

HENDERSON CITY-COUNTY PLANNING COMMISSION

April 7, 2015

The Henderson City-County Planning Commission held a regular monthly meeting April 7, 2015, 6:00 p.m., at the Henderson Municipal Center, third floor assembly room. Members present: Chairman Herb McKee, Vice-Chair David Williams, Dickie Johnson, Bobbie Jarrett, Gary Gibson, Kevin Richard, David Dixon and Rodney Thomas. Kevin Herron, Mac Arnold, Taunya Eyre and Thad McCormic were absent.

Staff present: Director Curt Freese, Theresa Curtis, Brian Bishop, Heather Lauderdale and Claudia Wayne

(A summary of the minutes from the meeting on April 7, 2015. A recorded audio tape is on file at the Planning Commission Office)

MEETING BEGAN AT 6:00PM

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

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

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: Have you had an opportunity to review the *minutes of the March 3, 2015 meeting?*

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY DICKIE JOHNSON TO APPROVE THE MARCH 3, 2015 MINUTES AS DISTRIBUTED.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: Next on the agenda is the **Consolidation to Lot 34 Ball-Heilman-Biggs Subdivision**, Mr. Bishop are you going to lead that discussion?

Brian Bishop: Yes sir.

Chairman McKee: Please proceed.

Brian Bishop: This is submitted by Kenneth Buchanan for the property located in Henderson County at 1617 Church Street (PID# 57A-32). Applicant is requesting approval of a minor subdivision and consolidation, a portion of which is located in the Special Flood Hazard area. Our Flood Damage Prevention ordinance requires that any subdivision come to the Planning Commission for approval, which is why this is before you. Had this not been in a floodplain it would have been a simple approval in office by the staff. The main reason this was requested is because the applicant wanted to build a pole barn on tract 57A-32 to the right, the larger tract. However, the proposed location would have placed it on a separate tract from which the primary residence is on. That's the reason he requested the consolidation.

Chairman McKee: Any questions for Mr. Bishop? Would the applicant like to make a statement? Applicant here?

Brian Bishop: I don't believe so.

Chairman McKee: Don't believe so, ok, in that case hearing no questions the Chair will entertain a motion.

MOTION WAS MADE BY RODNEY THOMAS, SECONDED BY DAVID DIXON TO APPROVE THE CONSOLIDATION OF LOT 34 BALL-HEILMAN-BIGGS SUBDIVISION.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: Next on the agenda is **Lot #3 Aubrey and Helen Wood Subdivision**. Mr. Bishop are you going to lead that discussion?

Brian Bishop: Yes sir.

Chairman McKee: Please proceed.

Brian Bishop: Submitted by Stephen & Dee Ann Wood and Darrell & Kathryn Daigle for the property located on US Hwy 41-A (PID#40-31). Applicants are requesting approval of a minor subdivision, which is located in the Special Flood Hazard area. This is also before you because the Flood Damage Prevention ordinance and its proximity to the floodplain. Had this not been near a floodplain, it would have been approved in office by Staff. The reason for this subdivision is there has been a change of ownership of some land due to an estate. It's a pretty simple, straight forward subdivision.

Chairman McKee: Questions for Mr. Bishop? Will the applicant like to make a statement? Anyone like to speak for or against? Hearing none, the Chair will entertain a motion.

MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY GARY GIBSON TO APPROVE LOT #3 OF AUBREY AND HELEN WOOD SUBDIVISION SUBMITTED BY STEPHEN & DEE ANN WOOD AND DARRELL AND KATHRYN DAIGLE FOR THE PROPERTY LOCATED AT US HWY 41-A.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: Next on the agenda is the **Rezoning #1049 with Development Plan**. Mr. Freese, are you going to handle that discussion?

Curt Freese: Yes.

Chairman McKee: Please proceed.

Curt Freese: The applicant is Houston Keach, Jr., & R. Scott Keach, ETAL, and Jimmy Blair, Agent for Colonial Assisted Living for the property located in the City of Henderson at 6521 Adams Lane (PID# 67-65), containing 32.28 acres. Applicants are requesting a zoning change from Agricultural (AG), to Planned Unit Development (PUD).

Site Conditions:

The property is accessed by Adams Lane, a State Road classified as an Urban Collector/Rural Secondary Road that collects traffic from Airline Road and US 41. The ROW width varies, but averages ~30 ft. The intersection of Adams Lane and Airline Road is ~235 feet from the Audubon overpass with a curb that runs right along the edge of the pavement/ROW. The curb continues down Adams Lane on the northern portion for over ~450 ft., and then transitions to a drainage ditch. There is a significant 20' difference in grade/topography from Airline Road and the northern portion of Adams Lane and the property.

The zoning districts adjacent to this property: To the North is zoned General Business including a church, the Audubon Parkway and Becks. To the South is zoned Agricultural and that includes farms and single family homes. To the East is zoned Light Industrial and that includes Thompson International and other industrial properties and to the West is cropland and a little further to the West is a mobile home park.

