

Henderson City-County  
Planning Commission  
August 4, 2015

The Henderson City-County Planning Commission held their regular meeting August 4, 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, Mac Arnold, Gary Gibson, Dickie Johnson, Kevin Richard, Rodney Thomas, David Dixon, Taunya Eyre and Penny Hahn. Kevin Herron was absent.

Staff present: Interim Director Brian Bishop and Interim Associate Director Claudia Wayne, Theresa Curtis and Heather Lauderdale.

*(A summary of the minutes from the meeting on August 4, 2015. A recorded audio tape is on file at the Planning Commission Office)*

**MEETING BEGAN AT 6:00PM**

Chairman McKee: First on the agenda this evening to is examine the two (2) job descriptions that were included in your packet and I believe (inaudible) would like to have some input.

Taunya Eyre: I would just like to make a recommendation that for the Executive Director position, the job standards, the education be made to Bachelor's Degree instead of Master's Degree and take out preferred. Just take out is preferred and change Masters to Bachelors. And then, just in reading it, there is a lot of ambiguity in here but I think it needs to be looked at further and maybe revisited in the next month or two.

Chairman McKee: Other thoughts?

Dickie Johnson: What's your reasoning behind changing from a Masters to Bachelors? It's not...

Taunya Eyre: If you read these, like read it, the entire sentence, there are three (3) different criteria that could be met, if we proceed as we are planning on he doesn't meet the requirements. I don't want to be put in the position saying why did we give the job to someone who doesn't meet the requirements, plain and simple.

Dickie Johnson: Ok, I was just asking. It's been brought up before, that's the reason...

Taunya Eyre: Like I said, it really needs to be redone completely. There are other things I would like to see changed but I think we need to sit down and look at it in a committee and have more than just me saying one thing.

Dickie Johnson: I don't disagree but I just, it's been brought up before and it's never been changed.

Taunya Eyre: This is the first time that I have seen it, I mean that it has been brought relooked at with the changes.

Dickie Johnson: Ok.

Chairman McKee: In your opinion, can we make those changes tonight and proceed?

Taunya Eyre: I believe we can.

Chairman McKee: Would you put that in the form of a motion?

***MOTION WAS MADE BY TAUNYA EYRE, SECONDED BY GARY GIBSON TO CHANGE THE EDUCATION PORTION OF THE JOB STANDARDS FOR THE EXECUTIVE DIRECTOR POSITION FROM MASTER'S DEGREE TO BACHELOR'S DEGREE; TO REVISIT THE JOB DESCRIPTIONS FOR EXECUTIVE DIRECTOR AND ASSISTANT DIRECTOR WITHIN THE NEXT***

***MONTH OR TWO TO REVISE THE DESCRIPTIONS AND ACCEPT THE CHANGES IN THE EXECUTIVE DIRECTOR AND ASSISTANT DIRECTORS JOB DESCRIPTIONS MADE IN RED AS PRESENTED.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda will be some *discussion regarding the Executive Director and Assistant Director* and I would like to let you know that the Executive Committee did meet and discuss this and I would like to ask Bobbie Jarrett if she would begin the discussion on the Executive Director and the Executive Director.

Bobbie Jarrett: We all sat down and reviewed the job descriptions and we also reviewed the performances of both Brian and Claudia and further discussed we thought, rather than continue with the interim that we would go ahead and make the positions permanent and we wanted to come back to the Board with that recommendation.

Chairman McKee: Mr. Vice Chairman.

David Williams: I concur with Bobbie's thoughts on the matter. I think both individuals have shown quick resourcefulness and ability to take on this job so I'm willing to give it to them.

Chairman McKee: Before we go into discussion, would you put that in the form of a motion along with details?

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT TO HIRE BRIAN BISHOP IN THE POSITION OF EXECUTIVE DIRECTOR AT A SALARY OF \$76,900.00 AND***

***CLAUDIA WAYNE TO THE POSITION OF ASSISTANT DIRECTOR AT A SALARY OF \$65,200.00***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Congratulations are in order. The Chair will entertain a motion to *go into public hearing.*

***MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY DICKIE JOHNSON TO GO INTO PUBLIC HEARING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: We are in public hearing. First on the agenda, is the approval of *minutes of the July 7, 2015 special called meeting and July 7, 2015 regular Planning Commission minutes,* have you had time to review them?

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY MAC ARNOLD TO APPROVE THE JULY 7, 2015 SPECIAL CALLED MEETING MINUTES AND JULY 7, 2015 REGULAR PLANNING COMMISSION MEETING MINUTES.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda is *Tract 1A, Elvie Cobb Agricultural Division & Consolidation,* Mrs. Wayne are you going to lead this conversation?

