

Henderson City-County
Planning Commission
April 4, 2023

The Henderson City-County Planning Commission held a meeting April 4, 2023 at 6:00 p.m., at the Henderson Municipal Center, 222 First Street, Third Floor Assembly Room, Henderson, Kentucky. Members present: Chairman David Dixon, Vice-Chairman Kevin Richard, Dickie Johnson, Gary Gibson, Bobbie Jarrett, X.R. Royster, Gray Hodge, Stacy Denton, Kevin Herron, Doug Bell and Tommy Joe Fridy. Mac Arnold and Frank Boyett were present via ZOOM. Staff present: Director Brian Bishop, Theresa Curtis, Heather Lauderdale and Chris Raymer. Jennifer Marks was absent.

MEETING BEGAN AT 6:03 PM

Chairman Dixon: I would like to call this April 4, 2023 meeting of the Henderson City-County Planning Commission to order.

I would like to thank everybody for coming. You all are most welcome and we appreciate your interest.

Madame Secretary, will you please call the roll?

Heather Lauderdale: Yes.

Chairman Dixon: Do we have a quorum?

Heather Lauderdale: We do, thank you.

Chairman Dixon: Very good, thank you.

I would like to propose, so we may streamline things we have this evening if we re-order the agenda.

I will suggest that we deal with Rezoning #1143 then skip up to the two (2) site plans and come back to the alleyway closure request.

I'll entertain a motion to that effect.

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY GARY GIBSON TO RE-ORDER THE AGENDA.

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

All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed?

So, I need a motion to go into public hearing.

MOTION WAS MADE BY DOUG BELL, SECONDED BY KEVIN RICHARD TO GO INTO PUBLIC HEARING.

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

All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed?

We are in public hearing.

The first item of business is approval of the **minutes from the March 7, 2023 meeting.**

I'll entertain a motion to approve the minutes.

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY BOBBIE JARRETT TO APPROVE THE MARCH 7, 2023 MINUTES AS DISTRIBUTED.

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

All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed?

The minutes have been approved.

The first item in the public hearing is **Rezoning #1143**. Mr. Bishop?

Brian Bishop: Yes sir. This is submitted by Holy Name Parish of Henderson, Kentucky for the property located in the City of Henderson at 220 North Ingram Street (PID# 3-1-3-8), containing approximately 3,220 sq. ft. Applicants request a zoning change/map amendment from Medium to High Density Residential District (R-3) to General Business District (GB) to construct a workshop for the church.

As you can see, Theresa has highlighted the parcel in question. The church would like to demolish that building and then build a work/maintenance type shop there but to do that they need to consolidate that parcel into that main parcel, which is a different zone.

So, the rezoning request is so that they can consolidate lots and build a maintenance building; is the very quick version of it.

It seems to be a simple, straight-forward rezoning. With that, I'll do my best to answer any questions that you may have.

Chairman Dixon: Any questions from the Commission for staff?

Do we have anybody here this evening who would like to speak in favor of this rezoning?

Brad Eadens: Yes Mr. Chairman, you do.

I, myself, am Brad Eadens, Maintenance Supervisor.

Brian Bishop: Brad, come to the mic.

Brad Eadens: And Jerry Smith, who is our building and grounds chairman.

Chairman Dixon: Very good, I'll need your name.

Brad Eadens: Brad Eadens.

Chairman Dixon: Address?

Brad Eadens: 3705 Holmes Avenue.

Chairman Dixon: I'll need to ask you to promise to tell the truth, the whole truth and nothing but the truth this evening.

Brad Eadens: I promise.

Chairman Dixon: Very good, thank you.

How can you help us?

Brad Eadens: We basically have an eyesore, dilapidated structure that serves as a storage/maintenance building now that we want to demolish and build something nicer; is the just of it.

Mr. Bishop, you did say 2020 and I believe we are 220.

Brian Bishop: I'm sorry, I misspoke.

Brad Eadens: 220 North Ingram Street.

That is pretty much the just of it. We're just trying to eliminate something that is not very appealing and put up something better.

Chairman Dixon: Very good. Does the commission have any questions for this gentleman?

Is there anyone else here who would like to speak in favor of this proposal?

Would anyone like to speak in opposition to it or have any questions about it? Would anyone else like to address the commission on this issue?

I'm hearing none, I'll entertain a motion regarding Rezoning #1143.

MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY GARY GIBSON TO MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE HENDERSON BOARD OF COMMISSIONERS (THE "CITY") APPROVE REZONING APPLICATION # 1143 CHANGING THE ZONING

CLASSIFICATION FROM MEDIUM TO HIGH DENSITY RESIDENTIAL DISTRICT (R-3) TO GENERAL BUSINESS DISTRICT (GB) FOR CONSOLIDATION OF PARCELS FOR THE SUBJECT PROPERTY. I LEAVE THE MOTION OPEN FOR OTHER MEMBERS OF THE PLANNING COMMISSION TO ADD FINDINGS OF FACT IN SUPPORT OF THIS MOTION, BECAUSE;

THE PROPOSED REZONING IS NOT IN AGREEMENT WITH THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN, HOWEVER, DUE TO MAJOR 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 SUCH AREA BEING THAT;

THE EXISTING R-3 ZONING CLASSIFICATION IS INAPPROPRIATE AND THE PROPOSED GB ZONING CLASSIFICATION IS APPROPRIATE, BECAUSE:

- **THE SUBJECT PROPERTY HAS NOT CONDUCIVE FOR RESIDENTIAL STRUCTURE OR STRUCTURE.**
- **THE PROPERTY CURRENTLY ADJOINS A GENERAL BUSINESS ZONED PARCEL.**
- **THE SUBJECT PROPERTY ARE BEING CONSOLIDATED INTO THE EXISTING GENERAL BUSINESS PARCELS.**
- **THE BALANCE OF THE PARENT PARCEL IS SERVED BY ADEQUATE INFRASTRUCTURE/UTILITIES.**
- **THE PROPOSED CONSOLIDATION WILL NOT ADVERSELY IMPACT THE OTHER USES IN THE AREA.**

THE PROPOSED ZONING CLASSIFICATION IS NOT IN AGREEMENT WITH THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN, WHICH SHOWS THE AREA

***DEVELOPING AS RESIDENTIAL, WHICH IS NOT ALLOWABLE
IN THE GENERAL BUSINESS ZONE.***

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

Madame Secretary, please call the roll.

YES: ALL

Chairman Dixon: Very good, the motion passes.

I need a motion to leave public hearing so we can jump ahead to the site plan.

***MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY
X.R. ROYSTER TO GO OUT OF PUBLIC HEARING.***

Chairman Dixon: We have a motion and a second, all in favor say yes.

YES: ALL

Chairman Dixon: Any opposed? We are out of public hearing for the moment.

The first item here is the **Shamrock Technologies Site Plan**. Mr. Bishop?

Brian Bishop: Yes sir. Shamrock Technologies Site Plan submitted by Shamrock Technologies for the property located in the City of Henderson at 301 Community Drive (PID# 39B-4). Applicants are requesting site plan approval.

The applicant is proposing the construction of a 62,875 square foot addition and related improvements.

Theresa, if you would, show the site plan please.

On the site plan you'll notice the proposed structure to the left or the west side of the screen and then you'll also notice two (2) detention ponds.

We have received the technical advisor's approval. Staff requests that if the site plan is approved, it be subject to bonding for erosion control in the amount of \$26,137.50 for the installation and maintenance of the said erosion control. I have placed a copy of that number in the documents that you were handed out. So, it should look like this with the number highlighted.

Chairman Dixon: I don't think I got the complete set here. Okay, thank you, thanks.

Anything else, Mr. Bishop?

Brian Bishop: No sir.