With water and electric it's on Kenergy. There is sewer available it will need to be upgraded in the future and I think that has already been worked out with the HWU. Gas is available, it is within the city so this is in the city limits, the very edge of the city limits but it is served by all city services except for electric which is Kenergy.

The Planned Unit Development District (PUD) allows flexibility in design, density, and setbacks, especially in cases of major development projects or when multiple structures will be built on one parcel of property. The Planning Commission is empowered in Section 15.01, to *modify any regulations* related to height, area, placement, and bulk, which provide adequate open space, and allow for the improvement of the general health and safety of the tract when developed. The Planning Commission will also approve the uses permitted in the PUD.

In addition, the PUD must be accompanied as per Section 15.04, with a full development plan to be approved after the rezoning. The plan is approved as part of the PUD, and would require a minor amendment (or public hearing) to the PUD. And any other changes to the PUD would also require an amendment approved by the Planning Commission. In this case, the applicant has provided only a conceptual plan and is therefore required to bring the full plans back before the PC for a minor amendment; any future plans for the remainder of the property would follow the same process.

PUD Requirements:

There are additional development requirements for PUD's, including providing a percentage of open space, walking trail/sidewalk, and buffers along dissimilar uses.

Open Space: Common open space of 1.1 acres and recreational open space of 2.2 acres is required. Recreational Open space includes playgrounds, parks, bicycle paths, squares and greenways, etc.

Sidewalks/Paths: Sidewalks or paths are to be constructed along roadways, and shall be provided to connect open space and amenity areas, to the main areas of development.

Development Plan:

Building: a one story 75,000 sq. ft. assisted living facility is proposed to house 95-100 total units.

Uses: The applicant proposes the following uses to be approved with the PUD: Single-family dwellings, two-family dwellings, community garages, maintenance buildings, community buildings, accessory buildings, antique shops, art galleries, barber/beauty shop, churches, medical and dental offices, multi-family, residential care facilities, and family child care homes.

Open Space: the applicant depicts 1.1 acres of common open space, and 2.2 acres of recreational open space, with a park/green area and connecting path.

Sidewalks/Path: the applicant depicts walking paths in an arc around the perimeter of entire facility, and walking paths following the parking lot, with stubs for future connectivity. Staff has worked with the applicant to find a feasible solution in lieu of sidewalks on Adams Lane. Adams Lane is a State route which presents significant challenges to providing sidewalks, including the guardrail running some distance from Airline and Adams Lane, significant topographic changes on the northern end of the property, the lack of a pedestrian way on the Airline Road overpass, the narrowness of the road and right-of-way, and the lack of sidewalks on any properties in the area. Staff feels the current layout satisfies the spirit of the ordinance, and provides for connectivity to the entire site, for the health of its residents and workers.

Entrances: The applicant proposes two entrances along Adams Lane. Deceleration lanes will be provided along both, with an acceleration lane provided along the eastern entrances. This follows the MPO's recommendation.

Future Land Use: The future land use map depicts this area developing as *Light Industrial*. The Future Land Use element of the Comprehensive Plan is *consistent on a limited basis* with the proposed zoning of PUD.

Comprehensive Plan Goals and Objectives: Designate adequate land uses in appropriate locations while encouraging quality design and minimizing the adverse impacts of development (Land Use Goal); View development issues in terms of promoting overall quality of life. Mixing of residential and other land uses shall be encouraged, but only in appropriately planned and designed neighborhood developments (Land Use Objective 4); Encourage and support efforts to construct and maintain affordable housing for elderly, handicapped and other disadvantaged persons in areas where there is convenient access to recreation, commercial activity, and other services (Housing Objective 2) ; Encourage development of retirement community housing and assisted living facilities with appropriate services for the elderly (Housing Objective 3) ; Provide flexibility in Planned Unit Developments (PUD) with regard to setbacks and lot area while maintaining the safety, health and welfare of the general public (Housing Objective 11).

Staff finds this request is *in agreement* with the Comprehensive Plan for the following reasons:

- The future land use of the property depicts light industrial development, a higher intensity use than the proposed PUD. This can be considered a down-zoning as while the PUD may possibly generate more trips than an industrial use, the intensity of the traffic and the impact of an industrial use on the environment and adjoining properties will likely be much higher than the proposed PUD.
- The Land Use Goal, and Land Use Objective 4, support mixed use (mixing of commercial and residential uses) development like this request.
- The project provides much needed assisted living and retirement facilities for the elderly as encouraged in Housing Objective 2 and 3.

The PUD allows the applicant the ability the flexibility for future development related to the assisted living facility, such as single-family attached dwellings for seniors as part of the same property and community, fulfilling Housing Objective 11.

IN THE ABSENCE OF FINDINGS THAT THE PROJECT IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN.

- A. That the existing zoning classification given to the property is inappropriate, and that the proposed zoning classification is appropriate;

Staff finds that the zoning classification given to the property was appropriate.

✓ N/A

- B. 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.

Staff finds that no major changes have occurred to alter the basic character of the area to support this request:

✓ N/A

STAFF RECOMMENDATION: Staff recommends approval. This request is in agreement with the Comprehensive Plan.