Claudia Wayne: Yes.

Chairman McKee: Please do.

Claudia Wayne: Submitted by Elvie & Carol Cobb for the property located in Henderson County at 13345 Hwy 41 South. Applicants are requesting approval of an Agricultural Division consolidation for 123.291 acres. They have, what they are doing, is consolidating part of Tract A, Tract 2 and Tract 3 together to make, and that's the part that would be the Ag exemption. It is on the plat, they both have signed it, that they have owned the property for more than two (2) years and the current use of this property is Agriculture and I am proposing the division heron with the intent that the use of the property will remain Agriculture. I think Mr. Cobb is doing some estate planning is what he's doing for this and I recommend approval.

Chairman McKee: Staff recommends approval. Are there any questions for staff? Would anyone like to hear from the applicants?

Claudia Wayne: I don't think they're here but Cliff is here, he's the one that did it.

Chairman McKee: Cliff?

Claudia Wayne: Yeah, uh huh.

Chairman McKee: Hearing none the Chair will entertain a motion.

***MOTION WAS MADE BY DAVID DIXON, SECONDED BY TAUNYA EYRE THE APPROVAL OF TRACT 1A OF THE ELVIE COBB AGRICULTURAL DIVISION AND CONSOLIDATION FOR THE PROPERTY LOCATED IN THE HENDERSON COUNTY AT 13345 HWY 41S.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda Access Standard Variance and I believe, Mr. Bishop, you're going to lead that one?

Brian Bishop: This is submitted by Robert Cornbleet Developer, is requesting a variance from the Class I, Commercial Curbed Section, Figure 2 of the Access Standards Manual, for a 14' driveway width variance, but before we get into that I would like to add a point of clarification. It's actually going to be a 12' access standard variance. What had happened was that Mr. Cornbleet had applied for 14' after he worked on his site plan a little bit, he and the City Engineer realized 12' would be sufficient, so what we would like to do is change the 14' to 12' and since that is a reduced variance, that is actually better for the Planning Commission because we are not granting such a large variance and it meets all the legal requirements and the number is less than the required variance. So from there, the reason why he is requesting the variance is that if he were to construct a commercial entrance, he would cause five (5) parking spots in the Central Business District to be lost. With the variance, this number will be reduced to three (3) therefore, he saves the City two (2) parking spots in the Central Business District. The City Engineer has given us a letter providing, he has endorsed this variance and Doug is here and Mr. Cornbleet is here to answer any questions that you might have. So at this time, staff recommends approval.

Chairman McKee: Quick question, in the paragraph the request is for a 14' driveway width variance.

Brian Bishop: Correct.

Chairman McKee: This is a 12' driveway width variance.

Brian Bishop: Correct. It is actually 2' less than the original request.

Tommy Joe Fridy: The variance is less, not the width of the driveway. The driveway is wider it took me a little while to understand that.

Chairman McKee: Any questions for staff?

Dickie Johnson: We don't have any legal ramifications because he is actually asking for less than what we advertised.

Tommy Joe Fridy: Correct, if he was asking for more we would have to re-advertise.

Chairman McKee: Any other questions for staff, any questions for the developer? Hearing none the Chair will entertain a motion.

***MOTION WAS MADE BY TAUNYA EYRE, SECONDED BY DAVID DIXON TO APPROVE THE VARIANCE FOR ROBERT CORNBLEET FOR THE COMMERCIAL CURBED SECTION FIGURE 2 OF THE ACCESS STANDARDS MANUAL FOR A 12' DRIVEWAY WIDTH VARIANCE AT 316 & 318 N. ELM STREET.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Having completed the public hearing items, the Chair will entertain a ***motion to close the public hearing.***

***MOTION WAS MADE BY TAUNYA EYRE, SECONDED BY KEVIN RICHARD TO CLOSE THE PUBLIC HEARING.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda and a non- public hearing item is the **Bob Cornbleet 316 & 318 N. Elm Street Site Plan**, Mr. Bishop.

Brian Bishop: Yes sir, the site plan submitted by Mr. Cornbleet shows a two story building that has eight, one bedroom apartments and two accessory structures that allows for covered parking. If approved, the site plan should be subject to a consolidation plat and bonding for erosion control and the construction of the entrance. Bonding for the erosion control is \$5,440 and the bonding for the entrance will be \$2,100. The total amount of bonding will be \$7,540. Staff recommends approval.

