwinkel: We are proposing a six (6) tall privacy fence along that line all the way up until you get to Burdette Street so a total of three lines. From the Railroad right of way in a "Z" motion I guess you could say until you get to Burdette and I'm even showing a distance from the right of way line so basically it will come up to right in the front building line of the existing carwash.

Chairman McKee: Questions for Mr. Krahwinkel? Yes sir.

Tommy Joe Fridy: Is the privacy fence an opaque or solid fence that you can't see through.

Clifton Krahwinkel: Yes, it will be solid wood privacy fence just like you would see at a typical residence.

Chairman McKee: Any other questions for Mr. Krahwinkel? Will you still be available for comment sir?

Clifton Krahwinkel: Yes.

Chairman McKee: Thank you very much. Is it the Commissions pleasure that we take comment from the public on the variance first? If so, is there anyone in the audience that would like to speak for or against the variances? Hearing none, then we will move to the public comment for the rezoning itself.

Tommy Joe Fridy: Do you want the applicant to put on their proof? They are going to have to introduce proof of all these items in order for the Planning Commission to be able to approve this request for a variance.

Chairman McKee: Does it matter if I do it after the public comment?

Tommy Joe Fridy: It does not.

Chairman McKee: So is there anyone who would like to speak for or against the rezoning request? Seeing none, you are aware of the proof that you must put before this Planning Commission before we move on it?

Aaron Bugg: Yes.

Chairman McKee: It is your turn to proceed. Mr. Krahwinkel you have already been sworn in.

Clifton Krahwinkel: Yes. We have met with Site Plan Review and LDC meetings. I know that Mr. Bugg has talked to a lot of the adjoining property owners to see if they had any issues with the development. We do believe the circumstances, not the results the application subsequent to the adoption of the zoning regulation for which relief is sought. We

believe the granting of the 25' side yard variance and the 21' front yard variance will not alter the essential of the general vicinity. If granted the 25' side yard variance and the 21' foot front yard variance will not cause a hazard or nuisance to the public. The granting of the 25' side yard variance and 21' front yard variance will not allow an unreasonable circumvent of the requirements of the zoning regulation.

Tommy Joe Fridy: As of now the Planning Commission cannot approve your request. You have not proven all of the required elements in order to get a variance.

Clifton Krahwinkel: Ok. What exactly, in proof, they would like to see?

Tommy Joe Fridy: I cannot tell you that. It's not my, I'm not allowed to give legal advice to applicants and you are here representing the applicant. Tonight, as the first one of these we've ever done I would suggest we be a little more lenient than typical and if you would like, well Mr. Branson maybe going to help you, but I would like to make one more statement. What you've just read, drawing conclusions, will probably carry the day tonight. But the next application, you're going to have to prove why those statements are true.

Clifton Krahwinkel: Ok.

Tommy Joe Fridy: I don't mean you as human being and I don't mean your client, I mean the general public has a duty when they make a request for a variance to prove what the statute says are the requirements in order to qualify to reach the threshold where the Planning Commission can grant a variance. They can't grant it until they put on that proof. I think Mr. Branson is going to bail you out.

Dennis Branson: Not bail him out, it's just that I've had a lot of experience with Board of Zoning Adjustment and that's where all of the variance requests have gone to. Both the County and the City have Boards of Zoning Adjustments have forms and worksheets that you fill out when you make an application, it's part of the application process. Those worksheets have these elements that you've listed that the Planning Commission must find in order to grant a variance. Each one of those worksheet items has blank lines under each item for the applicant to hand-write in how; in their opinion they believe they have satisfied that requirement of KRS for that board to grant a variance. The Planning Commission, you guys, don't have that worksheet yet I don't believe.

Brian Bishop: It is in the packet.

Dennis Branson: So if that's been filled out then you do have the information already with what the applicant has submitted. Has it been filled out?

Brian Bishop: Yes.

Dennis Branson: That's what each applicant for both City and County Boards of Zoning Adjustments fill out as their belief of how they are satisfying it; did you want to read that into the record?

Chairman McKee: Mr. Branson if I might, were you sworn in earlier tonight?

Dennis Branson: I was.

Chairman McKee: Thank you.

David Dixon: I've got one question, perhaps, before we proceed. On the sheet I have here, there are seven (7) different things that the applicant is supposed to prove.

Brian Bishop: That is information that we, staff, provided as a guideline to help assist the Planning Commission and the applicant since we are plowing new ground. We basically prepared these seven statements to try to help the process along.

David Dixon: Forgive me if I'm wrong but I don't think I heard all seven of those addressed.

Clifton Krahwinkel: In the form that we were required to fill out as Dennis stated, the seven (7) items listed here as Brian mentioned is not all the requirements that we are required to make the statement. There are actually four (4) and that would be, if you look at the front page about midway down you will see a 1-4 and that the applicant must prove to the Planning Commission and the Planning Commission must find all the following and then it lists four (4) items. Those are the four (4) items that I'm going to address that we filled out with the application form here in just a moment.

David Dixon: Ok.

Tommy Joe Fridy: And then there are three (3) more.

Clifton Krahwinkel: Yes. Does that answer your question?

David Dixon: Yes, I don't think I heard it the first time when you read them off.

Chairman McKee: So at this point are you going go through the proof now?

Clifton Krahwinkel: Yes.

Chairman McKee: Thank you very much.

Clifton Krahwinkel: The granting of the variance will not affect the public health, safety or welfare in that it is an improvement to the neighborhood. The granting of the variance will not alter the essential character of the general vicinity in that adequate screening is being provided to mitigate any perceived conflict. The granting of the variance will not cause a hazard or a nuisance to the public in that there will be no toxic materials involved. The granting of the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations in that it is keeping with the theme of the existing land use. In making these findings, we believe that the requested variance arises from circumstances which do not generally apply to the land in the general vicinity or in the same zone. In those four (4) statements and making those findings...

Tommy Joe Fridy: Why?

Clifton Krahwinkel: Excuse me?

Tommy Joe Fridy: Why?

Clifton Krahwinkel: Why?

Tommy Joe Fridy: Are you going to introduce proof the Planning Commission must consider that and again, I'm seeing this as an educational process not one to give you a hard way to go and I'm suggesting that the Planning Commission be a little bit lenient tonight.

Clifton Krahwinkel: Ok.

Tommy Joe Fridy: But I'm also going to suggest to them the next time one of these come up if the professional, like you, or the applicant themselves do not strictly comply, I'm going to advise the Planning

Commission that they don't have sufficient evidence to grant a variance. Now, let's talk about number one (1). The requested variances arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone. Why? Explain to us why that is the case.

Clifton Krahwinkel: Ok, well because of the irregular shape of the property itself because of the shape of the lots that we were dealing with in this consolidation the setbacks typically for an Industrial zone would not be a regular shaped piece of property. So, if the property had been a square for instance and not the irregular shape, I don't think that we would need to apply for any variances in order to make the property fit the use that we are trying to apply for. Do you believe that that answers your question?

Tommy Joe Fridy: For tonight I think it does. You haven't introduced any factual proof, you have made statements of what your opinion is and now again, I'm not criticizing you but as a professional when you bring a matter here in the future and I don't mean you I mean everybody, it's going to take some thought and preparation and proof of factual information. You put a little bit of fact in your statement, so if the Planning Commission has any questions let's hear them now, if not let's move on to the next one.

Clifton Krahwinkel: Ok.

Chairman McKee: Questions from the commission?

Dickie Johnson: Well I have a statement, I mean; I assume that all the adjacent land owners were notified of the rezoning and the variance?

Brian Bishop: They are sir.

