

Henderson City-County
Planning Commission
March 5, 2019

The Henderson City-County Planning Commission held a meeting March 5, 2019 at 6:00 p.m., at the Henderson Municipal Center, 222 First Street, 3rd floor assembly room. Members present: Chairman Herb McKee, David Williams, David Dixon, Rodney Thomas, Gary Gibson, Bobbie Jarrett, Kevin Richard, Kevin Herron, Gray Hodge, Doug Bell and Attorney Tommy Joe Fridy. Dickie Johnson and Mac Arnold were absent. Staff present: Director Brian Bishop, Assistant Director Claudia Wayne, Theresa Curtis, Heather Lauderdale and Chris Raymer.

Chairman McKee: Let's call this March 5, 2019 meeting of the Henderson City-County Planning Commission to order.

Madame Clerk, will you please call the roll?

Chairman McKee: We have a quorum?

Madame Clerk: We do.

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

MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT TO GO INTO PUBLIC HEARING.

Chairman McKee: We've got a motion and a second, any discussion?
All in favor signify by saying aye.

ALL IN FAVOR: AYE

Chairman McKee: Are there any opposed?

OPPOSED: NONE

Chairman McKee: We are in Public Hearing.

The first item on the agenda are the **minutes of the February 20 meeting**, are there any additions or corrections?

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY BOBBIE JARRETT TO APPROVE THE FEBRUARY 20, 2019 MINUTES AS DISTRIBUTED.

Chairman McKee: We've got a motion and a second, any discussion?
All in favor signify by saying aye.

ALL IN FAVOR: AYE

Chairman McKee: Are there any opposed?

OPPOSED: NONE

Chairman McKee: The minutes are approved.

Next on the agenda, **Rezoning #1091 with a Narrative Development Plan**. Mr. Bishop, are you going to lead that discussion?

Brian Bishop: Yes sir.

Chairman McKee: Please proceed.

Brian Bishop: This is submitted by Allan Taylor and Chase Fulcher for the property located in the City of Henderson, at 132 Carlisle Street (PID# 2-17-1-18) containing approximately 27,928 square feet which is roughly 0.64 acres (the "subject property"). Applicant is requesting a zoning change/Map Amendment from Gateway District Zone (GDZ) to General Business (GB) with a Narrative Development Plan for landscaping, lawn care and lot maintenance service business.

You may remember this property, it's the old Personal Safety building, located at Second and Carlisle. It's been a little bit of everything over the years, I believe at one point, Mr. Taylor operated Personal Safety

Equipment out of there. Most recently, it has been the Habitat for Humanity ReStore but they have recently moved across Second Street so the property is currently vacant.

Staff has met with the Codes Department, and we have discussed the terms of the Narrative Development Plan. Everyone was adamant that outside storage of the equipment would not be allowed so they would be more conducive with the Gateway District. Everything is existing, they will not be adding any new infrastructure or improvements.

Other than that, we will do our best to answer any questions, and staff recommends approval.

Chairman McKee: Questions for staff? Go ahead.

David Williams: Can you tell me why this was included in the Gateway District?

Brian Bishop: I cannot 100% do that, I was not Director when that took place. My guess is that it looked good on the map. You know, Clark Street looked good on a map. We were going to go from Green Street to the overpass, so that was a good idea at the time. With the historical use and the nature of the building, it probably should not have been put in the Gateway District, and I doubt there would be any Gateway use that was really conducive to that type of building due to its warehouse and general nature.

Chairman McKee: Further questions for staff?

Brian Bishop: It currently has no direct access to Second Street, and it was previously zoned General Business before the rezoning to Gateway.

David Williams: So, you can't see it going across Second Street, over the viaduct?

Brian Bishop: You can see above it a little bit.

David Williams: Any outside storage planned for this?

Brian Bishop: No. We were adamant that all the equipment and trailers, things of that nature would need to be stored in the structure. That's not to say they may not be parked outside when they come back for lunch or things like that but, the Codes Department and our staff were very clear with the applicant and they agreed that outside storage is not conducive at this location.