Chairman McKee: Questions for staff, questions for the developer? Hearing none the Chair will entertain a motion.

***MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY MAC ARNOLD TO APPROVE THE BOB CORNBLEET SITE PLAN AT 316 & 318 N. ELM STREET SUBJECT TO A CONSOLIDATION PLAT AND SUBJECT TO THE BONDING OF \$5,440 FOR EROSION CONTROL AND BONDING FOR THE ENTRANCE WILL BE \$2,100 FOR A TOTAL OF \$7,540.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: The next item on the agenda has in the text that this item was approved on 6/2/15, it's coming back?

Brian Bishop: In a sense. The applicant has requested that we rescind the plat that was previously approved and that they are going to submit a new updated plat that shows a larger number of lots which is the next item on the agenda.

Chairman McKee: So this is *Merrill Place Subdivision Section 2 Lots 11 & 12 Preliminary?*

Brian Bishop: Yes sir.

Chairman McKee: Please proceed Mr. Bishop.

Brian Bishop: The applicant has requested that this and the related construction drawings be rescinded and that they are going to request approval for an additional lot and additional 235 linear feet of street.

Chairman McKee: So we must approve the withdrawal?

Brian Bishop: Correct.

Taunya Eyre: Why do they have to withdraw it if they are just adding a lot to it?

Brian Bishop: Because that plat, once that plat has been approved you cannot just add to that plat you have to revoke that plat and start the process all over.

Taunya Eyre: So, on the old plat it just had the two lots as opposed to now we're going to have three and still all this other land out here?

Brian Bishop: Correct.

Taunya Eyre: Ok, thanks.

Chairman McKee: Any questions for staff?

Kevin Richard: So our motion is to withdraw the previous approved plat?

Brian Bishop: Correct.

Kevin Richard: That's the verbiage?

Tommy Joe Fridy: Approve the withdrawal.

Kevin Richard: Approve the withdrawal of the previously submitted plat, ok.

Chairman McKee: Is that your motion Mr. Richard?

***MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY TAUNYA EYRE ON THE MERRILL PLACE SUBDIVISION SECTION 2, LOTS 11 & 12 TO APPROVE THE WITHDRAWAL REQUEST OF THIS PLAT THAT WAS APPROVED ON JUNE 2, 2015.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda is the Merrill Place Subdivision Section 2, Lots 11, 12 & 13 Preliminary. Mr. Bishop, will you please proceed?

Brian Bishop: This plat is similar to the previous plat that we discussed except it is adding Lot 13 which is 8 acres. They are also proposing 235 ft. of new street, all related construction drawings have been approved by local utilities except for the storm water drainage calculations. Ken has requested that we make this subject to approved storm water drainage calculations that will be approved by him and HWU. We also request that it be subject to bonding. Bonding for water, sewer and storm will be \$119,788, bonding for roadways and sidewalks will be a total of \$362,000 for a grand total of \$481,788 of public improvement bonding.

David Williams: Would you say that again please?

Brian Bishop: Bonding for water, sewer and storm will be \$119,788. Bonding for the roadway and sidewalks totals \$362,000. The total for both bonding amounts is \$481,788. Staff recommends approval.

David Dixon: What was the previous subject to?

Brian Bishop: Updated drainage calculations.

Claudia Wayne: Approved.

Chairman McKee: Could we have a little discussion about that? How do you deal with a number to be calculated in the future?

Brian Bishop: I'm sorry; would you ask that question again?

Chairman McKee: The subject to that is a calculation of erosion and so forth that will be made in the future.

Claudia Wayne: Ken can answer that Herb if ya'll...

Ken Ferry: What's at issue is after I had signed the construction drawings, I discovered that the storm water calculations in the construction drawings don't match at every pipe. So, the cleanest way I could think to do this was to make your approval subject to my approval of the calculations since I haven't technically done that yet, I have signed the drawings. I have already spoken to the engineer and he is aware of the discrepancies and it's not an issue other than the two don't jive and there are some errors he needs to correct. My purpose in doing it this way is just to keep the project moving.

Chairman McKee: My curiosity is with legal counsel.

Tommy Joe Fridy: Sounds like you're doing more than subject to your approval; it's subject to the developer approving your calculations.

Ken Ferry: No, they're not my calculations...

Tommy Joe Fridy: Give me another term. Subject to, it's subject to the developer doing what you require. Do they have to change the size of a pipe?

Ken Ferry: On the construction drawing plans they do have to. It's confusing at this point because the plan view doesn't even match the profile view of the same pipeline so...