Dickie Johnson: I need to ask a question. Is there anybody here in the audience that are adjacent land owners to this property? I'm not seeing any so I assume that they are not too concerned with what is proposed. I think we can either, as legal counsel you're saying either we have to do it now or later. If this is not in accordance with our requirements and the law, then we shouldn't approve it tonight. I don't think we can be lenient on this one and not lenient on the next one. That's my concern.

Tommy Joe Fridy: Then it's your responsibility as a Planning Commission to make a decision about whether the applicant has met this burden, it's not mine.

Dickie Johnson: That is correct but if he is making a presentation to us; hard factual documentation is what you're asking for correct?

Tommy Joe Fridy: They can testimony facts it doesn't have to be paper facts.

Dickie Johnson: Me personally, as Commissioner, I feel like what he is presenting us is as factual as I need to make a decision. Now, it may not be to the rest of the Planning Commission but it is for me?

Penny Hahn: Can Mr. Fridy give the Commissioners an example of what kind of proof...

Tommy Joe Fridy: I think that if I go any further I'm being unfair to this applicant...

Penny Hahn: Ok.

Tommy Joe Fridy: And we can have a brief training session after you vote this up or down and I can go into it in a little more detail.

Penny Hahn: Ok.

David Williams: I have a question for the applicant. What has been the use of this property, both properties over the last thirty (30) years?

Clifton Krahwinkel: I haven't looked at an aerial that is thirty (30) years old. The use for the half of the property that is currently zoned Light Industrial has been a Light Industrial use. The use for the portion that we are trying to rezone has been vacant for many years and I don't know that there has been any use there ever actually because that street was never developed, those lots were never conveyed and actually ever built on.

David Williams: Now you're proposing to put on self-storage units correct?

Clifton Krahwinkel: Yes.

David Williams: Ok, on the, I have a question about there will be no toxic material involved. What kind of assurances can we have that toxic materials will not be stored in these storage units?

Clifton Krahwinkel: The zone doesn't allow us to do that. I know that the developer would not have a problem in dealing with that on the site plan or even adding that to the development plan. His sole use is mini-storage, nothing to do with toxic chemicals or anything of that nature. I know that we have addressed that before on development plans with rezoning's and very similar situations.

David Williams: Has the property been maintain, the grass mowed in the past, has it been kept up and things or has it been allowed to grow up with weeds?

Clifton Krahwinkel: No, he has maintained it very well.

David Williams: What about prior to your ownership, what was the condition of the lot?

Aaron Bugg: Well maintained.

David Williams: When you look at this lot from Burdette Street, what do you see, what is your view?

Aaron Bugg: In the future, if we get all this passed it's going to be a great development for the East End. Is that what you're asking?

David Williams: What do you see now?

Aaron Bugg: I see an old carwash that needs to be torn down and a new development put in that area.

David Williams: And beyond that what do you see?

Brian Bishop: Can we go to GIS and show the pictometry so we can have a better view?

David Williams: While he is doing that, as far as the existing carwash. What are the plans for that building?

Aaron Bugg: The carwash itself still generates a little bit of money. The plan is when I get approved; I'm going to start on the back side of the property along the railroad tracts as Phase 1. Once I get that built and rented out sixty (60) to eighty (80) percent I'll move on to Phase II and build in the middle of the property there. Phase III would be to tear down the carwash and put a couple of buildings in that existing space.

David Williams: The buildings that you are going to build are they pre-fab buildings or architecturally designed buildings?

Aaron Bugg: They will be architecturally designed, yes.

David Williams: In your opinion will they be more attractive than what is there now?

Aaron Bugg: Absolutely without a doubt.

Brian Bishop: David this is also a good time to point out the site plan, if these two (2) requests are approved the site plan with more detailed information will come back to the Planning Commission as well.

David Williams: When you put these storage units up, how much above your privacy fence extend?

Aaron Bugg: That's a good question.

Clifton Krahwinkel: When we get into the architecture and engineering but these will just be one story structures. It's not like they are going to be two story storage buildings or anything like that so they wouldn't be the height of a typical residence.

David Williams: Someone standing at street level and looking at the privacy fence, what do you expect them to see?

Clifton Krahwinkel: Probably the roofs.

David Dixon: The privacy fence is not going to be on the street side right? It's going to be between the development and the residential...

Clifton Krahwinkel: The residents to the northeast, yes.

David Williams: Will the privacy fence impede anyone's egress thru their property.

Clifton Krahwinkel: No.

David Williams: Will it provide for a greater degree of safety for children approaching this lot?

Clifton Krahwinkel: Absolutely.

Aaron Bugg: The entire property will be fenced in eventually, once the construction part of it is complete.

Clifton Krahwinkel: The privacy fence will go along the residential to the northeast and there will be a chain-link fence that will go completely around the entire development that is also shown on the development plan.

David Williams: You plan to provide, I guess City Code will demand you provide lighting on this property.

Clifton Krahwinkel: Yes, like I said, we have met with them several times; we've dealt with Henderson Water Utilities, City Engineers office and Codes. As far as the development plan goes we know that we have to come back with an engineered site plan that will have to be approved by all of those governing bodies before we even come back to you guys.

David Williams: By code your lighting will not be allowed to illuminate the houses or residences around your area.

Clifton Krahwinkel: Yes, it will be cut off luminary like what is typically approved.

David Williams: What about run off on this property?

Clifton Krahwinkel: Again, that will come through the engineering phase. We haven't gotten to that; obviously we can't get into the engineering, the site plan development if we don't get it rezoned so that would be the next step.

Brian Bishop: But the rough proposal is to have it at the low end of the property in the south corner.

Clifton Krahwinkel: Yes, it's where the natural flow is now. That area is flood zone, we have no ideas the actual volume that we'll need to hold until the engineers get ahold of it and design the site. But that area down there is flood zone and we are not wanting to do any development in it so that's the best area for it.

Brian Bishop: This is another good time to interject, technically it is in a flood plain area at this point but once the lomar from Canoe Creek, the cleaning project, is approved which should be approved spring of next year, this property will not have any flood zone on it. It's shown on the development plan now as a precautionary measure but it technically will not be in the near future.

David Williams: The land use now is a carwash and you plan on continuing with the carwash and putting in self-storage units, do you see much of an increase in vehicular traffic into this area?

Aaron Bugg: As far as building these units and having the carwash there now? I would say it would decrease quite a bit.

David Williams: I'm sorry...

Aaron Bugg: I would say the traffic would decrease once the carwash is gone, that's the majority of the traffic, cars in and out of there. As far as the self-storage, look around town and see how many cars you see in and out of there, it's very few.

David Williams: I guess the buildings you plan to put up to accoutrement the overall value of those building will be greater than the sum of the value of the building will exceed the value of what is there now or what has been there at some point.

Aaron Bugg: Absolutely, without a doubt yes.

David Williams: Thank you.

Aaron Bugg: Yes sir.

Chairman McKee: Any other questions for the developer or the representative?

Gary Gibson: I think with the shape of that lot, this would be a golden opportunity to do something with this ground and get a tax base back for the City of Henderson. With the shape of that lot you can't do much with it and I think this is a good idea.

Chairman McKee: Any other comments?

David Williams: Mr. Fridy, in your opinion, has proof been offered?

Tommy Joe Fridy: I believe they have given you adequate proof within which you can make a decision.

David Williams: Thank you.

Chairman McKee: Any further comments? Gentlemen we thank you.

Aaron Bugg: Thank you.

Chairman McKee: Now, have you reviewed the sample motions that staff provided with the help of legal counsel to decide if you believe it needs to be amended in any way.

Brian Bishop: Mr. Chairman, I would like to remind the Planning Commission that there will be two (2) motions.

Chairman McKee: Are both motions included?