David Dixon: Is access to Second Street contemplated or even possible?

Brian Bishop: I don't believe it's possible with the ramp there.

David Williams: Is there going to be any shielding or screening necessary?

Brian Bishop: The Codes Department and staff did not recommend that due to its grade change being lower than the overpass, and then there's already an industrial-type building to the east of it, and then houses across the street on Carlisle are actually zoned General Business themselves.

This is a large warehouse that's used as a gymnasium for lack of a better word where they have a lot of gymnastics and tumbling. Then this is one-family residences but they're zoned General Business. (Referring to the map projected on the screen)

This area was recently zoned to Industrial. The members of the Planning Commission may remember Heistand's Towing going there.

So, basically the structures from Carlisle and east are all industrial in nature.

David Williams: So, in your opinion, this zoning will better fit the overall development plan?

Brian Bishop: Yes sir, I do. I think with the historic use of the building and the type of structure that it is, things that would be appropriate for the Gateway are not conducive to that site.

David Williams: Thank you. Yes, Mr. Fridy.

Tommy Joe Fridy: The Development Plan limits them in that they have agreed and it will be part of the rezoning if it's approved, that they cannot have outside storage.

Chairman McKee: Other questions for staff? Would you like to hear from the applicant?

Yes sir?

Tommy Joe Fridy: I would like to ask the applicant or his attorney a question about the Development Plan.

Chairman McKee: Counsel is coming towards the podium; would you please state your name and address for the record?

Chris Hopgood: Chris Hopgood, 318 Second Street.

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

Chris Hopgood: I do.

Chairman McKee: Thank you sir, please proceed.

Tommy Joe Fridy: Is it your client's intention to limit the use of this property to...help me with the wording and the...

Chairman McKee: Landscaping.

Tommy Joe Fridy: Landscaping business.

Chris Hopgood: We styled it as landscaping, lawn care, and lot maintenance services.

Tommy Joe Fridy: But are you limiting it to that and none of the other possible uses in a General Business?

Chris Hopgood: Correct. If that had to change, then we would have to come back and then amend the Narrative Development Plan.

Tommy Joe Fridy: Would your client agree, if this is approved, for you and I to make that clear in the Development Plan?

Chris Hopgood: Sure.

Tommy Joe Fridy: Ok. I believe that's the intention but I would like for us to clean it up a little.

Chris Hopgood: That will be fine.

David Williams: Mr. Hopgood, the business is going to necessitate the use of trailers?

Chris Hopgood: Yes.

David Williams: And lawnmowers and things?

Chris Hopgood: That's what I understand.

David Williams: Will those be kept inside or off-site or...

Chris Hopgood: From my understanding it will be inside. Which this building has lots of space for that. I know if you've got one of those trailers and there are lawnmowers on the back, the last thing you want your lawnmower to do is get rained on. Mine intends not to run well when it gets rained on, so.

David Williams: So, would a person driving to or from Henderson across the viaduct, and they look over that side; the passenger side, what are they going to see?

Chris Hopgood: You're never going to see anything on the backside, because you can't see the backside. The access to the building is on the backside. There is nothing on the Second Street side.

Brian Bishop: Mr. Hopgood, there's a laser pointer right there if you would like to use it, please.

Chris Hopgood: It's my understanding that this is where you get into the backside of the building, that's where you would store. All of this over here is the front door of the old Personal Safety building, and there's nothing out here.

I suppose, technically, that if you put something right there then someone could see it but if I'm going in that garage door, that's where I'm going to be; back there.

David Williams: I'm not talking necessarily about the comings and goings of equipment but the overnight parking and things like that; weekend parking and stuff.

Chris Hopgood: Sure, this is the parking area back here, it will be hidden by the building. During the day when they come in for lunch, it will all be back there.

Tommy Joe Fridy: I believe it says that you will not store outside, is he asking to store outside?

Chris Hopgood: No.

Tommy Joe Fridy: Ok. So, he can't.

David Williams: Thank you Mr. Hopgood.

Chris Hopgood: Brian mentioned that when you come in for lunch, you may park your truck outside; it'll be on the backside.