Tommy Joe Fridy: How do we make a clear motion and that the developer agrees to or doesn't agree to? Because it's being approved subject to them agreeing to something in the future that you haven't calculated yet.

Ken Ferry: Definitely the more accurate way of saying it would be to resolve the discrepancies between their calculations and their construction drawings, all of those numbers exist.

Tommy Joe Fridy: I'm trying to help up get there but what you're asking for, what is being asked for not you as a human being, what is being asked for is an approval subject to the developer agreeing to requirements that water and sewer makes, is that accurate?

Ken Ferry: In a generic sense yes. I'm not going to be requiring them to do other than what is already on paper except to make all the pieces of paper say the same thing.

Tommy Joe Fridy: Can you say that...

Ken Ferry: Ok, let me be very specific...

Tommy Joe Fridy: May I ask one more question?

Ken Ferry: Sure.

Tommy Joe Fridy: Can you say that you are requiring them to amend the drawings to conform to something that is correct, conform something that is incorrect to something that is correct.

Ken Ferry: Yes.

Tommy Joe Fridy: Can you help us to phrase that?

Ken Ferry: Yes.

Dickie Johnson: Ken, was this a problem that was on the original drawings or the published drawings?

Ken Ferry: I admit that I signed the drawings only reviewing comments I made in L.D.C. without even taking the time to review the calculations because I only had them for about twenty-four (24) and simply hadn't had the time before last Tuesday to review them. So, I made my review based solely on my previous comments one of which was I needed calculations. I received those I didn't have a chance to look at them so to keep the project moving I signed the drawings hoping that everything would jive and they didn't. So, I put us in this position.

Dickie Johnson: Well mistakes can happen.

Ken Ferry: I would like to invite the engineer up here to talk with me because I don't want to make him promise to do something he is not willing to do and frankly I'm not sure which the more correct number is.

Mac Arnold: If you say there was a discrepancy, are one of them correct and the other one incorrect.

Ken Ferry: Aaron.

Aaron Arnold: Aaron Arnold, Arnold Consulting Engineering Services, 1136 South Park Drive, Bowling Green, Ky. 42103. To answer that question, yes. The profile that is shown on the construction drawings

that show the storm sewer and the calculations match. There is a table that calls out specifically the sizes of the pipe on the plan view sheet that do not state the correct size of pipe. So the plan view shows them all as fifteen (15) but the calculations and the profile show the last four pipe as eighteen (18) inch. So, with his question of we agree to revise the drawings or revise that one sheet, the plan view sheet, to correct those to eighteen (18) inch pipe to reflect or be in agreement with the profile and the drainage calculations.

Tommy Joe Fridy: Ok, help us and somebody write this down.

Ken Ferry: The condition would need to be that the plan sheet C-2 be revised, reconciled may be a better word, to match profile sheet C-3 and the storm water calculations that had been submitted. Is that specific enough?

Taunya Eyre: So subject to the submission by the developer of plan sheet C-2 and profile sheet C-3 to correct the discrepancies and the storm water calculations to eighteen (18) inch pipes.

Ken Ferry: Not quite. The plan sheet C-2 be reconciled with profile sheet C-3 and the storm water calculations to reflect eighteen (18) inch pipe at the appropriate places.

Taunya Eyre: Storm water what?

Ken Ferry: To reflect and eighteen (18) inch storm water pipe at the appropriate places.

Penny Hahn: Will this affect the cost of bonding?

Ken Ferry: No.

Penny Hahn: It's not significant?

Ken Ferry: Not significant.

Tommy Joe Fridy: Let's just so move and we can pull his language off the tape.

Taunya Eyre: So moved.

David Williams: This is what I recorded for you Ken. That we would make this motion subject to the Plan Sheet C-2 be reconciled with Profile Sheet C-3 and submitted storm water calculations to reference an eighteen (18) inch pipe at the appropriate places.

Ken Ferry: Yes.

Tommy Joe Fridy: That's your motion?

David Williams: That's my motion.

Tommy Joe Fridy: That's the subject to and it's subject to bonding, do you have the amounts?

David Dixon: What is the motion?

Taunya Eyre: We don't have a motion yet we're just trying to figure out...

Chairman McKee: Ken did you say the bonding will not change?

Ken Ferry: It's not significant...

Chairman McKee: So the subject to is not about the bonding it's about...

Ken Ferry: Correct, well you always have a condition that the bonding be submitted because it's not yet I'm assuming.

Tommy Joe Fridy: Can I make a suggestion? If something like this happens again, will you come here with a written...?

Ken Ferry: Sure.

Taunya Eyre: Like the bonding sheet.