Brian Bishop: Yes. In your packet you will see the recommended motion for the rezoning and then your handout you will see the prepared sample motion for the variance requests.

Chairman McKee: Thank you. Upon the advice of counsel we should make these motions separately but I'm going to let you choose which one you want to do first. My recommendation would be that you approve the variance first and the rezoning second. In keeping with that recommendation the recommended motion sample is page two (2) of your handout if you so choose. Any comments about the sample motions? Hearing none, the chair will entertain a motion.

***MOTION WAS MADE BY DICKIE JOHNSON AND SECONDED BY MAC ARNOLD TO APPROVE THE VARIANCE APPLICATION FOR A 25' SIDE YARD SETBACK (WHICH WILL RESULT IN A SIDE YARD SETBACK OF 25') ADJACENT TO A RESIDENTIAL ZONE AND THE 21' FRONT YARD SETBACK (RESULTING IN A FRONT YARD SETBACK OF 29') VARIANCE AS SHOWN ON THE DEVELOPMENT PLAN SUBMITTED BY AARON G. BUGG FOR THE PROPERTY LOCATED BETWEEN BURDETTE STREET AND THE CSX RAILROAD. SAID PROPERTY IS ALSO KNOWN AS PID # 2-25-13-5. THE PLANNING COMMISSION HAS CONSIDERED THE FOLLOWING AND DOES HEREBY FIND AS FOLLOWS:***

- 1. THE REQUESTED 25 FOOT SIDE SETBACK VARIANCE FOR THE NORTHEAST SIDE OF THE PROPOSED BUILDING ARISES FROM SPECIAL CIRCUMSTANCES, WHICH DO NOT GENERALLY APPLY TO LAND IN THE GENERAL VICINITY, OR IN THE SAME ZONE; IN THAT THE LOT IS NOT UNIFORMLY SHAPED AND WOULD NOT ALLOW THE PROPOSED USE AND MEET THE REQUIRED SETBACK REQUIREMENTS. THE DEVELOPMENT PLAN IS INCORPORATED HEREIN BY REFERENCE. THE APPLICANT IS ALSO PROVIDING A 6 FOOT TALL SOLID WOOD FENCE TO PROVIDE A***

***BUFFER BETWEEN THE PROPOSED USE AND THE ADJACENT RESIDENTIAL PROPERTIES.***

- 2. THE STRICT APPLICATION OF THE PROVISIONS OF THE REGULATION WOULD DEPRIVE THE APPLICANT OF THE REASONABLE USE OF THE LAND AND WOULD CREATE AN UNNECESSARY HARDSHIP ON THE APPLICANT AND THE 25 FOOT SIDE YARD VARIANCE AND THE 21 FOOT FRONT YARD VARIANCE, TO ALLOW THE CONSTRUCTION OF THE PROPOSED STRUCTURES, IS NOT MATERIAL. THE APPLICANT IS PROVIDING ADEQUATE SCREENING AND THERE IS AN EXISTING BUILDING 2,100 SQ. FT. BUILDING ALREADY LOCATED 21' FROM THE FROM SOUTHEAST PROPERTY LINE.***
- 3. THE CIRCUMSTANCES ARE NOT THE RESULT OF ACTIONS OF THE APPLICANT SUBSEQUENT TO THE ADOPTION OF THE ZONING REGULATION FROM WHICH RELIEF IS SOUGHT.***
- 4. THE GRANTING OF THE 25 FOOT SIDE YARD VARIANCE AND THE 21 FOOT FRONT YARD VARIANCE WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE GENERAL VICINITY.***
- 5. THE GRANTING OF THE 25 FOOT SIDE YARD VARIANCE AND THE 21 FOOT FRONT YARD VARIANCE WILL NOT CAUSE A HAZARD OR NUISANCE TO THE PUBLIC.***
- 6. THE GRANTING OF THE 25 FOOT SIDE YARD VARIANCE AND THE 21 FOOT FRONT YARD VARIANCE WILL NOT ALLOW AN UNREASONABLE CIRCUMVENT OF THE REQUIREMENTS OF THE ZONING REGULATION.***

**7. THE GRANTING OF THE VARIANCES WILL NOT  
ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY  
OR WELFARE.**

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next will you review the recommended motion for the **Rezoning #1048**. Comments Mr. Bishop?

Brian Bishop: No, I just wanted to make sure we weren't moving on sir. If it helps, you can look at this page the recommended motion is in blue.

Chairman McKee: Any comments you would like to make on your staff recommendation before we go forward with it?

Brian Bishop: Not really that different than you would see in the text of the staff report. The property has not zoned residential and most likely will not due to its proximity to the railroad track, staff thinks this is a good use of the property in that it will provide storage to, what we call the Audubon Residential District, we are trying to make that area more dense so that we can allow for mixed uses, more mixed use with commercial development and when we make that part of the city more dense, we're going to need more storage. So I think this is an appropriate use for the property that would allow, hopefully, more densification in the East End and storage for those folks so that if it does develop in the manner we hope it does.

Chairman McKee: Does the blue section cover all the points that you make in your reminder?

Brian Bishop: I believe so.

David Williams: Point of order, this is a recommendation to the City Commission?

Chairman McKee: It is. The Chair will entertain a motion.

***MOTION WAS MADE BY DAVID WILLIAMS AND SECONDED BY MAC ARNOLD RECOMMEND TO THE CITY COMMISSION THE REZONING #1048 SUBMITTED BY AARON G. BUGG FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON BETWEEN BURDETTE STREET AND CSX RAILROAD (2-25-13-5) AND CONTAINING 25,642 SQUARE FEET. THE APPLICANT IS REQUESTING A ZONING CHANGE FROM INNER CITY RESIDENTIAL DISTRICT (R-3) TO LIGHT INDUSTRIAL DISTRICT (M-1) FOR PROPOSED MINI-STORAGE UNITS. THEREFORE THE EXISTING ZONING CLASSIFICATION GIVEN TO THE PROPERTY IS INAPPROPRIATE AND THE PROPOSED ZONING CLASSIFICATION IS MORE APPROPRIATE. STAFF FINDS THAT THE EXISTING ZONING CLASSIFICATION IS INAPPROPRIATE AS THE PROPERTY AS NEVER DEVELOPED IN A RESIDENTIAL MANNER. ALSO, THE SITE IS ADJACENT TO A RAILROAD TRACK THAT IS NOT CONDUCTIVE TO RESIDENTIAL DEVELOPMENT. THE DEVELOPMENT WOULD PROVIDE NEEDED STORAGE CAPABILITIES TO THE DENSELY POPULATED RESIDENTIAL AREA NEAR THE DEVELOPMENT; AND THIS PARTICULAR SITE PLAN WILL ADD TO THE SAFETY OF THE NEIGHBORHOOD AND THE ASTHETICS OF THE NEIGHBORHOOD; AND THAT THERE HAVE BEEN CHANGES OF AN ECONOMIC, PHYSICAL, OR SOCIAL NATURE WITHIN THE AREA INVOLVED WHICH WERE NOT ANTICIPATED IN THE ADOPTED COMPREHENSIVE PLAN AND WHICH HAVE SUBSTANTIALLY ALTERED THE BASIC CHARACTER OF THE AREA; AND THE ECONOMIC STATUS AND NATURE***

***OF THESE PARTICULAR TWO LOTS HAVE CHANGED SIGNIFICANTLY OVER TIME AND COMMERCIAL OR LIGHT INDUSTRIAL USE IS CALLED FOR.***

Chairman McKee: We have a motion and a second and they will entertain additions to the findings. Do Commissioners want to offer any additional findings of facts?