Chairman McKee: Is this our first PUD application since we upgraded the regulations?

Curt Freese: It is.

Chairman McKee: So there has been a significant stepping that had to be done? I witnessed some of it and I would like to compliment Staff for all the effort that you all put into this particular project because it was onerous and I could see it was onerous.

Curt Freese: We didn't write the PUD for an Assisted Living Facility, it was really meant for more of a commercial or mixed use type of development or suburban so we've tried to figure out how to make this work.

Chairman McKee: Having said that, are there any questions for staff?

David Williams: On the PUD plan they have pretty much freedom to put things where they want, is that what I heard you say?

Curt Freese: Well they...

David Williams: The setbacks are followed and...

Curt Freese: Actually they have listed as set-backs here, it's really up to you to approve and up to them to request. They've listed set-backs from Adams Lane. This is Adams Lane, so this is the entire property not any buildings if you will, because there will be not lots. From Adams Lane of thirty feet on the front twenty feet on the rear and zero on the sides, that's the whole property.

David Williams: With future development, will they be allowed to put infrastructure such as sidewalks and roads anywhere they want?

Curt Freese: No, any future development will have to come to the Planning Commission for approval. They have to depict it on a plan.

David Williams: One question I have, it may be more appropriate for the owners or developers is on the sidewalk as it goes around the development from Adams Lane side over to Adams Lane, I'm curious as to why they stopped the sidewalk short of the property line. There is a subdivision that is further down if I saw it correctly on the, yeah right there.

Curt Freese: The mobile home park. I believe the intention, they will probably have to answer this, and they would like another access point right where that walking path stops. That would link up, kind of go around, I think that's the plan but it would all have to come back before you to get that approved. Again, these are not going to be public sidewalks, these are going to be sidewalks for the facility.

David Williams: That does give me some concern because we're going to not require sidewalks along the roads there.

Curt Freese: That's correct. The only reason we can do this is because it's a PUD.

David Williams: I'm kind of concerned about and it may not have any importance at all but we're talking about walkways and bikeways for the public to use and this is not really going to be conducive to public use, even though we are allowing them to skirt the sidewalk requirements by doing this.

Curt Freese: Without putting it, since its State right-of-way without the City or the State taking over the sidewalk, we have no way to enforce that it is for public use. That may be something you ask of the applicant if they would like to allow the public to use the bike path or the walking path.

Chairman McKee: Other questions? Would the applicant like to make a statement? Would you please state your name and address.

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

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

Dennis Branson: I do.

Chairman McKee: Thank you sir please proceed.

Dennis Branson: Before I answer any questions or forget to, I would really like to thank Staff, Curt and the entire staff. HWU has worked wonderfully with the applicant on this project to see that it is something that is going to happen in Henderson hopefully. The City has worked with us, KYNDLE has worked with us, everybody has been just really excited about this and I want to thank everybody for doing that. There are representatives here from the construction company that represents the developer which is Colonial Assisted Living; there is a representative from Colonial Assisted Living to answer any questions that you might have of them. We've had a lot of meetings with Staff with the sidewalk issues, we talked and talked and talked through those and I think you will agree that we provided more sidewalks than what would be required on a typical residential development just along Adams Lane. The sidewalk patterns we have in there really conducive to creative walking to get from one part of the property all the way around to the other part in the event they are eventually connected and I'm sure they will be. This is in the public service area so this will be developed. Where they've stopped their sidewalk on this side is where they plan hopefully to put in a future private street, I think it will be private it might end up being public just depends on the ultimate use of the property. They've got lots of property they

can use for duplex type living, senior related purposes, there's lots of property that could be developed that they don't really have plans for but they could be developed for medically related facilities, things that are complementary to this primary use. The list of permitted uses that they boiled their PUD request down to are all compatible or complimentary with this so I think what we're creating is a senior community out there that is going to be wonderful for Henderson. If you have any questions about the process and the right of way, oh, there's another thing I wanted to tell you. We're going to be designating an additional right of way. So the thirty foot front yard setback is from the new right of way that we're going to dedicate. Adams Lane has about twenty-foot of right of way on that side and about twenty feet on that side for a total of about forty feet there, typically we have no less than fifty feet. We're going to be dedicating probably an additional five to ten feet of additional right of way along this part of the development at least.

Chairman McKee: Questions for Mr. Branson? You'll be available if anything comes up?

Dennis Branson: I will.

Chairman McKee: Thank you sir. Questions for others? Would you please state your name and address Mr. Blair.

James Blair: James Blair, 2746 Heather Lane.

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

James Blair: I do.

Chairman McKee: Thank you sir, please proceed.

James Blair: Just to address the sidewalk issue, two things that came to mind when we started talking about this. One is, as with our building now any part of our building, sidewalks, outside are open to the public. We appreciate clubs coming and using the facilities, sidewalks to walk on and do things. We look at what we have now, we have seventy-three residents in our current building but we have three-hundred people come through. Family members, friends walk, take advantage of the courtyards that we have now, same will be there as far as walking on the sidewalks. The other issue with the sidewalks going all the way down the roads when I first looked at it made me nervous about residents getting out and

walking down the highway. I would rather have those walking paths inside; I know there won't be a locked facility per say but it will be safer because it's inside of our grounds, just to address that situation.