Chairman Dixon: Does the commission have any questions for staff on this matter?

Kevin Richard: Is there someone here to speak to it?

Brian Bishop: I believe the applicant is here.

Chairman Dixon: Do you have a question for the applicant?

Kevin Richard: Yes.

Chairman Dixon: Please, come to the podium.

Your name, sir?

Michael Jussila: Michael Jussila, 7600 Fawn Lane, Henderson.

Heather Lauderdale: Can you please spell your last name?

Michael Jussila: J-u-s-s-i-l-a.

Heather Lauderdale: Thank you.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Michael Jussila: Yes sir.

Chairman Dixon: Thank you.

Questions?

Kevin Richard: Just real quick. So, the two (2) retentions that are added to this site, are those going to be dry detention or wet retention?

Michael Jussila: That's technical, I don't know.

Chairman Dixon: I'll need your name sir.

David Weaver: David Weaver.

Chairman Dixon: Address?

David Weaver: My business address is 1535 Frederica Street, Owensboro, Kentucky; Bryant Engineering.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

David Weaver: I do.

Chairman Dixon: Thank you very much.

Question?

Kevin Richard: Just the retention ponds; are they going to generally going to be dry or generally going to have water of some sort in them?

David Weaver: They'll be dry.

Kevin Richard: Okay. The proposed building, I noticed it looks like on the site plan there's a little connection to the existing building; is that going to be a full connection or is that going to be just like a lean-to or some kind of connection? Or is it going to be an actual extension into the building?

David Weaver: It will be an enclosed connection.

Kevin Richard: That answers my question.

David Weaver: Okay.

Chairman Dixon: What is this expansion going to be used for?

Michael Jussila: The expansion will allow us to consolidate our specialty additives business unit. We're looking to pull manufacturing out of Newark, New Jersey and bring it to Henderson.

It would also allow us to pull manufacturing from the McKinley Street facility and co-locate it on Community Drive.

Chairman Dixon: Does this involve any kind of environmental hazard?

Michael Jussila: No, this business is separate from that.

Chairman Dixon: Okay. The city has satisfied themselves with that?

Brian Bishop: Mr. Chairman, I would request that Mr. Boles come up and address that if you don't mind.

Chairman Dixon: I would appreciate it.

Thank you, sir.

Your name?

Bart Boles: Bart Boles.

Chairman Dixon: Your address?

Bart Boles: 111 Fifth Street, Henderson, Kentucky.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Bart Boles: Yes.

Brian Bishop: Mr. Chairman, one second. Bart, would you mind giving your title as well please?

Bart Boles: General Manager for Henderson Water Utility.

Chairman Dixon: Very good, thanks for being here.

You all have looked into this?

Bart Boles: We have looked into this and we don't have an issue. I think PFAS is what you're referring to?

Chairman Dixon: Yes.

Bart Boles: Waste water is not regulated right now. They are in our pre-treatment program. We do a sample of the pre-treatment before it goes to our wastewater plant and we don't see any issues right now with what they're doing.

Chairman Dixon: Okay, thank you.

Does anybody else have any questions for this gentleman?

Okay, thank you very much.

Bart Boles: Thank you.

Chairman Dixon: Is there anyone else here this evening who would like to speak to this matter?

I'm hearing none, I'll entertain motion in regard to the Shamrock Technologies site plan as presented.

Kevin Richard: This will be subject-to bonding?

Brian Bishop: Yes sir.

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY DICKIE JOHNSON TO APPROVE THE SITE PLAN SUBMITTED BY SHAMROCK TECHNOLOGIES FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON AT 301 COMMUNITY DRIVE (PID# 39B-4). THIS IS SUBJECT TO BONDING FOR THE TOTAL AMOUNT OF \$26,137.50 BEING FOR EROSION CONTROL.

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

Madame Secretary, please call the roll.

YES: ALL

Chairman Dixon: Okay, thank you. The motion passes.

The next item is the **Hwy 60 East Development, Cornbleet?**

Brian Bishop: Theresa, would you mind expanding that please?

The applicant is requesting approval for the construction of two (2) multi-family dwelling units which will have four (4), two (2) bedroom units.

Staff requests if approved, the site plan be subject to bonding in the amount of \$9,000 for the installation and maintenance of erosion control.

As you can see, there are two (2) buildings that are located on Highway 60 East, this is near the Saddlebrook Apartment Complex. The drainage basin for this project will be in the southeast corner. That will drain the entire project and then slowly be released into the KYTC system.

We have received all necessary approvals from the technical advisors and staff recommends approval.

Chairman Dixon: How many units are we talking about here?

Brian Bishop: I believe there are eight (8) units total.

Chairman Dixon: Where are the Saddlebrook Apartments in relation to this?

Brian Bishop: Mr. Chairman, they are to the northwest. Theresa, would you mind switching to GIS?

Chairman Dixon: I see them now. Gotcha.

Tommy Joe Fridy: Did you include bonding?

Brian Bishop: Yes.

Chairman Dixon: Does the commission have any questions for staff?

Brian Bishop: Also, I put the bonding amount on the sheet for you as well.

Chairman Dixon: Would the commission like to hear from the applicant?

Would the applicant like to address the commission?

Brian Bishop: Mr. Cornbleet, would you like to address the commission at all?

Chairman Dixon: I need your name, sir.

Robert Cornbleet: Robert Cornbleet.

Chairman Dixon: Your address?

Robert Cornbleet: 1300 North Green Street.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Robert Cornbleet: Yes.

Chairman Dixon: Thank you, sir.

Robert Cornbleet: Thank you.

We've been through several preliminary meetings with the all the department heads, the state engineer from the highway. Everything has been approved.

He has documentation, Brian has documentation on everything.

One thing I did want to point out is this parcel is already zoned R-4 which is what we require and its very low density; one story. So, it will fit in there just fine.

We're just waiting to get the final approval before we can start doing anything.

Kevin Richard: Mr. Cornbleet, just to confirm, this is eight (8) units?

Robert Cornbleet: Two (2), fourplexes; four and four, with garages.

Chairman Dixon: Any other questions?

Thank you, sir.

Robert Cornbleet: Thank you.

Chairman Dixon: Does anyone else have anything to add?

I'll entertain a motion in regard to the Highway 60 East Development.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY KEVIN HERRON TO APPROVE THE HIGHWAY 60 EAST DEVELOPMENT, CORNBLEET, SUBMITTED BY ROBERT CORNBLEET FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON AT 2955 US HIGHWAY 60 E (PID# 65-35). APPLICANT IS REQUESTING A SITE PLAN APPROVAL. SUBJECT TO BONDING FOR \$9,000.

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

Madame Secretary, please call the roll.

YES: ALL

Chairman Dixon: Okay, thank you. The motion passes.

Brian Bishop: Mr. Chairman, can you give us one (1) minute to check a technical issue? We may not be broadcasting on Facebook.

Chairman Dixon: Thank you. Sorry folks.

Brian Bishop: Well, hold on a second. Jennifer says there is no sound.

Mr. Chairman, we're ready to go.

Chairman Dixon: Thank you. Thank you for your patience, folks, I apologize.

Where were we here? I need a motion to return to public hearing.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY KEVIN RICHARD TO RETURN TO PUBLIC HEARING.

Chairman Dixon: I have a motion and second, all in favor say yes.

YES: ALL

Chairman Dixon: We have returned to the public hearing in connection with the **alleyway closure request**.

Mr. Bishop?

Brian Bishop: Yes sir, give me one (1) second please.

This will look familiar to the Planning Commission; this request was heard previously.

The applicant has made a new request. The difference in the dimensions of the alley closing is five feet (5').

If you will notice on the drawing, to the southeast-southwest corner, you'll notice a dimension that says five feet (5'). That is the difference in the alley closure request.