David Dixon: I do think in the blue portion that was read the sentence that follows the underlined sentence, I think the proper word there is inappropriate not appropriate. "Finds that the existing zoning classification is inappropriate"...

Chairman McKee: Current zoning.

David Dixon: Well, I'm just reading, we've got two sentences and one says one thing and one says another. I think it's just typographical error.

Brian Bishop. It is. The sentence that says, "Staff finds that the zoning classification given to the property was inappropriate for the following reasons." Is the correct way.

Chairman McKee: So someone will have to ride hard over that when we get the minutes back to make sure it's properly stated.

David Dixon: And for future reference if we repeat that format.

Brian Bishop: Ok.

Chairman McKee: With that amendment, will you accept that amendment to your motion?

David Williams: I will accept that amendment.

Chairman McKee: And second?

David Williams: And second.

Chairman McKee: Madame Clerk will you please call the roll?

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: So recommended to the City Commission. Next on the agenda is **Rezoning #1053** Submitted by Old Fox, Inc., for the property located in the City of Corydon at 317 Hwy 266 (also known as Second Street) (PIDN#34A-1-95), containing 4,410 square feet. The applicant is requesting a zoning change from General Business (GB), to Multi-Family Residential (R-M). Mr. Bishop.

Brian Bishop: I hope this is going to be easier than the last few. The applicant is requesting a zoning change from General Business (GB), to Multi-Family Residential (R-M) in order to convert the existing structure which had been used as a restaurant to a duplex. The applicant feels that the property is not conducive to a restaurant at this point and a duplex is a more appropriate use for the structure. I'll do my best answer any questions you may have.

Chairman McKee: Any questions for staff?

Mac Arnold: If the structure, as far as a duplex is being built there, is there going to be screening put around the property since the other property is general business?

Brian Bishop: There is really not a lot of room to screen it because it's hard to tell but there is very little space in between the buildings. There's really not a lot of room to screen.

Mac Arnold: So basically the existing building is going to be redeveloped, it's not being torn down and redeveloped?

Brian Bishop: Correct.

Gary Gibson: You said the building is going to be redeveloped or torn down?

Brian Bishop: It will be remodeled, it will be redeveloped. The applicant would like to avoid tearing the building down just due to its architectural and historic nature.

Gary Gibson: Will it be added onto to make it a duplex?

Brian Bishop: That's probably a better question for the applicant.

Chairman McKee: If you have questions for staff we can handle those Commissioner Gibson and then we will bring the developer up, any other questions for staff?

Mac Arnold: I'm assuming the area in the back there off of Center Street, is that right?

Brian Bishop: Mac do you mean this area?

Mac Arnold: No, I assume the property we're talking about is outlined in light blue there, or green?

Brian Bishop: That's correct.

Mac Arnold: Is that a parking area right there?

Brian Bishop: Yes that's a hard surface parking.

Chairman McKee: Further questions? Will the developer please come to the podium? Please state your name and address.

Elena Bassett: Elena Perez Bassett, 3025 Old Corydon-Geneva Rd, Corydon, Ky.

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

Elena Bassett: Yes.

Chairman McKee: Thank you, please proceed and tell us what you have on your mind.

Elena Bassett: Because of the economic changes in the area I feel the current zoning of General Business is really not conducive for the use of this building and that is why I am requesting a change. Initially, I just want to do a single family, the reason I'm asking for multi is because it's big enough where I may, in the future, decide to make a duplex but that is still up in the air. At the current time, there is not going to be any changes made to the actual outside of the building, there is already parking on the side. The only changes that will be made will be to bring it up to current, residential code. I have already had professional plumbers and electricians come in and I know what needs to be done and basically that is the extent of what is going to be done currently it will just be a single family unit. I feel the economics in the area don't support businesses. This building was built in 1910 as a business and I don't think it has ever been changed. Maybe twenty (20) or thirty (30) years ago it was a more viable downtown area for businesses but I have tried to sell it as a business, I've tried to lease it as a business and have had no interest. I've been dumped by the real estate agent and that never happens! I really have no recourse other than to request a rezoning. I have a building that is sitting there getting ruined without anyone maintaining the inside, no utilities and the mold is awful in there, I can't even go inside because I'm really allergic to mold. Because of where it's situated, it's a real quiet little corner. You have fire department and hardly anyone is ever there, Time Warner across the street where no one is ever there, there is no one to watch the building and no one in the area and that makes it unsafe for the community because I don't go up there often, I don't know what could be going on if someone gets in there. So

I'm concerned about what may happen to it if it continues to sit vacant. It's not contributing anything to the community sitting vacant and I think with housing, it will provide some kind of benefit to the community. I know people that want to rent in Corydon because a lot of people can't afford to buy a home so they have to rent so that is my intent. My intent is to take the building as is for right now and maybe in the future I might do a duplex and maybe I won't because that is a lot of work. I'm just requesting it now so I don't have to do this again if I decided to later on. Basically, that is my intent is to make it usable again.

Chairman McKee: Chairman Gibson, did you get your question answered?

Gary Gibson: If she goes by that building as is and not add on then she won't have to, because that building is grandfathered in so it doesn't have to have a setback in the front or back because the it's already there. If she had added on to it, then we would have to go by setbacks for the new part. If she leaves it as is, it is already grandfathered in.

Elena Bassett: Yes, it will stay as is. I can't change it there is no room to change it. It really doesn't have any area to change the building.

David Dixon: Question for staff looking at the handout, the undeveloped property that is shown here is already zoned; the current zoning is Residential Multi-Family correct? Right across the street, the large tract right across the street?

Brian Bishop: This?

David Dixon: Yes.

Brian Bishop: That is actually the location of the City of Corydon Fire Department. That property has been developed as the fire station.

David Dixon: How much of that property?

Brian Bishop: I believe all of it.

David Dixon: Both sides of the road?

Brian Bishop: This is vacant, this is the fire station.

David Dixon: What is the zoning of the vacant lot catta cornered?

Brian Bishop: The South lot? That is residential.

David Dixon: Multi-Family Residential?

Brian Bishop: Correct.

David Dixon: The fire station is built on a Multi-Family Residential lot.

Brian Bishop: Correct. Since it's a government building, it's exempt from zoning regulations.

David Dixon: I guess my point is it seems there is already a lot of property with this similar zoning nearby.

Chairman McKee: Good point Commissioner, any further questions of staff or the developer? Thank you ma'am, will you be available for further questions?

Elena Bassett: Yes.

Chairman McKee: Thank you. Is there anyone who would like to speak for or against this request for zoning? Mayor Ted self, please come up. Will you please state your name and address?

Ted Self: Ted Self, 336 Third Street, Corydon, Ky.

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

Ted Self: Yes.

Chairman McKee: Thank you Mayor, please proceed.

Ted Self: My only opposition is the Multi-Family. That building, I do not believe it would handle a multi-family situation. What you've seen with parking, that is the only outside place that they can get. If people want to come out of the house into the public, if you come out the front you step on the sidewalk, then step out in the road. I agree with her and she needs to be able to use the property, if she can make it work as an R-1, just a single family rental, I just don't think it's big enough for a multi-family and that's just my opinion, no facts or anything there. But the total 4,000 is what she owns there, then you take off I don't know how many, I don't know what the living quarters are maybe there is 2,000 square feet for that building I'm not sure. It has always been a hardware store, that's what it was most of my life until it became the restaurant. My only opposition is trying to put multi-family in there and that is the end of it for me.

Chairman McKee: Won't this have to go before the Corydon City Council?

Tommy Joe Fridy: Yes.

Ted Self: I don't know how the rest of the council feels, I just came to really hear what the proposal was and the multi-family doesn't look like it would fit but that's all from me.

Chairman McKee: Thank you Mayor. Ma'am would you like to comment on that.