Tommy Joe Fridy: That's not storage.

Chris Hopgood: Right.

Chairman McKee: Any further questions for Mr. Hopgood?

Chris Hopgood: Let me give you a little history as to how we got there, it wasn't in our Development Plan but Chase owned the Qualis building over here. Habitat was buying this on contract from Alan Taylor. Habitat outgrew the Personal Safety building, so they wanted to acquire the Qualis building, which was vacant, and Chase sold them the Qualis building and agreed to take the Personal Safety building to help them in the exchange to help ease the burden on their cost.

So, Chase didn't go out and look for the Personal Safety building, it was taken as a trade-in, so to speak, on the Qualis building. So, that's how we ended up here.

Chairman McKee: Thank you sir. Any further questions?

Chris Hopgood: That's why Alan Taylor is also an applicant, he's selling it on contract.

David Dixon: What was the proposed amendment to the Development Plan?

Tommy Joe Fridy: That the use is limited to the lawncare; you'll find the words in there.

Chris Hopgood: Landscaping, lawn care and lot maintenance.

David Dixon: Ok.

David Williams: That's an amendment, so we're going to have to add that in to the motion.

Tommy Joe Fridy: And we'll re-draft it, and make it part of the...yes.

David Williams: Ok, so how would that fit in our proposal.

Claudia Wayne: It's right here.

Tommy Joe Fridy: You say the words and provide that he'll sign it, it's something that we often do; that somebody agrees to put on paper what they agreed to in the meeting.

David Williams: So, essentially, we'll have to say that we'll approve it on the basis that there will be no outside storage?

Tommy Joe Fridy: Yes.

David Williams: Ok.

Tommy Joe Fridy: Well, that's already in there but that the use is limited to the lawncare whatever.

Chris Hopgood: To the only use identified in there.

Tommy Joe Fridy: Yes, the uses.

David Dixon: I think the motion should make reference to this Narrative Development Plan.

Tommy Joe Fridy: I agree, and that it's going to be... as they've agreed in the meeting it's going to be changed to comply with what has been said here.

Chairman McKee: Any questions of counsel on either side?

Thank you, Mr. Hopgood.

Any other questions for staff? Is there anyone here who would like to speak for or against this application?

Tommy Joe Fridy: Harvey raised his hand.

Chairman McKee: Oh, Mr. Ershig, please come to the podium sir.

Will you please state your name and address for the record?

Harvey Ershig: Harvey Ershig, 502 Norris Lane.

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

Harvey Ershig: To the best of my knowledge.

Chairman McKee: Thank you sir, please proceed.

Harvey Ershig: First of all, and I'm under oath but I am so deaf I can't hear anything that anybody asks me. I'll have to read your lips.

I came down here tonight to support the request, but also, I want to add a couple of other things.

About six (6) or seven (7) years ago, the Planning Commission asked me to review the proposals for the Gateway Zoning. I took it to heart because I wanted to do the right thing. I wrote them about a six (6) page

letter telling them all the problems they were going to have, or that I thought they were going to have.

They did change some of them, some of the things. I got a little response here that I got a few years ago. But I think action really speaks louder than words. I told Mr. Freese, who was Planning Director at the time, that if they passed this thing, they were going to kill Second Street.

Well, they have. There hasn't been a new thing started on Second Street that has required this type of zoning since the thing was passed. Zero. Absolutely zero.

I own a piece of property that is catty-cornered to this property. I have owned that property for sixty (60) years. I swear, sixty (60) years; most of it, and there hasn't been anything, nothing worth having that I would put on that lot. Now, I did get a call Thursday somebody wanted to put a doublewide on it. Now, that would really blossom-up Second Street.

What I'm asking this committee to do is review this thing. Review this ordinance, and put it back to the General Business where people know how to act, they know what's usable. You've absolutely killed this street.

I think, as I recall, when this thing was started a couple, maybe more, the Planning Commission went down to Franklin, Tennessee and looked at that community. It's a fine place. It's the wealthiest community in the United States. Henderson is pretty far down the rung on that, we're losing population not gaining. To put some of those ideas that are in Franklin to Second Street, you know it's like apples and oranges.