The width dimension is the same, it's the length dimension that has been decreased by five feet (5').

With that, I'll do my best to answer any questions you may have.

Chairman Dixon: How is this changing?

Brian Bishop: The change is that the alley request, the length, is being decreased by five. So, actually the length should have been 156 and now it's 151 based on the survey provided.

Mr. Chairman, if you see where Theresa has the mouse...

Chairman Dixon: So, was what we looked at last time was inaccurate somehow?

Brian Bishop: No, that is not the case. If you will remember, the City Attorney suggested the alley closing could be shortened so that shared property corner was not there. So, this is reflecting the suggestion from the City Attorney.

Chairman Dixon: I still don't understand how it changes anything.

Counselor?

Tommy Joe Fridy: The change of not touching another property allows the City, if it chooses to close the alley without going to court; without filing a suit against the property owner. It doesn't mean they will, it means they can. And it doesn't change that they've sent it to the Planning Commission for the Planning Commission to look at the case as a whole and make a recommendation to either close it or not close it.

Chairman Dixon: Okay, thank you.

Dickie Johnson: Am I correct though? The city could have took up where we denied recommendation last month, the city could have took it up themselves and held the public hearing and made the decision themselves?

Tommy Joe Fridy: No, they could not have because they had at least one (1) property owner, well, they only had one (1) property owner that had the right to object and if that property owner objected and did not consent, it would force the city to file a lawsuit; a condemnation-type of lawsuit.

And as it is, they do not have to file suit, they have jurisdiction to consider it and they've asked the Planning Commission to either recommend either to close it or not close it.

Yes, they could have taken it up but they would have had to file a suit.

Chairman Dixon: The city did not consider our last recommendation? They did not take it up.

Tommy Joe Fridy: I don't know.

Brian Bishop: Correct.

Dickie Johnson: If my memory is correct, and I'm not a legal counsel but I think the City Attorney said well, we can have them make a change in the distance so it don't touch another property owner and then they couldn't have a real complaint, correct?

Tommy Joe Fridy: They can still have a complaint but it doesn't require the city to file a suit and as it was, the city was...the only way they could close the alley was to file a suit.

So, they church has now put the city in the position to where they can close it. It doesn't mean they will.

Chairman Dixon: Very good.

Tommy Joe Fridy: I'm not disagreeing, I think what you said is accurate.

Chairman Dixon: So, I think we'll start, as we usually do, seeking input from those who might be in favor of this alley closure, especially if they have an attorney present, we'll start with that.

Is there anyone else here who would like to speak in favor of this alley closure?

Is there someone here who would like to speak in favor of closing the alley?

Your name please?

Glenn Powell: Glenn Powell.

Chairman Dixon: Your address?

Glenn Powell: 4151 State Highway 416, Robards.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Glenn Powell: Yes sir.

Chairman Dixon: Very good, thank you.

Glenn Powell: As some of you all already know me and what I've done in the past is school bus safety. I was with the school system for a number of years and safety was always one of our things.

Whenever we have an area like this where children are going from the church over to a playground and they have to go through an alleyway there, there is always a chance, God forbid, somebody could come off of Maple Street or come off of Garfield there and run and not even know that church is there and make a right-hand turn towards the church and kids were out in that area. We hope something like that never happens but we know things like that do happen. It's happened everywhere we go. People drop bombs in places, people go in schools and shoots anymore and such things as that. All we want to do is make this the safest area for our children to go to school there and be safe while they're there.

Closing this alley would help that. They could join these properties together and it would be all one property and the alley would be gone so nobody could go through there. I think that is what we're all interested in; schoolchildren safety. For that reason, I would like to see that alley closed.

Chairman Dixon: Thank you sir.

Do we have any questions for this gentleman?

Would anyone else like to speak in favor of the closure?

Arthur Fergien: My name is Arthur Fergien, I'm from Robards, Kentucky; 13995 US Highway 41 South. I'm a county resident.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Arthur Fergien: Yes sir.

Chairman Dixon: Thank you, please proceed.

Arthur Fergien: I'm retire United States Army and I've been in a leadership position most of my life and the decisions I made saved people's life or they lost their lives; I served several tours in Vietnam.

Coming to the closure of the alley; we have many, many kids in the school there that go to recess and at many times they have twenty (20) to thirty (30) kids out there. We have two (2) supervisors out there. There is 178 foot of alley that someone could come down by the school, get speed up and run some of our children over. Twenty (20) or twenty-five (25) years ago we would have never thought of anything like that but today people set off bombs during parades, people drive up and down the road and run over motorcycle people and bicyclist. Our main objective is the safety of our children and I think the decisions this board makes will abide by it and we will obey by it and we'll be...as citizens we are called by God to obey whatever structure we have and we know if we didn't have these boards and such some people would run rampant and do whatever they want to do but our children are very important. Henderson County, Daviess County, the State of Kentucky, the government, we spend a lot of money protecting our children and the decisions you make today might save lives and I think it's real important that we think about what decisions we make here.

Thank you very much.

Chairman Dixon: Thank you sir, very much.

Does anybody have any questions?

Gray Hodge: I have a question.

Sir, both you and the prior gentleman; are you primarily concerned about malicious acts of people in the alley?

Arthur Fergien: I'm concerned about the safety of these children in any way, shape or form. I always have in the back of my mind, you know some people want to use guns, some people use their automobiles and I'm just interested in the safety of the children and not exactly malicious acts, just the safety of the children as a whole.

Anything else, sir?

Gray Hodge: No, it's just that you both emphasized, what sounded to me like malicious acts and I'm not sure that closing the alley addresses that.

Arthur Fergien: You know we have a lot of copycats in this world today. One guy drives down the sidewalk and runs people over and the other guy runs into a crowd. Over in Germany they have a Christmas Fest and somebody just drives down through the fest and runs people over. I don't know what principal and morals people have today but when I was in the Army in the early 60's and 70's, we had a class around principals and morals in governments. Why we form governments, why we have police departments, why we have fire departments; it's the structure for where we have control over the people. The same as this board right here, if you didn't have this board people would just build buildings wherever they want and they would just do whatever they wanted.

So, we come to you with a request and whatever you decide we're going to abide by it and we're going to be thankful that you're here making those decisions.

Glenn Powell: I don't believe that mine is all...somebody is going to come in there and shoot somebody or drop a bomb on there....

Brian Bishop: Mr. Powell, come to the mic please.

Glenn Powell: My big thing is, that is a wide-open drive-through there and inattention is what I see as a firefighter out in the county. People don't pay any attention to what's going on around them and they come through there....well, there's not been any kids here for the last five (5) times I've been through this location but today there is and then they're doing something on their cell phone or something; those kind of things are what my main thing is. Stop it from being able to happen in that area.

Thank you for your question though, I appreciate it.

Chairman Dixon: Is anyone else here that would like to speak in favor of this closure?

Your name sir?

Charles Cameron: Charles Cameron, 954 Trail Drive.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Charles Cameron: Yes sir.

Chairman Dixon: Thank you.

Charles Cameron: I'm in favor of this extension for this school because this school not only has young people, they have pre-school. They have kindergarten and young children that are growing in the knowledge.

The other property owners in that area; there is an L-shaped alley that will attend their needs of getting in and out of their property.

So, this strip would allow this church to expand to allow more children to come and have loving, caring and intelligent teachers that will help

the City of Henderson grow into the type of community it has been growing in for the last several years.

And that's my recommendation, they close that alley.

Chairman Dixon: Thank you sir, thank you.

Any questions? Thank you.

Someone else would like to speak?

Your name?

Bill Robertson: My name is Bill Robertson. I live at 29 Maple Street in Henderson, Kentucky.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Bill Robertson: Yes, I do.

Chairman Dixon: Very good, thank you.