Elena Bassett: Yes, as I said I really don't intend to make it a multi-family at this time, I really don't have any intent. I just thought that I would request a multi-family in case, maybe at a future time that was

doable. However, if it's not going to be doable then I would be happy with just a single family rezoning.

Chairman McKee: Mr. Bishop.

Brian Bishop: This is probably a better question for Mr. Fridy but I think we cannot rezone it to R-S which is single family residence in the City of Corydon because that is not what was advertised and not what was given out in the packet, is that fair to say Tommy Joe?

Tommy Joe Fridy: It's a tough question because you're going down and not up. You certainly could not go to a more intense use whether you could agree here to a less intense use, I can't answer. I can't give you a definitive answer off the top of my head. I suggest you proceed with what has been presented and if you're inclined to turn it down you might give her a chance to withdraw it and re-submit it as single family.

Elena Bassett: I do have a question. If it gets, passes multi-family, if I'm going to turn it from one unit to two (2) units, doesn't that have to get approved by someone first?

Brian Bishop: From a zoning standpoint no if it is zoned Multi-Family. What you're referring to is probably from a building code standpoint. You would have to provide all the safeguards that a duplex would be required as far as fire protection, emergency egress, fire separation and things like that.

Elena Bassett: So because, like the Mayor said, if I had an entrance on the front and it goes right to the road with no parking would that make it not even feasible at all? Just like if it goes to the City of Corydon and they aren't happy with multi-family they can be reassured that it isn't going to be doable because it's not going to pass and inspection and

can't be done, you know? I really don't want to have to; well you said it can't be done R-1 right?

Brian Bishop: Would you consider providing a verbal development plan stating that you would limit the use to a one family residence?

Elena Bassett: Yes. I will supply that and have it notarized and attached to...

Tommy Joe Fridy: You could do it verbally tonight and follow it with something in writing in the next day or two.

Elena Bassett: Yes, I will do that. Because if it can't be zoned R-1 because everything else is multi and that's going to be a problem with the city and I really don't have any intentions of wanting to go thru making it a duplex, yes I would defiantly say verbally say here, I'll keep it a single residential apartment and follow it up with something written, signed and notarized. Since it is under the corporation name I would have to get my husband's name on it too.

Mac Arnold: I have a question, I'm curious. As far as multi-family, what is the square footage requirements because I don't see any dimensions on this so I don't know what, is this property dimensionally for that? Because you have the proper square footage for it to even be a duplex if you were going to do it.

Brian Bishop: You're talking about from a building code standpoint or ...

Mac Arnold: Yes, a building code standpoint.

Brian Bishop: As far as livable area, is that what you're referring to like (x) feet by (y) feet?

Mac Arnold: Yes.

Brian Bishop: I do not know that answer off the top of my head. That is something that would be in the building codes.

Mac Arnold: Ok. She's asking for something but is it something that is even, even though she asked for it, is it attainable because it doesn't have enough square footage to meet the criteria is what I was concerned about.

Chairman McKee: May I just ask a brief question? If the developer was so inclined and she just razed it, could she put a four-plex, two-stories high on it?

Brian Bishop: That's hard to say because I don't know if a four-plex is allowed in General Business in the Corydon Zoning Ordinance.

Chairman McKee: No I mean with the rezoning to multi-family.

Gary Gibson: If she tears that building down once that is off it would do away with the grandfather clause and she would have to meet the front, side setbacks and it would eat the lot up.

Chairman McKee: Couldn't do it. Ok, that was my question.

David Dixon: Did I understand you say that it cannot be rezoned R-1?

Brian Bishop: I don't believe so.

David Dixon: But it can be multi-family?

Penny Hahn: I think he is saying tonight because it was advertised as a...

Brian Bishop: From a procedural standpoint not from a realistic standpoint.

David Dixon: Ok, so we could do that with some delay. She would have to come back.

David Williams: Even though it has been advertised for R-2, could we as a Planning Commission say no to R-2 but we will rezone it to R-1 tonight?

Tommy Joe Fridy: Probably, but my suggestion would be if a month delay would not impede your development, that the Planning Commission allow the applicant to amend their application and come back next month without an additional fee and make it neat and clean...

Elena Bassett: That is doable, I have held on to a vacant building for almost three (3) years now so another month is fine.

Tommy Joe Fridy: Is that what you would like to do?

Elena Bassett: Yes, I know it has to go to the City after here so I don't want to run into a problem so if this is going to make it easier, I don't want to waste any more time going to the City and it not working. I would rather do that. I'll amend it and come back next month.

Tommy Joe Fridy: So would you come into the Planning Commission and work with them to amend your application?

Elena Bassett: Yes, I will do that.

Chairman McKee: Is that effectively a withdrawal?

Tommy Joe Fridy: I don't think you probably can and not charge her a fee.

Theresa Curtis: That is correct.

Chairman McKee: What would we do tonight, table it?

Tommy Joe Fridy: Yes.

Chairman McKee: Table it for a month?

Tommy Joe Fridy: Yes.

Chairman McKee: Are there any commissioners that would not be in favor of tabling this for a month?

Dickie Johnson: I believe Mr. Self has a question, he has his hand up.

Chairman McKee: Mayor, please come to the podium.

Ted Self: What you were discussing about the possibility that the building wouldn't even meet the codes to be multi family, but Gary kind of killed my question when he said the grandfather part would be gone. The multi-family wouldn't bother me if I was sure the building didn't qualify for it and it would have to be razed and another structure built. But then, I don't know what would happen with the setbacks and stuff that Gary brought up. Just a thought that I was going to yield to her a little bit being that I didn't think, I just don't think that building is adequate for a multi-family.

Chairman McKee: I think it is clear you are trying to help Mayor, thank you. So, the chair will entertain a motion to table this request.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY GARY GIBSON TO TABLE THE REQUEST FOR REZONING #1053 SUBMITTED BY OLD FOX INC., FOR THE PROPERTY LOCATED IN THE CITY OF CORYDON AT 317 HWY 266 (ALSO KNOWN AS SECOND STREET)(PID 34A-1-95), CONTAINING 4,410 SQ FT. THE APPLICANT IS REQUESTING A ZONING CHANGE FROM GENERAL BUSINESS (GB) TO MULTI-FAMILY RESIDENTIAL(R-M)***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Thank you ma'am, we will see you in a month. Next on the agenda is the **Adoption of the Balancing the Land Use Chapter** to the Henderson City-County Comprehensive Plan, Mr. Bishop.

Brian Bishop: Yes sir, as some of you know, we have had two (2) meetings to discuss the Future Land Use chapter and Future Land Use map. What you have before you is the draft of that chapter and the future land use maps because they coincide with each other it's best to adopt them at the same time. Staff understands the gravity of this chapter and that it is probably the most important chapter of the entire Comprehensive Plan. If the Planning Commissions itself we have not had enough input or if you've not had enough input we completely understand and we would like to do whatever we can to set your mind at ease or to facilitate more meetings and discussion. At this point I'm kind of looking for direction and will try to answer any questions you may have.

Chairman McKee: Have you had meetings that I have missed, work sessions?

Brian Bishop: No, we have had two (2) meetings total. When we met here and then when we met at the Peabody Building.

Chairman McKee: I'm just referring to the conversation we had about cutting this thing up into chunks and going thru it as a commission. You haven't done that?

Brian Bishop: No, we haven't done that. I think we got lost in the I-69 discussion when we talked about that. We never really got into the chunks, so to speak. so that is why I wanted to make sure if you guys are not comfortable with proceeding with this, we have no problem with going back and looking at it section by section. We spent a lot of time on I69 and everything else kind of got pushed to the wayside.