Ken Ferry: Sure.

Tommy Joe Fridy: Proposed motion of the subject to so that we are not grappling around with engineering terms in a meeting?

Ken Ferry: Sure, I apologize for putting you in an awkward position.

Chairman McKee: So Mr. Fridy, are you ok with that language now as a subject to?

Tommy Joe Fridy: Seems reasonable to me, I believe David has it extremely accurate if he wants to make the...

Chairman McKee: Ken would you agree that David's language is accurate?

Ken Ferry: Yes.

Chairman McKee: Will you make the motion then David?

Taunya Eyre: I have questions before we go there; we have not made any discussion about this. So, I want to go back to 11 and 12 I believe, if I'm not mistaken, there is the Civil War Cemetery on Lot 11 that I want to make clear that we still have the access to it and that all State requirements regarding that; Denny I know you know about that. Am I correct that this is the one it affected right?

Dennis Branson: It is. Can you zoom in down there, there is a note. You got it. We are going to use this language on the final plat as well when we decided to add Lot 13 it became a little more difficult to define an exact location for ingress and egress. So, we decided to allow ingress and egress under certain parameters that we have described in the note, the cemetery access note.

Taunya Eyre: I love it.

Dennis Branson: It allows for maintenance, it limits the type of access and respects the property owner's rights for commercial and security reasons.

David Dixon: It does allow visitation in addition to maintenance?

Dennis Branson: Yes.

Dickie Johnson: What are the limitations of the commercial development?

Dennis Branson: Maintenance and visitation are accessed to the cemetery would be limited to certain hours. Because there is a commercial use, I know the property owner wouldn't feel comfortable with untethered access at midnight, for example, by persons who may or may not have a legitimate reason to be there. So, it allows them to control when that access occurs, what can actually happen to get there, where it's going to be, provides for definite access for maintenance and visitation though and they can't be denied that but it can be controlled.

Dickie Johnson: And the owner right now is not going to be Merrill Place or the Merrills? It's going to be Owensboro Health.

Dennis Branson: It will be developed and whoever develops or builds on it for whatever use will have some control over what happens on their property.

David Williams: How are they going to get to the place?

Penny Hahn: Apparently a lawn tractor.

Dennis Branson: It's described in the note David.

David Dixon: Drive a lawn tractor, that's the biggest thing you can drive back there?

Penny Hahn: Is that normal?

Dennis Branson: It would be reasonable and you wouldn't need to get any kind of equipment back there to maintain the cemetery, you would just need normal lawn-type maintenance things; weed eaters...

Penny Hahn: But for visitation?

Taunya Eyre: They can walk.

Penny Hahn: They can walk?

Taunya Eyre: Oh yeah.

Penny Hahn: And they need twenty-four (24) hours' notice?

Dennis Branson: Yes. You need to understand there is nobody there visiting this and hasn't been for many, many, many, many years. We just didn't want to burden a commercial user with opening security issues for unlimited access, it could be a problem.

Penny Hahn: Ok.

Chairman McKee: Correct me if I'm wrong but did we not get advice that the State regulated how we would treat this cemetery?

Dennis Branson: As far as I know I don't know of any requirements that the State has for how you allow access to a cemetery.

Taunya Eyre: That was just for the land itself and not disturbing it, those are State requirements; disturbing that portion of the land.

Chairman McKee: So the granting of ingress and egress is just out of the kindness of your heart?

Dennis Branson: You could say that but I'm not sure. I really don't know the legal responsibility we have to grant ingress and egress but it is the thing to do regardless of whether we have a duty to do it.

Mac Arnold: Denny would there be any reason historically for someone to come in and excavate or exhume any of the graves or anything in there?

Dennis Branson: I wouldn't know Mac. I wouldn't be able to predict what reasons somebody might have.

Mac Arnold: The comment was made nothing larger than a lawn tractor come in there, that would kind of, he's going to have to go in there with what they say, a Mexican backhoe.

Dennis Branson: I would say you would have a whole different set of problems if that became necessary and in the face of the access they were granted. I would think, and I'm not a lawyer, but I would think that the granting of ingress and egress and the limitations put on it which I think are reasonable limitations, would not have anything to do with any future subsequent events that might occur that would require some other action such as exhumation of grave sites. I can't imagine they would be related or in conflict with each other.

Chairman McKee: Does the Planning Commission have any responsibility for that?

Tommy Joe Fridy: I don't know. I strongly suspect that this restriction is narrower than State Law but access to a cemetery is not something I can answer on the spot at a Planning Commission meeting with no notice. As the attorney for the developer researched that? He's in the audience.