Bill Robertson: I have lived in this residence, at one time for ten (10) years and then we moved back here about a year and a half ago. We lived four (4) houses up from the church. I am a member of Christian Life Church.

I live on the corner from where this alley is. The alley cuts right behind my house. I have a neighbor that lives next to me that she uses that alley when she backs out to take her son to school. She doesn't go down past the church to go to McKinley Street, she comes up through Maple Street and comes up that street up to Maple Street and turns.

The garbage truck; when the garbage truck comes in to pick up trash along that alley, it doesn't use that portion of the alley down by the church. It comes down either from Garfield, comes up and comes up to Maple, right behind the church where we're wanting to close this off at.

As it's been said many times that the children are a concern. We lived there and there is a stop sign right in front of our house, a four-way stop and a lot of times cars come down there so fast that they don't even stop at that stop sign.

So, what if someone came down that alley and did the same? What if somebody came off of McKinley Street and came in there through that alley so fast that they didn't see the kids playing. It is a safety issue.

As I've said before, if a garbage truck can use the alley from Garfield going up to Maple, I'm sure anybody else can too. Thank you.

Chairman Dixon: Thank you sir.

Anyone else?

Yes ma'am, please.

Malinda Harris: My name is Malinda Harris. I'm at 2136 Braxton Park here in Henderson.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Malinda Harris: Yes, I do, sir.

Chairman Dixon: Thank you, thank you.

Malinda Harris: I'm a mother of a thirteen-year-old that I adopted when she was a baby. We have her attending this school. We are members of the church but we also attend the school and I think that is imperative for everyone to realize, this is not just a church. They have school there from pre-school all the way through to seniors.

We've done a lot of different activities there and I actually witnessed a little boy almost get run over. We were having a hayride and it was my job, like a lot of the teachers do during the day, to stand at one corner. So, that's what I did. Everybody knew this truck and trailer was coming but this little fella, about eight (8) years old, he took off running. He

came so close to getting hit and that would have been with one of us...actually my son pulling his truck and his wagon. I think about how horrific that would have been; that if anybody pulled through there and caused a child to be injured.

We all are concerned about people coming in and doing physical damage such as guns, and bombs, and knives... you know there are things we can do to protect our children and one of those things, that I strongly recommend is to consolidate the properties that belong to the school/church to consolidate that so those kids...so there will not be a driveway through there. For my son or for anyone else.

I can also say I've been out there many times and I have never seen a car go through there that was not speeding. It's just like I'm trying to hurry and get past this train over there on Washington and they zip through there!

It's an accident waiting to happen. I know when that happens, we're looking at the church having legal issues, we're looking at the person that's driving the vehicle having legal issues and we're also looking at the city now that we have brought it to your attention. We all know this is a problem and our kids are going to be hurt sooner or later because my little thirteen-year-old has a real hard time paying attention, a lot of kids do and they take off running, chasing a friend, they're doing something and it's going to cause a problem and it scares me that it's going to cause a death. We have the opportunity to not let something like that happen and I strongly recommend that we do that.

Also, I wanted to tell you all that I brought pictures so you all can see that it's not just an alley and two (2) pieces of property. There is the alley and on one side is the school and on the other side is the playground. Now, this didn't used to be a problem when there were only 15-20 kids but right now, I think there are 68 children and we've got 30 in line wanting to come; unless we can figure out more room, we're not going to be able to accommodate those kids but that's not the

problem. The problem is these kids are going to get hurt or someone is going to fly through there and hurt one of our staff because they sit there, their little bodies sit there while these cars come flying in.

So, I don't know if you're interested in seeing my pictures. You can see the playground...

Brian Bishop: If you enter those into the record, we have to keep them. Just so you know.

Malinda Harris: Well, you can keep them I don't need them.

Brian Bishop: Would you mind giving those to Heather, please?

(MALINDA HARRIS INTRODUCED EXHIBIT "A", CONTAINING SIX (6) PHOTOS)

Malinda Harris: I think it's imperative we all realize that we've got a unique opportunity here, that we can save our kids, to help our kids and to insure they don't have an injury or a problem; at least not in that area.

Yeah, we may have guns and knives that come to school and we have to protect that too but here's a protection that we all have in our hands to prevent.

Thank you.

Chairman Dixon: Thank you, ma'am.

Malinda Harris: Any questions?

Chairman Dixon: Does anyone have any questions?

Gary Gibson: Yes ma'am. Is that five (5) days a week, Monday through Friday that the kids are there?

Malinda Harris: Yes. Even in the summer, they go through June for summer school.

Actually, we're saying five (5) days a week, there's actually at least six (6) days a week because in the evenings and on Saturday's we have

things going on. Saturday evenings, we have youth. That is part of the church but kids that go to the church, more often go to the same school.

I have to add that school gets absolutely zero financial assistance from the Federal Government, local government, state government. We pay our school taxes just like everybody else but yet we have to pay for our kids to go there and we pack our kids' lunches, we pay for our kids uniform, we take our kids there and we pick them up.

Gary Gibson: So, you say the total enrollment is sixty-eight (68) kids?

Malinda Harris: Sixty-eight (68) children at this moment.

Gary Gibson: What grades?

Malinda Harris: Pre-school; Ms. Carmen back here, she's the pastor's wife and she is a pre-school, I think aged three (3) on up through seniors.

Gary Gibson: Thank you.

Malinda Harris: Thank you.

Chairman Dixon: Other questions?

Would anyone else like to speak?

Renee Ford: My name is Renee Ford; I reside at 918 Trail Drive here in Henderson.

Heather Lauderdale: I'm sorry, will you repeat your name please?

Renee Ford: Renee Ford.

Heather Lauderdale: Thank you.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Renee Ford: I do.

Chairman Dixon: Thank you.

Renee Ford: I work at the school; I'm working with the little guys and I'm out there at the playground with the other teacher and one sits on one side and one sits on the other and we have kids that just run all over. I'm in a class with kindergarten and first graders and when they're out there running, they're not paying attention, they're just running.

On one (1) occasion, in the past, a car came off of McKinley, flying up the alley; all the way up the alley, I mean just flying and if any of the kids would have been in that alley, they would have gotten hit.

I mean, I'm like Malinda, we need to take care of our kids and the safety of our children. I've got two (2) grandchildren there and I've got nieces, nephews, cousins and I don't want to see any kid get hit. I pray that you all will do the right thing and close that alleyway for the safety of our children.

Gary Gibson: Yes ma'am. Say if we close it, does the church plan on putting up a fence where people cannot come through that alley?

Renee Ford: That's going to have to be answered by our pastor, back there. I can't say anything to that, I don't know.

Any other questions?

Chairman Dixon: Any other questions?

Thank you, ma'am.

Mark Carter: My name is Mark Carter, 8061 Old US 60 E, Spottsville and I'm the pastor of the church.

Yes, we would like to put a fence across.

Chairman Dixon: Excuse me.

Mark Carter: Yes, I promise to tell the truth, and nothing but the truth.
(Laughter)

Chairman Dixon: Thank you, sir.

Mark Carter: My dad started the church when I was ten (10) and so it's been there forty-seven (47) years as part of the East End.

I received word from an elected city official that maybe we should just relocate. That was hurtful in a way because we've been there forty-seven (47) years and the reason was well, you've grown and you should just relocate.

I'm assuming that he was misquoted or just misunderstood because my opinion is on the East End of Henderson, we want improvement and we want people who care and people who are making a difference. In the forty-six (46) years we've been there, our church has grown. Dad started the church with five (5). It was my mom, my dad, my brother, sister and me. I said dad did the preaching, mom played the piano and us kids did the cleaning.

So, we've grown. We run about one hundred (100), I think we had a hundred and ten (110) on Sunday morning and the school has grown because we started with about thirteen (13) kids, we've got a few more; we've got all that we can have, we're full.