Chairman McKee: Just a point of clarity, did I understand you to say that you that you and Claudia had visualized seven (7) pieces?

Brian Bishop: If I remember correctly, we basically counted the Urban Service, a rough approximation of that as one area and then used the major roadways to break the county into sections as a pie, so to speak.

Chairman McKee: What do you think the chances are that the entire Planning Commission or as many as could be there could spend a couple of hours and look at all seven chunks.

Brian Bishop: I have no problem with that.

Chairman McKee: Do you think we could do it?

Brian Bishop: We can certainly try.

Chairman McKee: Thank you sir.

Brian Bishop: So Mr. Chairman if I understand you correctly we would like to table this for next month's meeting and have a workshop to discuss the land use maps other than I-69.

Chairman McKee: By way of comment, not officially the chairman's comment, that would be my preference. Have a work session and cover as many sections as we could cover. I think it is extremely difficult to sit and look at a map of the whole thing at one time and know what you're actually doing with, in terms of how it's going to impact the future land use of the whole county. Thinking in terms of how we, as a commission, may have to react to applications for rezoning and changes that may come in the future. I'm just one voice, how do you all feel?

David Williams: I'm already seeing a change on the Corydon Land Use map as it is. I would be in favor of at least one more work session on it.

Brian Bishop: Does anyone have a preference of a meeting date?

**A WORKSHOP REGARDING THE HCCPC COMP PLAN  
REGARDING CHAPTER 8 BALANCING LAND USE TO BE  
HELD TUESDAY, OCTOBER 27 @ 5:30PM AT THE PEABODY  
BUILDING.**

*Dickie Johnson left the meeting at 7:58pm*

**OTHER BUSINESS**

Chairman McKee: I would like to invite Mr. Brad Schneider with KYNDLE to come up and speak to us about I-69. Mr. Schneider, will you please state your name and address.

Brad Schneider: Brad Schneider, 1552 Autumn Lane.

Chairman McKee: Do you swear what you are about to present are the truths to the best of your knowledge.

Brad Schneider: Yes sir.

Chairman McKee: Thank you sir, please proceed.

Brad Schneider: I appreciate your public service, this is important work you're doing and I really do appreciate it. I am Brad Schneider and I and CEO of KYNDLE which is the Chamber of Commerce for Henderson County and the combined lead economic development organization for Henderson, Union, Webster and McLean Counties.

As you heard at the last open house hosted by Mr. Bishop and the Planning Commission, there was a lot of discussion, questions and comments about I-69 that lead to more questions so at the end of that Brian thought it would be good if I came to you tonight to try to give you a clarified update as to where we stand with I-69 and most specifically the bridge to answer some of the questions that were floating around and talk about where we sit with this at the moment.

When I was appointed Chamber president in 2009 I became part of the board of directors of Chamber Leadership Initiatives for Northwest Kentucky Ceiling which is an advocacy alliance of twelve (12) chamber of commerce and ten (10) Northwest Kentucky counties that, at its inception in 2007 decided that I-69 was its number one priority as a regional project and have been intimately involved in its advocacy ever since. In that capacity, I have worked closely with elected officials in both Indiana and Kentucky. The INDOT, KYTC as well as national I-69 advocates and I am a board member of the National I-69 Coalition and represent Kentucky on that board. I think it is important, before we get to the topic at hand, about the bridge as we know it right now or project as we know right now that you get a little bit of background.

In 2002, the Federal Highway Administration, INDOT and KYTC along with the Evansville-Metropolitan Planning Organization prepared draft environmental impact statement a DEIS for the bridge and its approaches. Its necessary step to get a large infrastructure project like this built. As part of that study a wide variety of routes across the Ohio between Evansville and Henderson were examine and three (3) were identified as the most viable and they show up on this map from that document as 1, 1A, 2 & 3.

After further analysis and public input Route 2 was selected as the preference. It is a little over eleven (11) of approaches, has five (5) interchanges and included in the document a six lane bridge with extra wide shoulders and was estimated to cost 1.4 billion dollars. The EIS was filed in 2004 and the process pretty much stopped because the interstate itself wasn't yet being constructed in either state and neither state had a plan of how to pay the 1.4 billion.

As you know even though that project was basically stopped for lack of financing and the road hadn't been yet at that point, Indiana began to

build I-69 shortly after that was filed. Construction of I-69 in Indiana has progressed quickly. It now extends from the South side of Evansville and goes almost all the way up to Bloomington and will be open to Bloomington before the end of the calendar year. Construction on the Bloomington to Martinsville section of Indiana 37, which is the road it's going to follow up to Indianapolis is under way and the stretch from Martinsville to Indianapolis, the details are now being considered.

In Kentucky, construction of upgrading our Parkways began an earnest four (4) years ago. The Pennyrile Parkway from its interchange with the Western Kentucky Parkway near Nortonville up to Henderson will be renamed I-69 before the end of 2015. All of that momentum, once again, brought attention back to the need for a bridge.

Bridgeline was formed in 2013 as a cooperative effort of the chambers in Henderson and Evansville, business leaders, elected officials in the two (2) communities and the Southwest Indiana and Northwest Kentucky regions. The organization's sole purpose is to push for the building of the bridge. We developed a board of directors, Dr. John Logan of Henderson is our Chairman, Bob Koch of Evansville is our Vice-Chair, these are our board members, these gentlemen are from Henderson, these gentlemen and lady are all from Evansville. It is an influential group, a mix of folks from both states and a group that hit the ground running and had in-depth conversations with Governors, state Legislators and transportation officials from both states about how to get the bridge project done in an expeditious manner.

Two challenges the Bridgeline board heard over and over again were the 1.4 billion dollar estimated cost of the project and the prospect that Kentucky might have to spend hundreds of millions of dollars replacing the aging Twin Bridges. Just a few years after the proposed I-69 bridge might get built. KYTC Secretary Mike Hancock said he wanted to

examine was to facilitate I-69 while also fixing the Twin Bridges problem at the same time. So, KYTC commissioned engineering firm QK4 to do just that, look at scenarios in which the new I-69 bridge could utilize the same footprint as the Twin Bridges. This was a relatively quick, back of the napkin study finished last year simply to examine this question. QK4 developed a summary which staff is in possession of if you want a copy of the study, it is an interesting read to say the least. This map in the document show several of the routes proposed by QK4 and examined for cost and impact and things like that, well short of an EIS but it is a quick study. This yellow line is the 2004 Route #2, the preferred route in the EIS document that loops around eastern Henderson County. These multiple pathways across the existing Twin Bridges were all examined in this study and even before they began, we informed KYTC that we thought any route that came through the 41 Strip would be problematic for many reasons. It would impact Audubon State Park, business on the strip; effectively divide our community in half with a big raised roadway. Some of these paths plow through existing neighborhoods just west of the 41 Strip that would involve the demolition of dozens of homes. This path here goes right along the Ohio River and comes back; I think that would have been problematic too for many reasons flood plains and such. They just wanted to get this on paper and see what the challenges would be. One thing we noticed even as Bridgeline was expressing our doubts about any of those options, we did notice that they looked at this path, on the document it's called Alternative 1 & 1A and the difference on this document between 1 and 1A is an interchange at Wolf Hills Rd. 1 has is, 1A does not. As we looked at this option, again, unsolicited by Bridgeline, it just happened something they looked at in the document, we examined that corridor and its cost, impact and where it passed and how it connected to existing roadway and we liked that alternative. As we thought about

ways to reduce the cost and make it a bit more feasible to build, that route 1A became something that all the Bridgeline board thought would be something that KYTC should definitely consider when they update the EIS.