The way this project came to pass is we have had a waiting list at Colonial for about four years about fifteen to twenty deep; we're losing residents to Evansville, Madisonville, and Union County. I get calls from the hospital at 5:30 on Friday afternoons due to people being discharged and I don't have a place for them. It's something important that we look ten, fifteen, twenty years from now you're looking at this age group growing four times for the need of it, even this won't suffice. People are having to spend more money going to personal care nursing homes or other nursing homes for beds and rooms, double sometimes triple what we charge. I think it's a needed thing for the community.

Chairman McKee: Questions for Mr. Blair? Thank you Mr. Blair, will you be available? Would anyone else like to speak for or against this application? Please come up. Will you state your name and address for us please?

Ron Burns: Ron Burns, 6580 Adams Lane.

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

Ron Burns: Yes sir I do.

Chairman McKee: Thank you sir please proceed.

Ron Burns: I'm not opposed but some of the photos that were shown of the property are a bit deceiving. It looks like a deserted area, it's actually not. If you turn right around, my house and Robert and Karen Moore are right in the curve, Dickie Johnson is quite well aware of it. Right there, that's me. I built that house, this will be my tenth year and I enjoy deeply sitting on the front porch looking at the City of Henderson. I'm not going to have that any longer, I'm going to be looking at a structure, justified, our elderly people do need a place I agree one-hundred percent. My concern is what it's going to do to my property value in the future. Another concern is listening to the discussion about sidewalks. I sit on that porch and observe that road more than anyone here most likely, there is so much more foot traffic out there than you all are aware of listening to you speak about not necessarily having a need for sidewalks, there is a tremendous amount of foot traffic, it's a dangerous road. That curve, where you're putting entrances and mentioned deceleration lanes to get people off the road, once a month at least,

someone misses that curve. A young lady last winter totaled her car out on the utility pole, a young gentlemen headed this way on the road there is a tree there on David Lindsay's property a young man missed the curve totally, never hit his brakes and hit that tree head on destroying his little pick up. Luckily no one has been hurt. Going the other way, they're constantly missing the curve, the State, I've talked to them and they don't their guardrail up because right now people are tearing their vehicles up and not hurting themselves because it's mostly open. I don't know if there has been a traffic study done or not but there is a lot more traffic on that road that has been given consideration to, I'm sure, by looking at where the entrances are. The one entrance, from what I saw on the photo is looks like it's just a few feet from my driveway. It's just right up barely past, in front of Mr. Heddens property past my driveway entrance. The other one around the corner, the guardrail he spoke of quite a few times at four-hundred some-odd feet, it terminates just before the entrance to the, I'm assuming it's a rental property, driveway entrance there. Right along in there a little bit, just back towards Airline Road more but not a whole lot. Before you do away, I hate to say with my view that would be selfish but my view, do a little bit of thinking about those sidewalks; there are a lot of people walking up and down that road. A lot of folks with kids come that way; I know you're not building Kmart there but if there were sidewalks with this they head that way. A lot of lesser fortunate folks up the road that don't have a vehicle and they make their way through there heading over to the business that are in that area. If they're going to do major construction that is going to bring more people to the area, it's liable to bring folks from those mobile home parks up the road that may have somebody staying there trying to visit them.

David Williams: I'm curious, where would they be heading out that way? Would they be walking towards Airline Road or to and from Airline Road?

Ron Burns: There are some kids that walk to school through there. There is back and forth foot traffic constantly, all the time. From the trailer park all the way up Airline, down Garden Mile and over they go. Unfortunately, there are young teenagers that do walk to school though there, don't rule those sidewalks out until you study the area a little bit. Thank you.

Chairman McKee: Thank you sir, will you be available for further comment?

Ron Burns: I sure will.

Chairman McKee: Thank you sir. Would you like to comment?

Curt Freese: Sure. They have provided sidewalks through-out the property and I think the idea is that any future development, they will be required to provide sidewalks or walking paths for the future portions of the development as well. You'll essentially have the power to require this whole property to be served by a walking path, not a sidewalk, but a walking path. That is a positive, I think, with this development is that the future portions of it will definitely have to be served by a walking path and you can require them to make sure the walking paths serve those other properties. The reason we're not requiring them is it's a State Road, it doesn't have enough right of way right now and it's not proposed to be widened and with the topography issues and the fact the overpass doesn't have any sidewalks or walking ability either, it would be very difficult to propose sidewalks realistically on this property. I think since they're providing the walking paths I think that we felt that that's a good enough compromise. The fact that Colonial is willing to allow the public to transverse their walking paths, hopefully that will take care of a lot of the issues with the kids that are using the property as a cut thru.

Chairman McKee: Questions for Mr. Freese about that?

David Dixon: What's the speed limit?