We've grown to the place where we can make a difference, where we can help, I feel like, the East End of Henderson. We support the Harbor House. Every month, we financially support them. We have members of our church who have a service there every Thursday night. In fact, when the shooting happened at Harbor House, the service had just closed and our members had just left two (2) minutes before that shooting.

This past Thanksgiving, Pastor Connie Beck, who pastors there at Harbor House, she brought the entire Harbor House to our church on the Sunday before Thanksgiving and we had Thanksgiving dinner for them.

They were back on Christmas Sunday, which was on a Sunday and we served them that day as well.

The Salvation Army, our school has for many years been the number one (1) can collecting school for the Salvation Army; every year for several years. This past year we collected nine thousand (9,000) can goods. We beat the Henderson County High School, the middle schools, all of them and we do that every year and have the plaques at school to prove it. We support them every month.

There is a deal called the East End Community Table, I don't know if you know about that but that takes place at Bennett Memorial Methodist Church; they feed the East End every Thursday evening, they feed them supper every Thursday. Our church does that the 4th Thursday of every month and have now for several years.

So, we're not trying to be mean or hateful or inconvenient. If you allow us to close just the portion of the alley that runs through our property, that's all we wish to do; not even the whole part of that, just the portion that runs through our property. The neighbors can still do everything they've always done, maybe a little different, they may have to use a different entrance but we're the ones that won't continue like we're going.

I don't want to move; the East End is our heart. We don't want to relocate but we have to grow, that's just part of the process. I've heard since I was a little boy, Henderson doesn't want to grow. That's why Evansville and Owensboro, we sit in the middle and grow and I don't believe that and I don't want to believe that. I believe that it's okay if we grow and so we have grown some, and maybe the time will come when we'll have to relocate but as of right now all we're asking is that you allow us to close the portion of the alley that goes up through the property that we own. It will allow us to connect our properties; we can't, that is the City's rule, they will not allow us to do it with an alley running through it. The only way we can do it is to close the alley. It would also allow us to keep our kids safer as well.

Yes, we will put up a fence. There is your answer.

Chairman Dixon: Will it be fenced at both ends; streetside and...

Mark Carter: Perhaps. You know we haven't got that far. Right now, our parking lot empties into that alley and goes out into McKinley, that's how the church folks leave church on Sunday morning. They go out our parking lot and into the alley and then out onto the street. That's why we gravel the alley. We pay for the gravel; we have maintained it and it's the most well-maintained part of the alley because we do it. We keep the grass mowed and the bushes trimmed back and the gravel on the alley.

We have bought the two (2) pieces of property between the church and McKinley. The house next to us, we bought and those people come to our church. The people on the corner of Roosevelt and McKinley, we bought that house and they sent their granddaughter to our school. The property right behind the alley on the other side of the alley on McKinley, the gentleman that lived there came to our church until he died. The people in the next property, I just preached their son's funeral last summer when he passed. We have another family that lives on the alley that sends their son to our school; the McDonald's, they live on the alley as well.

We have a good relationship with our neighbors and hope to continue to have that with the ones that would like for us not to close it but, it's just, part of being a church. I mean I guess we could have stayed twenty (20) people in our church and everything would have been fine but we're reaching people, that's why they want to come. We're helping people, we're helping the community, we're trying to make a difference in the East End and we just ask that you will help us to continue to do that.

Chairman Dixon: Thank you, sir. Any other questions for the pastor. Thank you very much.

Mark Carter: Thank you.

Chairman Dixon: Would anyone else like to speak in favor or the closure of this alley?

Sara Workman: Sara Workman, 2495 Terrace Court, Henderson, Kentucky.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Sara Workman: I do.

Chairman Dixon: Thank you very much.

Sara Workman: I'm a parent, I have a six-year-old daughter and I also plan to send my nine-month-old once he's of age to go. I want to keep my kids safe.

Three (3) years ago, I lost my dad in a car accident. He was at a stoplight, the speed limit was only 35, he had his seatbelt on...I'm just trying to say that accidents happen. It doesn't matter if you're in a car or kids playing, accidents happen.

So, I want the alley to be closed.

Chairman Dixon: Thank you very much. Would anyone else like to speak in favor of this proposal?

Tiffany Parrish: I'm Tiffany Parrish. My address is 10450 Hwy 41 A.

I just wanted to come up and speak....sorry.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Tiffany Parrish: So help me God.

Chairman Dixon: Very good.

Tiffany Parrish: I wanted to speak as a mama. I have fourteen (14) year-old that goes there and while he's able to pretty well pay attention to cars but that playground is just so close to that alley and there are so

many little ones that go right there, by the cars as they go back and forth. We've got teachers there but it could be a lot safer.

So, I just wanted to reiterate everything that has been said, I don't have much else to say. I just wanted to let you know.

Chairman Dixon: Thank you very much. Anyone else?

Rebekah Munday: I'm Rebekah Munday; my address is 8067 Old US Hwy 60, Spottsville.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Rebekah Munday: Yes, I do.

I'm an educator at the school and my main concern is to make sure that all of our kiddos stay safe while they are in our care. I'm sure if we took a poll and everyone raised their hands if they agreed, I'm sure that would be everyone in this building's concern; is that our kiddos stay safe.

I do recess duty and many times cars have driven down an alley during recess time and in fact, my class, we have had practices on when we say freeze, you freeze right where you are because a lot of times kids don't pay attention and they are running, having fun. They have been sitting at a desk all day so they look forward to recess time.

So, we practice saying freeze so that when a car is coming, they will do just that and freeze. My concern is that maybe one of these times one of our kiddos don't hear us say freeze when a car is coming and they just keep on running.

I have been on recess duty, not too long ago, it was three (3) or four (4) months ago and a car came from not the McKinley side but the opposite side driving very fast down our alley to where we were saying freeze to our kids! I'm not sure if the driver was on their cellphone or not but

when they finally noticed there were kids outside playing, they slammed on their brakes in the alley.

So, my request is just to close that alley, please help us keep our kiddos safe. Thank you.

Chairman Dixon: Thank you. Anyone else?

Is there anyone here who would like to speak in opposition of closing this alley?

There is no one here who wants to speak...

(From the audience: We didn't hear you.)

Chairman Dixon: How about the other side of this coin? Would anyone like to talk about why this alley should not be closed?

Thank you, sir.

Dane Shields: Dane Shields; 101 First Street.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Dane Shields: I do.

Chairman Dixon: Thank you.

Dane Shields: There are two (2) sides to every coin, this is the third time that we've been here on this matter.

One thing has changed since the last time we were here on February 7, one thing has not changed.

The thing that has changed is now the alley closing is five foot (5") shorter so that the approval of an adjoining landowner is not needed. That's clever, that was suggested; legal, absolutely fine.

One relevant point I would like to bring before you is what has not changed since the last time we had this meeting. That is the exact same

reason exists today that existed on February 7 where this commission voted not to close the alley and that is that this alley is documented by sworn proof that residents in the neighborhood, from the beginning have used this alley for ingress and egress to their property.

The suggested alternative route of closing this alley, this alley is one (1) block long so, what you're doing is you're going in and your closing part of the alley where you can begin at one end but you can't go straight out, you have to make a 90 degree turn and go out another way.

Now, there was testimony that if you put a trailer on any type of a vehicle, you can't make that 90 degree turn. The way this neighborhood has developed through the years this alley has been there from the beginning and there's neighbors, there's homes that live in this neighborhood. Citizens of this community that own their homes and they're located on the street and the back of their house is on the alley and if they have a garage and the first four (4) homes after the church all have garages on the alley. So, there way of coming out of the garage is on the alley for ingress and egress.