I don't know, some of the things in this ordinance are just, just killers.

That's all I'm asking for. Do you have any questions? Did you want to ask me something?

Chairman McKee: No sir.

Harvey Ershig: You looked like you were going to ask me something.

Chairman McKee: Does anyone else have any questions for Mr. Ershig?

Thank you for your comments Mr. Ershig, and they are duly noted.

Is there anyone who would like to speak for or against this application?

The Chair will entertain a motion.

MOTION WAS MADE BY DAVID DIXON, SECONDED BY RODNEY THOMAS IN REGARD TO APPLICATION FOR REZONING #1091 SUBMITTED BY ALLAN TAYLOR AND CHASE FULCHER FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON, AT 132 CARLISLE STREET (PID# 2-17-1-18 CONTAINING APPROXIMATELY 0.64 ACRES (THE “SUBJECT PROPERTY”). APPLICANT IS REQUESTING A ZONING CHANGE/MAP AMENDMENT FROM GATEWAY DISTRICT ZONE (GDZ) TO GENERAL BUSINESS (GB) TO OPERATE A LANDSCAPING, LAWN CARE AND LOT MAINTENANCE SERVICE BUSINESS WITH THE NARRATIVE DEVELOPMENT PLAN TO BE AMENDED AS DISCUSSED; I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE HENDERSON BOARD OF COMMISSIONERS (THE “CITY”) APPROVE REZONING APPLICATION # 1091 CHANGING THE ZONING CLASSIFICATION FROM GATEWAY DISTRICT ZONE (GDZ) TO A GENERAL BUSINESS (GB) ZONING CLASSIFICATION, FOR THE SUBJECT PROPERTIES, AND I LEAVE THE MOTION OPEN FOR OTHER MEMBERS OF THE

PLANNING COMMISSION TO ADD FINDINGS OF FACT IN SUPPORT OF THIS MOTION, BECAUSE:

THIS PROPERTY HAS NO ACCESS TO SECOND STREET.

THE SUBJECT PROPERTIES, LOCATED AT 132 CARLISLE STREET, ARE CURRENTLY ZONED GATEWAY DISTRICT ZONE (GDZ) AND THE PROPERTIES CURRENTLY ARE USED AS THE HABITAT FOR HUMANITY RE-STORE AND THE STRUCTURE HAS PREVIOUSLY WAS USED TO OPERATE PERSONAL SAFETY & SUPPLY. THE PROPOSED USED WOULD BE FOR THE OPERATION A LANDSCAPING, LAWN CARE AND LOT MAINTENANCE SERVICE BUSINESS WHICH IS NOT ALLOWED IN THE CURRENT ZONING DISTRICT.

THE EXISTING GATEWAY DISTRICT ZONE (GDZ) ZONING CLASSIFICATION IS INAPPROPRIATE AND THE PROPOSED GENERAL BUSINESS (GB) ZONING CLASSIFICATION IS APPROPRIATE, BECAUSE:

- THE SUBJECT PROPERTY WAS PREVIOUSLY USED A RETAIL STORE WITH WAREHOUSE STORAGE WHICH SUPPORTED MORE VEHICULAR TRAFFIC AND A GREATER NUMBER OF CUSTOMERS ON SITE.***
- THE SUBJECT PROPERTY IS ADJACENT TO OTHER PARCELS CURRENTLY ZONED GENERAL BUSINESS,***

WITH SINGLE FAMILY RESIDENCES AS THE CURRENT USE.