Interestingly enough, none of the paths that came over the existing Twin Bridges were less than 300 million and that does not include building the bridge. They priced all of these at 300 million and more, some of these options are more than 800 million dollars not including the cost of building a bridge over the Ohio. Alternative 1A was estimated to cost 181 million dollars, by far the least expensive and if you look at the path it impacts the least amount of developed ground.

You have a more detailed map in front you Brian just handed it out. We put this little slide together to more accurately show where 1A comes. It crosses the river just west of the preferred route from 2004, it avoids Audubon State Park altogether and comes across in land owned by the Kentucky Department of Fish and Wildlife so it's controlled by the state already. The only place it even comes close to developed property is looping around the back end of Braxton Park Subdivision in this particular model and I will get to why that is merely a suggestion and not a definitive anything at the moment. It was a path that QK4 plotted and examined. It follows, after crossing US 60 it follows the CSX tracks straight to the 41 Bypass and hooks up where Van Wyk Rd goes under the bypass if you can imagine that in your mind, this is what QK4 examined. We thought this was a much better alternative than all the others for a lot of different reasons, obviously avoiding Audubon State Park and it had less impact and it also had a quick exit onto the 41 Strip which would hopefully mean less economic damage to any of the businesses on 41 and it only had two (2) interchanges so it was much

less expensive and disturbed much less ground and it utilized more existing roadway making the whole project less expensive.

So, taking that knowledge we also went to the member of the Bridgeline board whose company builds Interstate Bridges just about every day somewhere in the United States to then examine the cost of the actual bridge itself. His company had just built the I-70 bridge in St. Louis and that bridge cost \$650 million approximately to build in a metro area much more dense and problematic than ours and based on their estimates and the cost of that bridge had similar design to the one we could use for I-69 and some of the other considerations about approaches he pegged a new bridge with a revised design about the same, about \$650 million. So you add \$181 million for 1A plus the cost of the bridge you get about \$830 million, you throw in \$20 million just for details and you get to about an \$850 million cost. That proposal of \$850 million for this route with the revised design on the bridge compared to 1.4 billion on the old design with the much longer route and we had hoped we had shown the states could save nearly \$600 million dollars on the design of the bridge. Both INDOT and KYTC were glad to get the estimates; they did not argue with the estimates they thought they were legitimate. But the truth is they can't act on those. What has to happen is the EIS eventually has to be updated, the one done in 2004 is now expired. They will update it with a new EIS study and re-examine the routes that were initially looked at in 2004 and hopefully take our suggestion as looking at this new route as a possibility and then they will make the final determination on the route this will take in Henderson County. It will be determined by Federal Highways, INDOT and KYTC and the Evansville MPO with public input just like the last process.

So, that is where we stand. Just so you know the IDOT will announce, hopefully, this week the results of a toll revenue study that will give both

states an indication of how much money they can raise through tolling the new bridge. We don't expect the tolls to handle the cost of the new bridge or bonding of the new bridge. It will probably be a combination of tolling, more state funding and some federal funding if we can get it.

One of the other great aspects of these alternative routes versus the ones that would replace the Twin Bridges is that we thought we needed redundancy in our region. We need more than more one route across the river that is close by. We are the largest MSA up and down the Ohio River that has only one route across the river. We are in an earthquake zone and the old bridges were not built to earthquake standards. The new bridge would be so in case of a catastrophic earthquake or a sever strike for whatever reason could close down the Twin Bridges, could you imagine the chaos that would ensue if the bridges were closed even for a day? This would give us secondary route across the river and provide a free route for locals back and forth from Evansville and Henderson while we toll the pass-thru traffic for the people that would use the new bridge for convenience to get to the east side of Evansville or downtown Henderson. There are a lot of reasons why coming over the Twin Bridges and dropping them to build the new bridge is not as advantageous for us as some other alternatives.

Again, you have this map of the Alternative 1A that Bridgeline has merely proposed that KYTC, INDOT should consider as they refresh the EIS and hopefully that happens within the next couple of years. Until then, for your use and for the project of updating the Comprehensive Plan the truth is the only one that has been considered and is in a document of some sort is the long, 2004 route. That is the only one on the radar right now as far as being any kind of official status but it could all be changed with the updated and refreshed EIS.

Chairman McKee: Did you note anything when you were studying this path that you thought would be a really serious problem?

Brad Schneider: The long path or the alternative one?

Chairman McKee: The alternative one, the \$850 million dollar path.

Brad Schneider: We did not but I'm no expert, I'm not a civil engineer but with any large infrastructure project there will be property condemned, property acquired to run the Interstate so there will always be instances where some may or may not agree where a road goes exactly. But, obviously those decisions are made at a higher pay scale than mine when it really comes time to make them.

Chairman McKee: From your perspective, what do you see as a downside delineating the preferred route, the \$850 million dollar route, to future requests for rezoning, development, etc.?

Brad Schneider: I don't think there is a down side other than maybe you can inform me about the potential for lawsuits in case someone speculates based on this and it doesn't turn out to go this way. I don't know whether that makes you liable or not. I think, providing the information of what could happen is always worthwhile. TJ was shaking his head about the liability question.

Tommy Joe Fridy: You don't have liability for planning, that's what you're doing. You're not setting a, should you choose to put this in your packet somewhere, put it in the Comprehensive Plan somewhere you aren't taking on liability because it is going to be worded in such a way that this is whatever. Could be Henderson's preferred route, could be something else.

Chairman McKee: Is that similar to if the future land use map says planning would indicate this as a better use for this property but when

somebody applied for a zoning change it got turned down for good, definitive finding of facts reasons.

Tommy Joe Fridy: Yes.

David Dixon: I think also we might be wise to be cautious using the term “preferred route”, preferred by whom? City or County government, elected officials have not made any kind of determination in that regard.

Brad Schneider: That’s correct. All we have asked KYTC and INDOT is to examine the utility, the potential of Alternative 1A. Eventually it will take public hearings and approval of the MPO which involves input from all governments involved in the MPO.

Brian Bishop: Do you have any kind of timeline that you have picked up from anyone?

Brad Schneider: In the Kentucky State Road Plan, the six year road plan in 2018 there is 2 million dollars to update the EIS. Bridgeline has pushed to have that moved up to next year if we can. Next year’s Assembly session is a budget session and hopefully get the road plan updated to move that money forward in the cycle. It takes about a year to do an EIS; I don’t know how long it takes to do an update. The stated in-house goal of Bridgeline is to be breaking ground on the bridge by 2020.

Chairman McKee: Commissioner, by way of comment, I don’t think that past the Goals and Objectives the decisions the Planning Commission makes about the Comprehensive Plan are subject to approval of the City and County government, is that accurate?

Tommy Joe Fridy: That’s right. But it wouldn’t have to use those words.

David Dixon: Well, I guess we would call it the...

Tommy Joe Fridy: You don't have to include it at all, it's your discretion.

David Dixon: To the Chairman's point I guess we as a Planning Commission could vote and see if its preferred or not.

Chairman McKee: That's my whole point, that's my whole point.

David Dixon: By us.

Chairman McKee: It's our preferred, well it could be our preferred route it could be whatever we want to call it or nothing at all.

David Dixon: Of course we would have to hold a public hearing and invite everybody to give, not just Bridgeline, not just KYNDLE's view but everyone's view.

Chairman McKee: It's advisable.

Brian Bishop: To David's point and that's been my reluctance to put it on the map because there are so many variables, I'm not saying that it shouldn't be on the map, my preference would have just been as soon as the route is definitive that's when we put it on. That was my only comment; I didn't want us jumping the gun when there are so many irons still in the fire.

David Dixon: I don't know if we want to wait till it's definitive. Perhaps we should wait a couple of years and see if this new proposal makes it as far as a map like that.