Curt Freese: Right now it's fifty-five, that will have to be reduced down at least to thirty-five. The State has looked at this project and already said it would be ok. Again, the MPO, when they reviewed the project they recommended the deceleration and acceleration lanes for safety reasons. All the cars that are going there will be taken off the road instead of back on Adams Lane.

We've also required them to do some internal, before their plan didn't have the drive connecting the two parking areas so we're trying to require a lot of internal connectivity. The residents and the workers, when this gets built out, have to get back out on Adams Lane and create more of a traffic issue, they can just use the internal access points instead.

David Williams: So that means we do have, the gentleman just said, we do have children that are walking across that Airline Bridge over the Audubon Parkway?

Chairman McKee: The fact that people walk through there, is that an indication that we should take that into consideration? By that I mean there are people walking up and down the Parkway, people walking up and down Hwy 41, Hwy 60. How do you tell the difference?

Dickie Johnson: There's not any, to my knowledge, that's walking up and down Audubon Parkway from there. They're cutting around Adams Lane down to Airline Road and then most of the time to Stadium Drive or...

Chairman McKee: I just meant in general, you find people walking up and down the Parkway sometimes.

Dickie Johnson: Very seldom do you ever see anyone walking down Audubon Parkway.

Chairman McKee: Mr. Branson.

Dennis Branson: I would like to clear something up if I might. There might be a little confusion about the symbology on the drawing. I think there might be a perception by some that we're not providing sidewalks and we're asking not to provide sidewalks and that's not the case. We are putting in sidewalks; the sidewalks are just going to be further away from the road and not up against the road itself. It's a fifty-five mile per hour road that should be reduced anyway, hopefully this project will be enough emphasis to get the State to finally realize that and lower the speed limit. I think the city has asked for that reduction, I haven't had any discussion with the State myself but it needs to be done and hopefully this will help do it. But, we're proposing the sidewalks, the developer is putting in sidewalks for the public to use they just aren't up against the fifty-five mile per hour road. Normally our sidewalks are right against the driving surface, these are back away from the driving surface and there are more of them, they're longer. We are proposing sidewalks from the beginning of the project to the end of the project, future development and you can relate this to sections of subdivisions that we normally see we'll also have sidewalks proposed for those sections as they develop. The sidewalks are being proposed and they are being proposed for the entire development.

David Williams: I can't tell from your drawing...

Dennis Branson: It's the dark lines...

David Williams: The arc line I see, oh and then you have one that goes...

Curt Freese: The sidewalk goes all the way...

David Williams: Ok, very good.

Dennis Branson: This comes along here which is even in a safer position and where we stop this, as I said before is where we would like to put a future entrance to further development and further up Adams Lane there will be another entrance and we've stubbed out the frontage road so that we're allowing for an internal connection to that future street so that pedestrian and vehicular traffic can get from one project site to another without entering onto Airline Road.

Curt Freese: The difference is these will be walking paths not sidewalks because sidewalks would imply they're in a right of way owned by the public. These will be owned and maintained by Colonial.

Kevin Richard: So from what I'm seeing on this plan then in theory, pedestrian traffic has the option with this development to totally avoid that tight turn...if they could be on pavement and totally circumvent that entire area if they so choose.

Dennis Branson: Yes they could.

Curt Freese: If they are allowed to access the property.

Dennis Branson: And they will.

Rodney Thomas: Which they've agreed to already.

Chairman McKee: Further questions for Mr. Branson? Would anyone else like to speak for or against this application? Seeing none, any further questions for staff? Hearing none, the Chair will entertain a motion.

MOTION WAS MADE BY RODNEY THOMAS, SECONDED BY DAVID DIXON TO APPROVE REZONING #1049 WITH A DEVELOPMENT PLAN, SUBMITTED BY HOUSTON AND SCOTT KEACH/COLONIAL ASSISTED LIVING, FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON AT 6521 ADAMS LANE, PIDN #67-65; AS THE REQUEST IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN USE PLAN AND THE GOALS AND OBJECTIVES, SPECIFICALLY THE LAND USE GOAL, LAND USE OBJECTIVE 4, HOUSING OBJECTIVE 2, 3, AND 11.

ALL IN FAVOR: AYE

OPPOSED: NONE

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

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY GARY GIBSON TO GO OUT OF PUBLIC HEARING.

ALL IN FAVOR: AYE

OPPOSED: NONE

Curt Freese: There were only six people that voted, Dickie stepped out.

Gary Gibson: We still have enough for a quorum.

Curt Freese: There are just six, without you voting Chairman.

Chairman McKee: I only vote in case of a tie.

Curt Freese: Exactly, but Dickie, I think went to the restroom, or you need to vote.

Tommy Jo Fridy: It's not a tie.

Chairman McKee: I can't. Is someone checking to see if he's coming back?

(Multiple people talking)

Tommy Jo Fridy: Once you have a quorum, unless you're amending the by-laws I think it only takes the majority of votes in attendance but we don't have a set of by-laws and ours are a little (inaudible). If he's (Dickie) gone I really believe that the majority of the votes, once you have a quorum, the majority of those in attendance (inaudible- too many people talking).