Now, what we would just ask for your consideration, everyone here agrees on child safety. I mean, do I agree on child safety? Yes, I do! Do my clients, and I represent several of the neighbors here who have testified do they believe in child safety? Yes, they do!

Now, I would just put forth for your consideration; are there alternatives where a neighborhood and the residents of that neighborhood and a church can live together by taking, maybe alternative action, to closing a public right of way for ingress and egress for the benefit of a private corporation to the detriment of the neighbors in the neighborhood, the citizens who use and rely upon a public alley for ingress and egress; are there alternatives?

Well, let's think about that a moment. You've got an alley that's been there from the beginning. If you go and look at the alley behind the

church where the church elected to build their playground on the other side of the alley when, in fact they've got two (2) vacant lots right beside the church. If you look at that alley, is there any signage? School Zone? Children At Play? Is there any flashing light to...other schools have it? No lighting, no signs.

Speed limit. Can you post speed limit signs in a school zone? Has that ever been done before? Well, every other school in the county has it. On this alley that's been here for years behind this church, there's been no initiative to fence in the playground. There's been no signs, no flashing lights, no speed limits and then there is the white elephant in the room.

The white elephant in the room is if you look at this map, you see on this map the church building on the church lot. It is that 1583? I can't really make it out but the parcel that the building is on, if you notice going due west, there's two (2) other unimproved lots right beside it that don't go across the alley. They've got two (2) lots sitting there with nothing on them. Well, on the picture there are several cars on the vacant lot right next to the church that the church owns but there is a larger lot right along the street that is un-improved, it's just sitting there.

So, wouldn't a reasonable alternative if everybody is concerned about child safety, why in the world would you build a playground on the other side of a public alley where you know people are using it instead of putting it on one of the un-improved lots and then put a fence around the playground? Isn't that a reasonable alternative to protecting your kids? Where the kids do not have to cross an alley, you use that lot on the other side of the alley for parking. On the PVA map, that lot is striped for parking and they put in a little playground across the alley. Move the playground, don't move the church. The church is a good neighbor. The church is a good citizen of this county and should be supported but they have to make reasonable decisions if they're going to

be growing and taking care of kids, to put the kids out of harm's way. Who has control to do that? They do and they hadn't done it.

So, I would encourage the church and I think the church is a wonderful citizen of this county but take measures within your control to protect your students, you should do that and don't take away from your neighbors by appropriating a public alley that people use for ingress and egress. In that alley, if you move the playground where the children are now safe and that extra lot on the other side of the alley is used for parking you could put up signage, you could put up a light, you could put up a speed limit sign to alert the public that a school is there and that a church is there like everyone else does in the county.

Now, it's awkward to stand up here and argue against a church. I go to church. I'm on the church boards and I support church's and what they stand for but I also support citizens who live in a neighborhood who has a right to use the public streets and public alleys. Now, what we're talking about, bottom line here is taking public property that is being used for ingress and egress by the citizens of this city and giving it to a private, not for profit corporation to the detriment of the citizens before the benefit of a church.

Now, there's different ways to look at that but I'm here speaking on behalf of the citizens of that neighborhood who have a vested interest, who have come before this board and who have testified that they can't make the 90 degree turn if they have a trailer on their vehicle. One of the neighbors that is right next door, who used to adjoin it, she's a golfer and she has a golfcart and a cart in her garage. The person right down from her who testified the last time that we were here, Nick and Ashely McClure they have a business and they have a pickup truck, and they have a trailer and they go straight in and out on that alley for ingress and egress regularly and they can't make the 90 degree turn. Now, that's why you all denied it the last time here is because you're not allowing the church to appropriate the property. You're creating a hardship on

the people that live there, who have relied upon that alley and who have built structures on the alley so they can go in and out. Also, at our last hearing Mark Carter, who's done a wonderful job with this church; you've done a wonderful job. The last twenty-six (26) years they've been there, no incidents on anyone getting hurt on that alley, none.

What we've heard tonight are what ifs. Well, what if this...it didn't happen but what if this, and what if that? Now, if you can argue by using what ifs, then you need no substance to your argument. Well, what if guns and what if...we know this is a dangerous world, we know that. You can come off the main street and go through the parking lot when you get out of the front door of the church and go right into the alley if someone wanted to get into the alley in their vehicles, there are other ways to get into the alley other than along the alley.

So, I'm just asking for the exercise of your discretion to allow residents of the neighborhood to be able to utilize a public alley that they use for ingress and egress and not give it away to a private entity and that's what's being asked of you.

So, we ask for your discretion, we ask for your consideration and thank you for your consideration.

Chairman Dixon: Thank you, sir.

Do we have any questions for this gentleman?

Dane Shields: Thank you.

Chairman Dixon: Yes sir?

Bill Robertson: I would like to say that...

Brian Bishop: Excuse me sir, please come to the mic.

Chairman Dixon: Before we get into the back and forth, the gentleman in the corner hasn't had a chance to speak.

Your name, sir?

Michael Patterson: Michael Patterson.

Chairman Dixon: Address?

Michael Patterson: 8460 State Route 351, E.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Michael Patterson: Yes sir.

Chairman Dixon: Thank you.

Michael Patterson: I have a daughter who is a graduate and also works there and I have a six (6) year-old that does go there. I know I'm not a city resident but I have devoted twenty-three (23) years of my life working for this city and not to start any argument or anything like that but this past Friday, I saw Public Works come by and I'm not sure who may have the video or who may not have the video but it was being videoed and Public Works did bring a trailer; a sixteen foot (16') trailer as a matter of fact I'm not sure it wasn't an eighteen (18') with a full-size utility truck and without even using that five foot (5') extension that the church has given to be able to add gravel and make a wider turn if they need be, that public works truck was able to go from either direction pulling a sixteen (16') or eighteen (18') trailer and then just to prove it, he stopped and even backed around the curve to show that it is not too tight of a turn to make by any means; he had several feet on both sides of the trailer when he did that. I believe it was Steve Gibson, I'm not one-hundred percent (100%) sure if he was the guy in the truck but I did see them there and they do have video of it because I saw them video it.

So, just for the sake of an argument I wanted to make you guys aware that there is footage there that it's not that tight of an alley.

Thank you.

Chairman Dixon: Thank you.

Would you like to address this, sir? Your name?

Doug Boom: Doug Boom. 222 First Street.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Doug Boom: I do.

Chairman Dixon: Thank you for your help.

Doug Boom: I did videotape it, I taped it Friday. Before I got there, he had said that they drove the truck with the trailer, it's actually a nineteen and a half foot (19 1/2') trailer, twenty-foot (20') truck and I had them...if you want to pull the first video up. I videotaped it from the church side coming from Garfield and going up Maple and then vice-versa on the inside and outside of the turn.

(DOUG BOOM PLAYED VIDEO ON SCREEN OF TRUCK AND TRAILER DRIVING DOWN ALLEY)

Gray Hodge: Brian, before you start that can I ask... Doug, when you're going through this where the legal property corners are, if you know? Just so we have that as a point of reference.

Doug Boom: I know this fence has got a chamfered to it so, it does allow vehicles to go in and out.

Gray Hodge: Okay.

Doug Boom: When they access this drive, they're on the gravel the whole time. This is coming from the Garfield side.

(DOUG BOOM PLAYED VIDEO ON SCREEN OF TRUCK AND TRAILER DRIVING DOWN ALLEY)

Doug Boom: In this one, I'm on inside of the radius.

Bobbie Jarrett: Does it still appear be rutting some of the yard?

Doug Boom: That was prior to them even starting when I videotaped, they must have done that before.

This is on the inside by the fence and he's coming from Garfield. I had to step out of the way.

(DOUG BOOM PLAYED VIDEO ON SCREEN OF TRUCK AND TRAILER DRIVING DOWN ALLEY)

Doug Boom: The last one is basically on the other side of that. This is coming off of Maple Street.