Chairman McKee: Mr. Hopgood, would you please state your name and address for the record please?

Chris Hopgood: Chris Hopgood, 318 Second Street.

Tommy Joe Fridy: Are you making a certification that this restriction is in compliance with State Law?

Chris Hopgood: What I understand is that if there is a cemetery, you need to allow reasonable access and I think this constitutes a reasonable access.

Tommy Joe Fridy: Isn't there a statute that deals with this?

Chris Hopgood: I believe there is.

Dennis Branson: One thing to keep in mind is this is a preliminary plat; this doesn't go on record anywhere until we do the final plats. So we've got, we're not asking you to approve the final plat or language, if we need to check into that before we submit the final plat for approval and recommendation.

Chris Hopgood: Obviously, there is no objection to requiring us to comply with State Law and cemetery access.

Mac Arnold: The cemetery is such, right on the property line there, I guess you could access that from the Parkway right of way couldn't you not?

Chris Hopgood: No.

Taunya Eyre: There is a big fence that goes all the way along...

David Dixon: If it became serious enough and necessary, yes that fence would not stop anybody from moving or doing what had to be done

there if somebody said we've got to move this. I'm sure there would be regulations all over the place for any kind of disruption.

Taunya Eyre: I was just thinking reasonable access to like visitors and stuff. The Parkway is not an option.

Chris Hopgood: No, I think that is why we have included it. I don't think you're allowed as a pedestrian to be on the Parkway.

Chairman McKee: I guess the other side of the equation is what happens if you don't provide ingress and egress access that complies with State law?

Chris Hopgood: I think then you are looking at a civil suit between those that would want to get there and the owner.

Chairman McKee: But would we be, we as a Planning commission be held accountable for not having dealt with that in the process.

Chris Hopgood: I think that is going to be a civil action between, not between you and the people that want to get there but the owner because it's the owners' rights that are being affected. So, if the owner has been too restrictive, the court would handle that. I think we can cover it just by requiring the access that is mandated by State law.

Tommy Joe Fridy: That sounds reasonable to me instead of this...

David Williams: Should we make that part of the motion?

Chris Hopgood: I think that would be wise.

David Dixon: Instead of the language that is on the plat?

Tommy Joe Fridy: Yes, to change that language.

David Williams: Ok, so the language will be that the egress and ingress would be subject to...

Tommy Joe Fridy: Would be in compliance.

David Williams: Ok, will be in compliance.

Dennis Branson: Chris I would like to add that whatever we change the language to be, we're committing that whatever that language is we'll comply with State law.

Tommy Joe Fridy: I disagree with you.

Dennis Branson: That we are committing to comply with State law?

Tommy Joe Fridy: No, but are you saying that you are going to add restrictive language or are you going to have the simple language that you are providing ingress and egress to comply with State law, that's what your attorney said. It seems to me that you're saying that as long as, in your judgment, complies with State law you can add stuff Mr. Branson.

Dennis Branson: I understand the distinction that you're making.

Tommy Joe Fridy: This is a pretty serious matter.

Dennis Branson: I understand the distinction that you're making and I smiled only because you did. So you are suggesting that we put a note, some notation on the plat or provide for on the plat simply ingress and egress that complies with State statutes?

Tommy Joe Fridy: I am. It's not a final plat and it may be that we all want to (inaudible). But for the purposes of this motion let's leave it simple.

David Dixon: Could we, when we look at this again know what the State law says?

Dennis Branson: Before we finish the final plat we will ask the Planning Commission, staff and counsel to review it, we will write the note.

Tommy Joe Fridy: Counsel, would you write a letter to the Planning Commission an opinion letter as to what the requirements of an ingress and egress to a cemetery are?

Chris Hopgood: Will do.

Tommy Joe Fridy: Thank you.

Dennis Branson: I apologize for the note. I thought we were doing a service to the public, to the occupants, to the heirs and to the property owners.

David Dixon: I agree completely. We may find that what you have proposed here is more generous than what State law requires.

Dennis Branson: Maybe, but Tommy's point is that the simpler that acknowledgement is, the better actually it's going to be for all parties in the future I think. I think that's what you getting to and I don't disagree with that.

David Dixon: I agree too.

Chairman McKee: Thank you both.

Chris Hopgood: Thank you.

Chairman McKee: Are there any other questions?

Kevin Richard: I have one more for Denny. I forgot to bring my packet with me from June 2, also on Lot 11 wasn't there some discussion of power easement or relocation of a power easement?