Brian Bishop: To your point, we can update the map at any point we don't have to wait. It's the prerogative of the Planning Commission.

Chairman McKee: I'm not speaking to that particularly, my view has been that if it does make the Comprehensive Plan in some fashion, somebody at the Kentucky Department of Transportation or somebody at the Federal level takes a look at it, it could have some positive benefit not that it will, it just could. If it's not in there at all and that means it won't get considered from that perspective it's already been considered from your perspective so does it matter?

Brad Schneider: I would think that the Bridgeline board would greatly appreciate a mention of I-69 in general and a possible alternate route to the one identified by the EIS drafted in 2004. Merely listed as that a possible alternative route. I think it would show various people that the community is considering these options as well.

Chairman McKee: One of the fears I hear expressed is that we lay that tract down in some fashion, not sure what we would call it, but we lay it down in some fashion and then some applicant comes in here for a rezoning request that is in that path. If it has not been definitively identified and clearly chosen as the path by the respective highway departments then we have to act like it's not there.

Brad Schneider: Makes sense to me.

Chairman McKee: Just because we have, as the Planning Commission have identified it as a possible route perhaps even the one we prefer from a planning perspective, that is possible doesn't mean it will have a negative impact on the development of Henderson County or liability of the Planning Commission I would hope, subject to counsel's review. But it is up to the full body.

David Dixon: I'm trying to find the I-69 mention that exists in the tabled version of Balancing Land Use.

Brian Bishop: In this chapter it's on page eleven (11).

Chairman McKee: It was mentioned, commissioner, that it would go in the Transportation section rather than the...

David Dixon: Which we've already approved, right?

Brian Bishop: Yes. It's mentioned in the Transportation chapter we just didn't have the maps that show these two routes.

Chairman McKee: But we can amend it.

Theresa Curtis: We haven't started on Chapter 10 (ten) yet, Enabling I-69.

Brian Bishop: We're going to have a chapter specific to I-69 but staff had talked about it and we thought it would be better to wait until we had a definitive route to address the entire chapter. I-69 is mentioned numerous times in the Comprehensive Plan it's just we don't show a route.

Brad Schneider: Will say if you wait for a definitive route, you could be waiting for a while.

David Dixon: I would say just, as we re-visit this in the next meeting, that everyone take a look at this reference on page eleven (11) and see if that's enough.

Brian Bishop: Brad would you mind drafting some language you think might be appropriate for that?

Brad Schneider: Sure. Let me state again, the long route the preferred route identified in 2004 is on the books as being identified as the preferred route by both INDOT and KYTC. Now updating the draft EIS, that could change they could look at again and change their mind. But there is an identified route at the moment under a draft EIS and I

think at the very least you should consider showing what has already been commented on, approved and agreed upon with a note that the EIS will need to be updated and in that update process it could be altered. In fact, the community has encouraged KYTC and the other powers that be to consider an alternate route that might be less expensive.

Herb McKee: What about a map? What about this map?

David Dixon: The map should have both of these routes on them.

Brad Schneider: Chairman McKee I think if I was just civilian I would appreciate a map.

David Dixon: Why wouldn't we show both? The one that is further along than anything else and the alternative. That makes it clear that this is not a definite thing, that it could be one or the other or neither. Where would be put that map, into the Comprehensive Plan?

Chairman McKee: The difference in the two Commissioner as I can see it is that one is the route that the Environmental Impact Study (EIS) has been done on but has expired and therefore would have to be updated in order to remain in that status, is that correct?

Brad Schneider: Yes.

Chairman McKee: Which really basically puts it in the same position as any other route...

Brad Schneider: Technically you're right it could just as easily change their mind once the update is done.

Chairman McKee: So from the standpoint of if we, the Planning Commission, had the ability to say we would prefer that the future use of this parcel of land would be residential instead of commercial or would be light industrial instead of multi-family or would be the corridor for I-

69 and the bridge that's my only viewpoint that I would like to continue to express. If that would have a positive impact on those folks at a higher paygrade, as Mr. Schneider put it, would be helpful. If saving the difference between \$850 million and \$1.46 billion is meaningful and if it doesn't make anybody upset, it's worth thinking about.

Brad Schneider: I will say that in these deliberations when it comes to a new Interstate, no matter what you do someone will be upset. But, the road is going to move forward and my estimation of your job is to do the best you can and think about the concerns of regular citizens and try to give them as much information as possible.

Chairman McKee: Any questions for Mr. Schneider?

David Williams: I want to thank Mr. Schneider...

Chairman McKee: We thank you so much.

Brad Schneider: I appreciate you asking, I will come back any time.

Chairman McKee: What's your pleasure on how to deal with the information we just received from Mr. Schneider?

Mac Arnold: Should we just show both possible routes, not defining either one just stating the possibility these are two different ways it could proceed through there as part of the future land use map.

David Williams: Unfortunately there's probably a lot weight behind that preferred route by the DOT that we have to consider.

Brian Bishop: Do you guys want to talk about it and think on it or do it at the work session.

David Dixon: I think before we approve this next chapter where we have a paragraph at least referring to it we better clean that up.

Brian Bishop: I agree that's why I ask Brad if he could help draft some language.

David Dixon: That's a good idea. Frankly I would like to back and see what we've already approved in the Transportation chapter, my memory fails me.

Theresa Curtis: I will send you that copy tomorrow.

David Dixon: Please.

Theresa Curtis: Actually it hasn't all been approved. The City Commission hasn't approved of the chapters yet, they are going to wait until the very end to approve the complete Comprehensive Plan. So right now on the Fiscal Court and City of Corydon have adopted the chapters that we have sent them so far.

David Dixon: The Goals and Objectives they approve or deny.

Theresa Curtis: It's all been approved.

David Dixon: The chapters they adopt or don't adopt.

Tommy Joe Fridy: They can if they want to but statutorily, once you approve everything other than the Goals and Objectives here they are final. If the City, County and Corydon want to say amen we like it, there is nothing wrong with it and it's a positive step but it's not required.

Chairman McKee: The question is do we want to take any action tonight, do we want to consider it in the work session or do we want to ignore it?

Mac Arnold: It might be better to just wait for the work session since we have so much other stuff in there anyway to deal with and it is late.

Chairman McKee: Can we put that in form of a motion?

***MOTION WAS MADE BY DAVID WILLIAMS AND SECONDED BY BOBBIE JARRETT TO TABLE THE ADOPTION OF BALANCING LAND USE CHAPTER IN THE COMPREHENSIVE PLAN PENDING FURTHER DISCUSSION TAKING PLACE AT THE WORK SESSION SCHEDULED ON OCTOBER 27, 2015 AT 5:30PM AT THE PEABODY BUILDING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: We need to motion to go out of public hearing.

***MOTION WAS MADE BY MAC ARNOLD AND SECONDED BY DAVID WILLIAMS TO CLOSE THE PUBLIC HEARING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next is the **financial report**.

***MOTION WAS MADE BY BOBBIE JARRETT AND SECONDED BY MAC ARNOLD TO APPROVE THE HENDERSON CITY-COUNTY PLANNING COMMISSION FINANCE REPORT FOR SEPTEMBER 2015 AND ARE CURRENTLY AT TWENTY-FIVE (25%) OF BUDGET.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next is the **bond report**.

***MOTION WAS MADE BY MAC ARNOLD AND SECONDED BY DAVID WILLIAMS TO APPROVE THE BOND REPORT AS SUBMITTED.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Any administrative business?

Brian Bishop: No sir.

***MOTION WAS MADE BY MAC ARNOLD AND SECONDED BY DAVID WILLIAMS TO ADJOURN.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

***MEETING ADJOURNED AT 8:45p.m.***