(DOUG BOOM PLAYED VIDEO ON SCREEN OF TRUCK AND TRAILER DRIVING DOWN ALLEY)

Chairman Dixon: Thank you, sir. Any questions?

Gray Hodge: Just to clarify something for me; if that fence were not chamfered, if it went out to the property corner, would that trailer have been able to make that turn.

Doug Boom: I'm sure it could have, yes.

Chairman Dixon: Any other questions? Thank you, sir.

Dickie Johnson: Well, Bobbie...back up, Bobbie had mentioned when the first video that you provided, that truck...

Doug Boom: He backed up.

Dickie Johnson: Huh?

Doug Boom: They said that he had backed up before I got there.

Dickie Johnson: But he had actually went over into that same area where that...

Doug Boom: Oh, you see where he rolled off into the grass a little bit?

Dickie Johnson: Yeah.

Doug Boom: I don't know if the first (inaudible) did that...

Dickie Johnson: The first video showed him getting off into the grass. I'm not trying to argue with you...

Doug Boom: I noticed it too when I took the video.

Gary Gibson: What I like about that is it does show that you can make that turn. We have been told you could not make that turn but you can make that turn on the alley. So, we have video to prove it.

Chairman Dixon: Any other questions for this gentleman?

Very good, thank you sir.

Steve Davis: My name is Steve Davis with the City Codes Department.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Steve Davis: I do. 1990 Barret Court.

Chairman Dixon: Thank you.

Steve Davis: After the first time we met, I think Mr. Nick McClure mentioned that he had a business he ran out of his house where he required his trailer. As being in codes, we do require that each business be verified through a business verification form; a residential business verification.

So, we sent him a residential business verification form. He did call back and say he does not really have a business. He never did fill out the form, we did receive a phone call from someone who requested information on that and it was not Mr. McClure but I feel like I need to tell you guys that as well.

Chairman Dixon: Thank you. Any questions for this gentleman?

Very good. Yes ma'am.

Tasha Fischer: My name is Tasha Fischer, 6282 Marlyn Lane, Henderson, Kentucky, 42420.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Tasha Fischer: I do.

Chairman Dixon: Thank you.

Tasha Fischer: I'm a mother of two (2), six (6) year olds that go to the school. Obviously you've already heard everybody's argument and I agree with everything but I just wanted to point out on the video because this gentlemen had mentioned all the garages on the alleyway. The video clearly shows all the garages facing the alleyway and they can easily access the roads where the truck was going out with the trailer and they can get in and out of their garages easily on this as well.

Also, just to point out, you know there are rules and there laws; speed limits and signs are there for a reason but I know multiple people, myself included have had speeding tickets. So, just saying that even though a sign is put out, yes, we should put out signs and I totally agree with that and flashing lights and hey, this is a school just to make sure that everybody is aware but not everybody follows those signs; like I said lots of people get speeding tickets. So, just because a sign is there doesn't mean it's going to be abided by.

Also, this day and age a lot of people have cell phones, people get distracted even if you have a sign out. I know there was one in Owensboro and it goes from 70 to 55, if you are on your phone, which again is illegal and you don't see the 55MPH sign and you're going 70 you're going to get a speeding ticket. So, if you miss that 35 to 25 or whatever it's changed to for the school sign then you can still be speeding through there.

Chairman Dixon: Thank you. Yes ma'am?

Malinda Harris: I think maybe I was misunderstood earlier. When my son brought his truck and trailer in, he did not do that because he

couldn't make that curve, he did it because that's how he was coming down. So, I just want to make sure everyone realized that my son did not...it wasn't that he couldn't make the curve, he just came off of Maple Street and went toward McKinley.

When he said that a while ago, I thought wait a minute, I might have made you all confused. So, I want to make sure I clarified that.

Chairman Dixon: Okay, thank you.

Kevin Herron: Brian?

Brian Bishop: Sir?

Kevin Herron: This is an alley closure, right? Not a consolidation?

Brian Bishop: If the alley is...

Kevin Herron: Let's get that figured out first.

Brian Bishop: So, the applicant has requested that the alley be closed. They have indicated to us that if that alley is closed, they will submit a consolidation plat consolidating parcels on both sides of the alley.

Kevin Herron: And then once it's consolidated, are they allowed to use that property for whatever they see... I mean for any purpose; can they build on it?

Brian Bishop: As long as it's not in any setback I would believe so.

Tommy Joe Fridy: They would own it.

Kevin Herron: So, it's going from a closure to an ownership? A closure, to a consolidation, to an ownership to be used however they see fit?

Brian Bishop: That's my understanding.

Chairman Dixon: Yes ma'am?

Patty Morris: I'm Patty Morris, I live at 1519 Roosevelt Street.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

Patty Morris: I do.

Chairman Dixon: Thank you.

Patty Morris: I did actually talk with Brian too, I gave him a call earlier this week about that and he advised when the alley is closed it gets divided on whoever owns the property touching it.

So, if it does get closed they will have ownership at that point is how I took it.

Brian Bishop: That is correct. Theresa do you care to go back to the plat drawing?

Ms. Morris is correct. If the church owns both sides of the alley, my understanding of the law is that they would retain both sides of that.

So, if you were to go further back up the alley and it was closed there, ownership would revert back to both sides which my understanding is, different ownership. Is that clear as mud?

So, for example on the drawing provided if that portion of the alley is closed, the church owns both sides of that portion of the alley.

Chairman Dixon: Okay.

Brian Bishop: Am I saying that right?

Patty Morris: Yes. So, no one could bid on it or anything they automatically get the land for free.

Brian Bishop: Yes, that's my understanding.

Gary Gibson: Like down in our city, that alley belongs to the city. We are closing that alley; the church is requesting to close that alley; the alley belongs to the city.

Brian Bishop: For the right of way to be extinguished, this is the process that we're going through and once that's done it is then dispersed to the property adjoiners.

Gray Hodge: Is this one of those alleys that nobody knows who really owns it or does the city actually own it.

Brian Bishop: I would refer to Mr. Boom for that question.

Doug Boom: This area is part of an enlargement, I don't know the exact name of the subdivision but it they are platted alleys.

Patty Morris: I just wanted to state that I do use the alley to come in and out of my garage. I do have a trailer too, he did a pretty good job making that turn but as you can see in the video, he did come up on my land and he did make it through the Garfield way and that is a problem we run into when I do have that trailer.

So, that's all I wanted to say.

Chairman Dixon: Very good, thank you.

Would anyone else like to address this matter in any direction? Have questions?

Would anybody like to come up and answer...

Bill Robertson: My name is Bill Robertson, 29 Maple Street and he was addressing the part about the playground; why isn't it over next to the church? As Mr. Carter was saying a while ago and I actually started going to the church in 1994 and that is when they started the school. At that time, we didn't own those two (2) pieces of property.

When we built that playground, we built that playground back there because that was the only place we had to put it.

In the last few years, we have bought the property next to us but that playground has been there since probably, just maybe not too long after the school started.

I understand, you know, people want to go up and down that alley but it's not that much further to go to Garfield. It's not that much further to go to Maple and the one neighbor that does pull the trailer, he parks his trailer around front. He's got a carport next to his garage, he doesn't park the trailer under his carport next to his garage, he parks it around the front on Roosevelt Street.

If you go down Roosevelt Street at any time during the day, you'll see the neighbors on that side of the street, most of them are parked out front. There's cars out front, up and down; he's got two (2) vehicles and a trailer parked in the front, not in the back next to his garage or anything. So, as it showed in the video, the garbage truck can make that, the city truck made that turn. He can come down from Maple Street pulling his trailer, come down there, load up his lawnmowers, come around and go to Garfield. The city truck made that turn, the garbage truck made that turn, he can make that turn also. Thank you.