- ***THE CURRENT GATEWAY ZONING DISTRICT IS INAPPROPRIATE, BECAUSE THE PROPERTY HAS HISTORICALLY BEEN USED IN A COMMERCIAL NATURE.***
- ***THE PROPERTY HAS ADEQUATE SEPARATION FROM THE EXISTING ONE-FAMILY RESIDENCES IN THE IMMEDIATE AREA.***
- ***THERE ARE EXISTING STRUCTURES THAT ARE CONDUCTIVE TO THE PROPOSED USE.***

THE PROPOSED ZONING CLASSIFICATION IS IN AGREEMENT WITH THE GOALS AND OBJECTIVES OF THE COMPREHENSIVE PLAN, IN THAT:

- ***WISELY PLAN FOR LAND USES IN APPROPRIATE LOCATIONS TO MAXIMIZE QUALITY DESIGN AND MINIMIZE THE ADVERSE IMPACTS OF DEVELOPMENT. (BALANCING LAND USE GOAL # 1)***
- ***IDENTIFIES AREAS OF OPPORTUNITY FOR INFILL, REDEVELOPMENT AND ADAPTIVE REUSE THAT RESPECT THE AREA'S CONTEXT AND DESIGN FEATURES (BALANCING LAND USE OBJECTIVE A).***

Chairman McKee: We have a motion and a second. Would any Commissioner like to add findings of fact to the motion?

Mr. Fridy?

Tommy Joe Fridy: I make a recommendation that you add, "This property has no access to Second Street." That distinguishes it from most all of the other, from everything else still in the Gateway District.

Chairman McKee: Commissioner Dixon, will you accept that addition?

David Dixon: Yes.

Chairman McKee: Will the second accept it?

Rodney Thomas: Yes.

Chairman McKee: So, we have that addition made to the motion, and the second. Are there any other additions to the findings of fact to the motion?

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

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: So mote it be. Mrs. Fulcher, Mr. Hopgood thank you all.

That concludes the public hearing, the Chair will entertain a motion to go **out of Public Hearing**.

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY RODNEY THOMAS TO GO OUT OF PUBLIC HEARING.

Chairman McKee: We've got a motion and a second, any discussion? All in favor signify by saying aye.

ALL IN FAVOR: AYE

Chairman McKee: Are there any opposed?

OPPOSED: NONE

Chairman McKee: We are out of Public Hearing.

Next on the agenda is the **February Finance Report**. Mrs. Curtis, are you going to lead that conversation?

Theresa Curtis: Yes sir.

Chairman McKee: Please proceed.

Theresa Curtis: We're at sixty-five percent (65%) of budget, we have four (4) months left. If you have any questions, I'll answer them for you. If not...

Chairman McKee: Questions for Mrs. Curtis?

The Chair will entertain a motion.

MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY DAVID WILLIAMS TO APPROVE THE FEBRUARY FINANCE REPORT AS PRESENTED.

Chairman McKee: We've got a motion and a second, any discussion? All in favor signify by saying aye.

ALL IN FAVOR: AYE

Chairman McKee: Are there any opposed?

OPPOSED: NONE

Chairman McKee: Next on the agenda we have the **Bond Report**. Mrs. Wayne, are you going to lead that conversation?

Claudia Wayne: Yes sir.

Chairman McKee: Please proceed.

Claudia Wayne: Cane Creek II, Section 1; sidewalks, we're going to extend those one (1) year and leave the amount the same.

Cane Creek II, Section I; the recommendation is to reduce the amount to thirty-five percent (35%) of the original amount of \$104,460. They've got three (3) houses done in that new development and starting on the third one.

Chairman McKee: Questions for Mrs. Wayne?

MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT TO APPROVE THE BOND REPORT AS SUBMITTED.

Chairman McKee: We've got a motion and a second, any discussion? All in favor signify by saying aye.

ALL IN FAVOR: AYE

Chairman McKee: Are there any opposed?

OPPOSED: NONE

Chairman McKee: The Bond Report is approved.

Next on the agenda is Administrative Business. I will not read these, I will let Mr. Bishop do it. Will you please proceed Mr. Bishop?

Brian Bishop: Yes sir.

Number one on the list is the Henderson City-County Planning Commission Subdivision Regulations, Article III, Section 3.2(4) General Procedure.

That will coincide with number three; Amendments to Chapter 13-Flood Damage Prevention Ordinance, Article V, Section 13-20.

If you guys will remember that we often bring subdivisions to the Planning Commission that are in the flood plain, they are normally pretty benign subdivisions that we would normally approve in the office.

But the Subdivision Regulations and the Flood Damage Prevention Ordinance requires that they have a public hearing.