Chairman McKee: And a quorum is...

Tommy Jo Fridy: Fifty, over fifty-one percent of however many members we have.

(Multiple people talking-inaudible)

Curt Freese: Ok, we have solved this issue. The quorum refers to the number present not the number voting. When a majority of total members are in attendance, so with everyone here there's usually twelve members even though

there are seven members up there now. It states that when the majority, over half the total members of the Commission are in attendance.

Chairman McKee: And they are.

Tommy Jo Fridy: Then you have a quorum.

Curt Freese: Because there's seven.

Tommy Jo Fridy: Then it takes over half of those to pass a (inaudible)

Chairman McKee: And so we've got that?

David Dixon: So we can have a quorum without him?

Chairman McKee: Is it your opinion...

Tommy Jo Fridy: Yes.

Chairman McKee: We're finished with that business?

Curt Freese: Yes.

Tommy Jo Fridy: If he happens to come back he can vote and you can count his vote.

Kevin Richard: But regardless, our motion carries.

Chairman McKee: We have already moved, seconded and voted to go out of public hearing? We can re-open the public hearing and count his vote if he comes back, correct? But the motion stands, it is approved?

Tommy Jo Fridy: Yes.

Chairman McKee: Thank you. Next on the agenda is **Lot #5-9 of Merritt Place Subdivision Preliminary**. Is this past the point that I need to excuse myself out of an abundance of caution?

Tommy Jo Fridy: Sure.

Chairman McKee: I thought it was, ok. Mr. Bishop are you going to lead that discussion?

Brian Bishop: I will sir.

Chairman McKee: Please proceed.

Brian Bishop: This is submitted by Dempewolf Properties, LC for the property located on Merritt Drive. The applicants are requesting preliminary approval for a subdivision. This subdivision coincides with Rezoning #1043 which is in front of the Planning Commission I believe two months ago. If you'll notice there is actually one less lot shown on the subdivision that was shown on the development plan so the development will be actually less dense than originally proposed. We have received a letter from the City Manager approving the construction of a service and drive entrance onto this property from the right of way from Merritt Drive. If you'll remember, the development plan there is an access road along the proposed structures. This plat has been approved by all the applicable utilities and their representatives. Bonding for this subdivision will be calculated and submitted with the final plat. Claudia is currently working with the various utilities to calculate the final bond amount. The subdivision should be subject to a perpetual maintenance for the proposed infiltration areas, this is actually being requested by HWU it is a portion of the drainage system is why they would like this. Finally the subdivision should also be subject to the submission of a Restrictive Covenant at the time the final plat is submitted. I will do my best to answer any questions you might have.

Chairman McKee: Questions for staff?

David Dixon: The access road, is it still here?

Brian Bishop: It is.

David Dixon: Ok. There is a single entrance right?

Brian Bishop: There are actually two entrances.

Chairman McKee: Is one entrance, one exit? Is it restricted or is it traffic both ways?

Brian Bishop: I believe it's restricted but let me...

Tommy Jo Fridy: If you recuse yourself I don't think we have a quorum.

Chairman McKee: I agree.

Tommy Jo Fridy: If you recuse yourself we do not have a quorum.

Chairman McKee: I agree.

David Dixon: He didn't recuse himself.

Tommy Jo Fridy: Well, he equivocated so, he's still here but he said at one point, are you going to recuse yourself?

Chairman McKee: No, I asked a question and I believe that I am past that this project, is passed the point that I need to recuse myself.

Tommy Jo Fridy: The test is do you have a direct or indirect financial interest?

Chairman McKee: I do not, well; I do not in my belief.

Tommy Jo Fridy: It's subjective. If you believe you do not have a direct or indirect financial interest then you may remain a voting member and Chairman.

Chairman McKee: It is my belief that I do not have a direct or indirect financial interest in this project.

Tommy Jo Fridy: Proceed.

Brian Bishop: Mr. Chairman the direction should be one way on the access road and will be restricted.

Chairman McKee: Ok, thank you. Questions for Mr. Bishop?

David Dixon: And the sidewalk?

Brian Bishop: The sidewalk should be shown on the plat, I'm not sure if we can see it's such a small view that we have, there are proposed sidewalks.

David Dixon: The sidewalk is between the access road and Merritt Drive correct?

Brian Bishop: I believe so. Let's see if we can get a better view real quick, Theresa would you mind zooming in? I believe that is what this is representing here; it's just kind of hard to see because it's such a busy drawing with topography and utilities.

Theresa Curtis: We have a bigger plat laying right there on that table.

David Dixon: Ok, so where is the sidewalk?

Brian Bishop: I believe it's this right here.

David Dixon: So it's not between Merritt Drive and the access road.

Brian Bishop: Denny, would you mind addressing that to make sure I'm not messing up?

Dennis Branson: The sidewalk is next to Merritt Drive.

Brian Bishop: Would you use the pointer to show?