Dennis Branson: Lot 11? The power easement that crosses diagonally across Lot 11 will stay there; HMP&L needs that line to feed other

things. So, it used to go straight across the movie theatre lot, or Lot 6, what we call the movie theatre lot and they re-routed it so we abandoned that and got a release from that part of the easement but this part remains.

Kevin Richard: I remembered some discussion on the power lines; I was just making sure it was accounted for in this new...

Dennis Branson: Also we have changed on this plan the route of the sanitary sewer. The plan previously approved we had the sanitary sewer routed behind Wal-Mart was the best place to put it because we didn't know what we were going to do with Barret Blvd. for sure, even though we had a master plan and now we re-routed the sanitary sewer to coincide with future right of way position that we believe is the direction of the future development of the farm.

Claudia Wayne: Kevin we have a right of way easement. It's recorded between Boynton Merrill and Henderson Municipal Power & Light, it's a recorded document.

Kevin Richard: Ok.

Dennis Branson: We will be coming back in the near future for an annexation of the remainder of the farm also that we haven't asked for before, so you can see a map.

David Dixon: There will be many steps ahead on this project right?

Dennis Branson: I'm sorry?

David Dixon: There will be many steps ahead on this project?

Dennis Branson: Many, many, many, many, yes. There have been many and it's a huge project and it's a big deal for Henderson. We didn't annex that portion that was in the flood zone before because it

didn't make any sense to do it, couldn't develop it. Since the new flood maps all of that acreage, maybe fifty (50) or sixty (60) acres in there was previously under your flood zone is now not at all. So that all becomes available for development and we are going to be annexing that into the City because you can see on the plat we're now getting close to the City limits line so we need to go ahead and get that. That will be coming to you guys probably in September or October, whenever we get that ready for you.

Chairman McKee: Any other questions for Mr. Branson, questions for staff? Would you say all issues have been covered?

Brian Bishop: I hope so, Mr. Chairman would it be appropriate to go over the subject to's at this time?

Chairman McKee: I think it would be very appropriate.

Brian Bishop: As I was taking notes, this is what I have;

*1. Subject to an ingress and egress note that is in compliance with State law and Mr. Hopgood is going to give us a legal opinion so we can verify that the note is in compliance with State law*

*2. Subject to the bonding of the water, sewer and storm water improvements which will total \$119,788.*

*3. Subject to the street and sidewalk improvement bonding, which will total \$362,000. The total of the bonding amounts is \$481,788.*

*4. Subject to the language provided by Commissioner Williams regarding the storm water calculations.*

Chairman McKee: Does anybody find exception to that language? Hearing none, Chair will entertain a motion.

**MOTION WAS MADE BY DAVID WILLAMS, SECONDED BY TAUNYA EYRE TO ACCEPT THE MERRILL PLACE SUBDIVISION SECTION 2, LOTS 11, 12 & 13 PRELIMINARY AS SUBMITTED BY CLARK AND CYNTHIA MERRILL AND FRANCIS O’SULLIVAN FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON, PID#65-13, ADJACENT TO 1170 BARRET BLVD. SUBJECT TO; THE PLAN SHEET ON C-2 BE RECONCILED AND APPROVED BY HENDERSON WATER AND UTILITIES WITH THE PROFILE SHEET C-3; SUBMITTED STORM WATER CALCULATIONS TO REFLECT AN EIGHTEEN (18) INCH PIPE AT THE APPROPRIATE PLACES; THE BONDING OF \$119,788 FOR WATER, SEWER AND STORM, ROADWAYS \$290,000, SIDEWALKS \$72,000 FOR A TOTAL BONDING OF \$481,788, AND SUBJECT TO A NOTE BE PLACED ON THE PLAN THAT THE EGRESS/INGRESS TO THE CEMETERY WILL BE IN COMPLIANCE WITH STATE LAW AND THAT A LETTER WILL BE SUBMITTED FROM THE ATTORNEY FOR THE APPLICANTS THAT WILL SUPPORT THIS NOTE.**

Chairman McKee: Counsel I would like to ask if you are ok with that?

Tommy Joe Fridy: Sounds reasonable to me. Yes, I am satisfied.

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: Next on the agenda is the Planning Commission Finance Report for July 2015, Mrs. Curtis are you going to review that with us.

Theresa Curtis: Does anyone have any questions?

Chairman McKee: If not, a motion would be in order.

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY MAC ARNOLD TO APPROVE THE FINANCE REPORT FOR JULY 2015 AS PRESENTED.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Next on the agenda is the bond report, Mrs. Wayne.