Staff would recommend that we change this language so that they can be approved in-house for several reasons;

One, it does not offer any other safety or protection to the general public. When the plats are recorded, they still are affixed with the same note, they are still recorded in the courthouse, there is no knowledge of the general public that we've held a public hearing.

Secondly, we are slowing people down. For example, this past month we had someone subdivision one (1) acre off a five (5) acre tract I believe. We unnecessarily made that process longer than it could have been. Staff could have reviewed that, stamp the note letting everyone know that it's in the flood plain, and then it could have been processed much faster.

So, we do that to increase the business friendliness, as much as I hate that term, for the general public. So, while doing that we noticed that the sections of the zoning ordinances for the City and County should be updated as well.

They currently reference the 2013 map and there is not language to adopt subsequent maps like the ones that were done in 2017. So, we would like to update the language to automatically update maps as FEMA publishes the maps. But, before we did, we wanted to make sure the Planning Commission itself was ok with that.

With that, I'll answer any questions you may have.

Chairman McKee: No other characteristic of the application, other than it being in a flood plain, a flood hazard zone would trigger this action?

Brian Bishop: Correct.

Chairman McKee: So, if there's anything else going on that would require Planning Commission approval...

Brian Bishop: For example, if it was a major subdivision, it would still come to the Planning Commission. This would only be the minor subdivision that staff would approve normally in-house without a full hearing at the Planning Commission.

Chairman McKee: Questions for staff?

Rodney Thomas: Sounds like a no-brainer.

Chairman McKee: Underline sounds like a no-brainer. (laughter)

Hearing none, do you need a motion...will the motion cover all four (4) of these items?

Brian Bishop: It's not necessarily a motion I believe, I was just seeking input.

Tommy Joe Fridy: You can amend it without having the language here.

Chairman McKee: We're blessing the drafting of the language?

Tommy Joe Fridy: A vote of approval or a show of approval before he does the work to x-out and add-in...

Chairman McKee: So, based on the description of the changes, the Chair will entertain a motion to encourage and authorize staff to draft the language and bring it back to us for final approval. A motion?

MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY DOUG BELL TO ENCOURAGE AND AUTHORIZE THE STAFF TO DRAFT THE LANGUAGE REGARDING THE TEXT AMENDMENTS TO; HCCPC SUBDIVISION REGULATIONS, ARTICLE III, SECTION 3.2(4) GENERAL PROCEDURE; AMENDMENTS TO THE CITY OF HENDERSON APPENDIX A-ZONING, ARTICLE XXVI, SECTION 26.02-BOUNDARIES; AMENDMENTS TO CHAPTER 13-FLOOD DAMAGE PREVENTION ORDINANCE, ARTICLE V, SECTION 13-20; AND AMENDMENTS TO THE HENDERSON COUNTY ZONING

***ORDINANCE, ARTICLE XXIV, FLOOD-PRONE AREAS,
SECTION 24.02-BOUNDARIES.***

Chairman McKee: We've got a motion and a second, any discussion?
All in favor signify by saying aye.

ALL IN FAVOR: AYE

Chairman McKee: Are there any opposed?

OPPOSED: NONE

Chairman McKee: So mote it be.

Is there any other business to come before?

Brian Bishop: No sir.

Chairman McKee: We're glad Mr. Fridy is back from Florida.

Tommy Joe Fridy: I would have rather waited a week. (laughter)

Chairman McKee: And we congratulate you, Commissioner, on your construction coming out of the ground.

Doug Bell: Thank you.

Chairman McKee: It won't be long.

The Chair will entertain a motion to adjourn.

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY
KEVIN RICHARD TO ADJOURN.***

Chairman McKee: We've got a motion and a second. All in favor signify by saying aye.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: We are adjourned.

MEETING ADJOURNED AT 6:28 P.M.

I, HEATHER LAUDERDALE, hereby certify that the foregoing is a true and accurate transcription of the Henderson City-County Planning Commission Meeting of, March 5, 2019 to the best of my ability.

Heather Lauderdale, HCCPC Clerk

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