Dennis Branson: The sidewalk is right there, this is the edge of Merritt Drive here and the sidewalk is right there, is that right? Is that right Brandy?

Tommy Jo Fridy: Dennis, let's look at the plat and get the record straight.

Dennis Branson: Right there.

David Dixon: So we have Merritt Drive, access drive and then sidewalk...

Dennis Branson: And then the sidewalk is next to the pavement of the access road, yes.

Chairman McKee: None of what you are doing is going to be on the record unless you're speaking into the microphone. Denny could you get behind the podium so we can hear you please sir?

Tommy Jo Fridy: Dennis, without pointing, is it North, South, East or West of something?

Dennis Branson: Thank you Tommy for keeping me straight. The access road is adjacent to Merritt Drive on the East side of Merritt Drive and the sidewalk is adjacent to the access road on the East side or lot side.

Brian Bishop: Denny would you say it's parallel to Merritt Drive?

Dennis Branson: Parallel to Merritt Drive.

Brian Bishop: Then the sidewalk is parallel to the access drive.

Dennis Branson: We have Merritt Drive, access, sidewalk.

Chairman McKee: The sidewalk doesn't, or does the sidewalk go from one property line to the other property line?

Dennis Branson: Brandy?

Chairman McKee: Are you going to speak Brandy? Would you please state your name and address?

Brandy Zachary: Brandy Zachary, 361 Walnut Creek Drive Bowling Green, Ky.

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

Brandy Zachary: I do.

Chairman McKee: Thank you, please proceed.

Brandy Zachary: The entrance drive at comes in and creates the access drive behind the homes is on the South end of the property. It's just a few feet from the South property line so there's no sidewalk on the South side of that entrance. The sidewalk then runs all the way up to the Northern most proposed structure but that's where you run into where the slope starts going back up where the grades, you know the properties to the North are quite a bit higher than this property. so, in speaking with the City and doing the construction drawings it would just be steps if you built a sidewalk beyond this point, it would just be steps until you got up to the next property.

Chairman McKee: Thank you Brandy. Any questions for Brandy?

David Williams: So if someone were to buy that corner lot and do a similar type development they would be required to extend that sidewalk along Merritt Drive as well but now we have a blank space in between two sidewalks, is that correct? Because yours doesn't go to the property line...

Brandy Zachary: The North line?

David Williams: Yes, the North line.

Brandy Zachary: Yes, we don't extend to the North end; the sidewalk doesn't extend all the way to the North end of the property.

David Williams: And that is because you...

Brandy Zachary: You pretty much run into a straight bank.

David Williams: A straight bank, ok, I see what you're talking about.

Gary Gibson: You don't have any sidewalks on that side of the street at all do you, because you have the walking trail across the street on the other side.

Brandy Zachary: Yes, I think there is a sidewalk...

Gary Gibson: On the other side you have that walking trail all the way but none on this side.

Chairman McKee: Any questions for Brandy at all? You'll be available? Thank you Brandy.

Chairman McKee: This is clearly one sidewalk issue that we can't resolve. You have a goat track going up one side and a goat track going up on the other side and it's just not going to work.

Curt Freese: Again I think we felt that they provided the sidewalks as much as they could, as much as feasible. Everybody was fine engineering, the City...

David Williams: The question I would have is in the future, in future development, I would say no one probably foresaw this type of development on that lot until now that similar developments will go (inaudible) to those lots, like to say the corner lot there and then the two lots that go on up Twelfth Street. The question I have is in the future then if those lots are developed to where sidewalks will be required with those developments, how would we hook those sidewalks up to make a continuous footpath?

Chairman McKee: Mr. Branson?

Dennis Branson: May I answer that? First of all David thank you for your passion for sidewalks, we agree a lot on sidewalks. But, your concern in this particular situation is that the mayor's lot, let say this house burnt down and somebody

wanted to build townhouses or something on it, they literally couldn't build the sidewalk. The sidewalk can't be extended up Merritt Drive on that side at all, ever. Not even if that property is developed, it's a mountain up there and it comes right down to the pavement of Merritt Drive so even if they were to develop that, they couldn't extend the sidewalks further and that's what Curt was eluding to is that they took the sidewalk as far as they can take it and it didn't make any sense to take it any further because it actually could never go any further. Fortunately, we're in a part of town where we have pedestrian thoroughfares all around it anyway. I think we're lucky to get those pieces of sidewalk in there, it can't go South because of the topography and they can't go North but we have a sidewalk trail on the other side. I think the pedestrian public is well served up there anyway. The hills keep that from every happening.

David Williams: Alright, thank you.

Chairman McKee: Any further questions, anyone else like to speak? Hearing none the Chair will entertain a motion.

MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY GARY GIBSON TO APPROVE LOTS 5-9 MERRITT PLACE SUBDIVISION PRELIMINARY, SUBJECT TO RESTRICTIVE COVENANTS BEING SUBMITTED WITH THE FINAL PLAT, A PERPETUAL MAINTENANCE AGREEMENT FOR THE INFILTRATION PORTIONS OF THE LOT PART OF THE DRAINAGE PLAN AND BONDING AT THE FINAL PLAT.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: Next on the agenda the **Daniel R. Fowler Site Plan**, I believe Mrs. Claudia is going to handle that one. Thanks for coming to the podium. Please proceed.