***MOTION WAS MADE BY MAC ARNOLD, SECONDED BY TAUNYA EYRE TO APPROVE THE BOND REPORT FOR JULY 2015 AS PRESENTED.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: Is there any other business?

Brian Bishop: Yes sir. I would like to remind the Planning Commission members that we have a work session regarding the land use chapter of the Comprehensive Plan. Theresa has given you a copy of the existing chapter and we would like to request that you take a look at it before Thursday evening. The workshop begins at 5:00 pm at the Peabody Building in the large conference room at the end of the hall, so we hope to see you all there. I have personally invited the Fiscal Court and the Mayor who is going to extend my invitation to the City Commission. We have notified the press and I am going to post on Facebook on our account so that way we can try to garner as much input from the public as possible.

David Williams: Since you brought Facebook up, have there been any issues with the Facebook account.

Brian Bishop: Not that I'm aware of. Mainly what we have been posting are stories regarding Henderson or the Planning Commission, there's not been any personal comments so it's been strictly news related in conveying information.

Chairman McKee: The text of this existing balancing land use, there is not a map yet; we do not have a land use map?

Brian Bishop: We do not have that yet; we are going to wait for input from the public. Thursday evening when you get to the Planning Commission office, we plan to have a series of maps available to you and the public. We are going to have a map showing the existing zoning of Henderson County and the City. We will have a map showing the future land use map, what it was in 2005 and we will have several blank maps so people can make notes on, draw on if they like. We are going to have a map showing flood hazard because that's our most prominent natural hazard that we have to deal with and any other maps you think we need, they are easily made and we can make available to the public. We will also have the full use of the GIS so if anyone has any question about any specific area we can zoom to it and investigate it further.

Chairman McKee: This is what's in the current Comprehensive Plan?

Brian Bishop: Correct.

Chairman McKee: Not what the consultant or anybody else has helped you draft.

Theresa Curtis: It's right out of the old, starting from scratch.

David Dixon: We don't have a proposal there?

Theresa Curtis: No, this is the beginning chapter; we haven't done any work on balancing land use. This is the old chapter out of our old

Comprehensive Plan, that's what the work session is for. Everyone is supposed to add their input.

Brian Bishop: I think what's throwing you off is Theresa has placed the text of the old document into our new format. That's probably what's throwing you off, that's why it looks different.

David Dixon: The one that I read through and marked up and etc. after picking up last week, is that the existing version or is that a proposed new version?

Theresa Curtis: It's the old Comprehensive Plan, the one we are getting ready to update.

David Dixon: And the one I got tonight is the same thing?

Theresa Curtis: The exact same thing just with a different cover page.

David Dixon: Very good, thank you.

Chairman McKee: The changes that I, I say changes, that are in red for example "and" is struck with Columbia Distribution Center being added, that's recent or was that done in the old one as well?

Theresa Curtis: That's going to be some of the highlights that we are going to talk about for the new one.

Chairman McKee: So you actually altered the old one a little bit?

Theresa Curtis: I put a few little notes in there myself, so we can make sure we approach it.

Chairman McKee: Are there any questions about our assignment between now and Thursday?

David Dixon: Do we have recommendations or kind of work from the recent vision committee adds to this chapter or document.

Brian Bishop: The staff does not have any recommendation for you at this time. That is certainly something we would be comfortable looking at. We will have copies of the Vision Plan there so we can reference it.

David Dixon: Do they touch on it, do they deal with this?

Brian Bishop: They touched a lot on enabling I-69; they touched a lot downtown and Central Business District. We will obviously be addressing issues like the Audubon Residential, Audubon Commercial, Gateway District so there's going to be additions to that that may or may not be reference in the Vision Plan. They may not be referencing the Vision Plan in that the person, the majority of the people that make comments on the Vision Plan just are not familiar enough with zoning to know those exact zones.

David Dixon: Exactly. I just wondered if we were starting from scratch or not.

Brian Bishop: The existing chapters are probably going to be our boiler plate that we start from and add to and take from.

Chairman McKee: If there are differences we can resolve those Thursday night?

Brian Bishop: Well that's the first step. You can certainly provide input and then staff...

Chairman McKee: This is just the beginning, it's just the beginning?

Brian Bishop: Correct. Then staff will make revisions as they are needed or as they are appropriate.

Chairman McKee: Any other comments? Is there any administrative business?

Brian Bishop: Not at this time. Anybody have anything for the good of the Planning Commission?

David Williams: Yeah, we adjourn.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY TAUNYA EYRE TO ADJOURN.***

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

***MEETING ADJOURNED AT 7:00PM***