Claudia Wayne: This is submitted by Daniel R. Fowler for the property located in the City of Henderson at 510 Klutey Park Plaza. Applicants requesting site plan approval, he has purchased 510 Klutey Park Plaza and he is going to construct an office building for the State. The State will be moving some offices there and he does this all over the state. He has to build them to the State's specs also but I

have approval from all engineering and utilities. If it is approved it will be subject to the bonding for erosion control, entrance, demo replacement of sidewalks and the total bonding amount will be \$36,550. Mr. Fowler is here if you all have any questions of him. There will be the one subject-to which will be the bonding. Do you all have any more questions?

Chairman McKee: Thank you Mrs. Wayne. Mr. Fowler would you like to make a statement to the Planning Commission? Aww, come on up. We would like to get to know you a little bit so would you please state your name and address?

Daniel Ray Fowler: Daniel Ray Fowler, 89 Isom Lane, Mackville, Ky.

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

Daniel Ray Fowler: Yes sir.

Chairman McKee: We thank you sir, glad you're here, any questions for Mr. Fowler? We admire your vision. Thank you for coming up Mr. Fowler, we really appreciate it, any questions for staff? Would anyone else like to speak? Seeing none the Chair will entertain a motion.

MOTION WAS MADE BY DAVID DIXON, SECONDED BY RODNEY THOMAS TO APPROVE THE DANIEL R. FOWLER SITE PLAN AS SUBMITTED, SUBJECT TO BONDING.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: Next on the agenda is the ***Planning Commission Finance Report for March 2015.***

MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY GARY GIBSON TO APPROVE THE PLANNING COMMISSION FINANCE REPORT FOR MARCH 2015.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: Next on the agenda is the GIS Finance Report.

Curt Freese: We don't have one, they didn't meet.

Chairman McKee: We can't approve it, *motion to remove the GIS Finance Report for 2015 from the agenda.*

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY RODNEY THOMAS TO REMOVE THE GIS FINANCIAL REPORT FOR MARCH 2015 FROM THE AGENDA.

ALL IN FAVOR: AYE

OPPOSED: NONE

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

MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY RODNEY THOMAS TO APPROVE THE BOND REPORT AS PRESENTED.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: Next on the agenda is the Public Improvement Specs 2015 draft changes to review at the May Planning Commission Meeting, Mr. Freese.

Curt Freese: I believe Mr. Williams is going to speak on this, he is heading this up.

Chairman McKee: Please proceed sir.

Tom Williams: Everyone has a copy of the draft that will be presented at the May meeting. "See Attachment A". If you have any questions pertaining this please contact me before the May meeting, my number is on the report.

Chairman McKee: Any questions for Mr. Williams?

David Dixon: The overall intention is to, what is the overall intention?

Tom Williams: Mostly to clear up some clerical and typographical errors.

David Dixon: But we're asking for deeper asphalt and...

Tom Williams: Yes, yes. It gets a little technical but if you'll look on the page that has the asphalt pavement, the (inaudible) there talks about Class II asphalt surface O.38D. The O.38 is 3/8 of an inch, that's .375 but they rounded it to .38 and that's the maximum size of a rock that's in the asphalt surface. The standard is that the total depth of your course has to be three times that amount, so three times 3/8 is more than an inch so the old, when we had an inch in there it didn't actually work, you couldn't lay that asphalt and get it smooth. So we're upping that to an inch and one half and typically asphalt comes in half inch increments so that's why that difference. That's the main technical difference here.

David Dixon: It will make for better roads?

Tom Williams: It will certainly make it easier to lay the asphalt and the increased thickness will make it better, yes. We're also adding in all the pavement sections is what you see on that drawing, the inch and one half of that surface, three inches of base and six inches of aggregate base which is rock, is the minimum that is required in the public improvement specs and subdivision regulations. We're also adding in anyone who has a development that involves a higher class of roads like an arterial or collector will have to do some kind of a study to show what the thickness should be.

Chairman McKee: So you are going to collect the Homebuilders comments and that drives you to make any changes you will give us the benefit of those?

Tom Williams: We will bring those back to you.

Chairman McKee: Any questions for Mr. Williams?

David Dixon: Where will the public be able to find these changes and read about them?

Tom Williams: We can post these on the Planning Commission website.

Chairman McKee: So they will be on the Planning Commission website, any other questions? We thank you sir. Next on the agenda is Administrative business, Mr. Freese.

Curt Freese reviewed the results from last month's survey. See "Attachment B".

Chairman McKee: Is there anything else to come before this body? The Chair will entertain a motion to adjourn.

MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY RODNEY THOMAS TO ADJOURN THE APRIL 7, 2015 PLANNING COMMISSION MEETING.

ALL IN FAVOR: AYE

OPPOSED: NONE

MEETING ADJOURNED AT 7:25PM