Bobbie Jarrett: Sir, do you live in the neighborhood?

Bill Robertson: Excuse me?

Bobbie Jarrett: Do you live in the neighborhood?

Bill Robertson: I live on the very corner, right there on Maple Street where, like is said my neighbors are right there on that alley. The back of my property where I rent is on the back of the alley. My property goes to the back of the alley.

Bobbie Jarrett: Do you utilize the alley?

Bill Robertson: I have in the past, yes, I have.

Chairman Dixon: Any other questions for this gentleman?

Thank you, sir.

Would anyone like to add to this discussion? Perhaps respond to something they've heard?

Yes sir? Your name?

David Morris: My name is David Morris. My address is 1323 Huntspoint Way, here in Henderson, Kentucky.

Chairman Dixon: Do you promise to tell the truth, the whole truth and nothing but the truth?

David Morris: I do.

Chairman Dixon: Thank you.

David Morris: And I will just say I do use that alley for egress and ingress; in and out, I'm not a scholar. I just hate to see you close it for all the reasons that have been given and I understand the church and I was a property owner next to the 1519 and a former owner of the property at 1523 Roosevelt Street and when the church petitioned to do their additions and everything, we had not problems with that. We've always tried to get along with the church but I think there are alternatives of what they could do.

The one gentleman, I think spoke to that they were planning on extending the church if they closed the alley so, they're going to be building across it; that's what I got out of what he had to say.

But I just hate to see you close it. I think there are other alternatives the church could go to as far as moving the playground and everything else. I've been out there when the kids are playing and try to be very cautious and we all want to the kids to be safe, you know, there's no doubt about that.

That's all I have to say, thank you.

Chairman Dixon: Thank you, sir.

Yes sir?

Mark Carter: Just to clarify; no, we don't ever intend to build across the alley. We would like to build on those two (2) lots that he spoke of that's vacant that face McKinley at some point.

We would like to make that a more pleasant looking place. We've torn down four (4) dilapidated houses along through there and we're trying to beautify that part of East End but we would like to build, at some point on those two (2) lots right there between Roosevelt and McKinley. But across the alley, no.

I just want to remind you that if we don't close this alley we cannot consolidate our property. We have two (2) storage building back there we have to move them because according to City Ordinance that's not allowed; you can't have a storage building on your lot unless there is a main building there and our main building is on the other side. So, we would have to move them and that's just not where we need it. We need all the room we have over there for what we do.

So, closing the alley will help us to be able to consolidate. We just want to put our property together and that's impossible if we're not allowed to close just the part of the alley, only the part that goes through the middle of our property. That's all we wish to do and we don't ever plan to build across it, that I'm aware of.

Chairman Dixon: Thank you, sir. Any further questions?

Kevin Richard: I have a question but I don't know if there is anyone here that can answer that question. So, say you're an entity that has a situation like this where there are children or anybody that has to cross traffic; is there a governing body in the city you can request a temporary permit to allow you to build a gate that you close from the hours of "X" to "Y" and then open back up after that?

X.R. Royster: I don't think so. I've never heard of that. One time somebody tried to do it and we made them open it.

Chairman Dixon: If it remains a public alley.

Kevin Richard: If it remains...but to allow to have safety for children, that would be another option.

X.R. Royster: (Inaudible)...close the alley.

Chairman Dixon: Any other questions? Would anyone like to add anything further?

We appreciate the discussions this evening. Everybody just take a minute, see if there is something else they would like to add.

Kevin Herron: Has there ever been an alley closure? When is the last time this was brought up? Is this a situation that's going to open up a future ordeal or when is the last time that we heard something and for what reason?

Brian Bishop: Going off memory, without being able to document it I believe the last alley closing we had was for Metzger's. It was a similar situation where they owned both sides of the alley. Commissioner Herron, without looking it up, my memory is that was 2019-2020.

Kevin Herron: That's what I was thinking.

Dane Shields: Can I address that question?

Chairman Dixon: Yes sir, in a moment. Counselor, is there anything you would like to add, T.J.?

Tommy Joe Fridy: I'd rather he addresses it; I was about to.

Dane Shields: I appeared before this commission back several years ago on requesting an alley closure. On the Metzger's property, Metzger's bar, if you go out of the back door of Metzger's, you take one step out of the back door and you're in an old alley; their parking lot. It went the length of that block, the difference in that was granted. No one came to this commission and said they were using the alley for ingress or egress, no one. No one objected to closing the alley. The one owner that the

alley affected, there was a separate alley behind his lot. So, that alley was closed several years ago along the back of Metzger's with it not being used for ingress or egress by the public or with no one objecting to closing the alley.

So, that answers your question.

Chairman Dixon: Thank you. T.J., is there something you wanted to add?

Tommy Joe Fridy: No. I remember the proceedings.

Dickie Johnson: Mr. Chairman, I still got a question about the one lot where the alley makes the 90 degree turn.

The property owner that's allowed the fence to be skewed to allow the traffic to flow in and out of that alleyway; if that property owner comes out there and drives a post on his property line, can you make that turn with that truck and trailer?

I mean that was the question that was asked before the video.

Doug Boom: That fence has been like that for a reason, it is there for a reason like that. I don't know why, I don't know why it was done that way.

Gray Hodge: But that's not the question. His question and my question is if they put a post in that corner, can you make that turn?

Doug Boom: Probably not.

Gray Hodge: That wasn't your answer.

Brian Bishop: We need to stop there if you don't mind because there are so many assumptions to be made that we can't really address from the Planning Commission or City Engineering standpoint; one, the property pin without it being marked by a licensed surveyor. Two, does the city have the certain right through an assumed easement....Doug...

Doug Boom: Access?

Brian Bishop: What's the word? I'm losing the word....prescribed easement.

Doug Boom: Prescribed easement.

Brian Bishop: I would caution us to go down that road because there are so many variables we do not know.

Chairman Dixon: Thank you.

Dickie Johnson: But in the video, well maybe not this meeting but the previous meeting we showed the property lines going parallel to the alley, back to the corner of that piece of property.

Brian Bishop: Commissioner Johnson, give us one moment to make sure we're at the right spot. (Referring to the GIS map image)

This property corner, correct?

Dickie Johnson: The corner that he videoed the truck going around. If you click on GPS property lines that we've got...

Brian Bishop: You cannot...

Dickie Johnson: I understand that but that's what we have to off of...

Brian Bishop: That is not a GPS property pin. If we go and look at this, it's going to say how it's drawn in.

Gray Hodge: Do you still have the surveyor's drawing handy?

Brian Bishop: That is not GPS'd into the current map that we have but we have the PDF of that.

Gray Hodge: Right.

Brian Bishop: I just have to caution you, I love GIS very, very much but out of twenty-two thousand (22,000) plus, it's not always accurate; I have to give that disclaimer.

Dickie Johnson: I'm not saying that it is, I understand that but we have to assume that it's really, really close.

Brian Bishop: In certain cases, I have to caution you there.

Gary Gibson: We're talking about an alley. An alley that the City of Henderson maintains. Now, how much of that alley do they maintain? How wide? See, we're getting into stuff like that. We're talking about an alley, not pertaining to what's up to it.

Brian Bishop: Commissioner, I'm not trying to be combative at all but my only statement is from a Planning Commission/GIS operator, we are not going to verify the location of those alley's and those property lines because we are not licensed surveyors.

Dickie Johnson: I understand that.

Brian Bishop: Sorry, with that being said, sorry.

Gray Hodge: Well, okay but on the survey, the alley is fifteen feet (15') wide so somewhere in there is a fifteen-foot (15') alley, legally.

Brian Bishop: Correct.

Gray Hodge: And someone could come in on the other three (3) corners and obstruct the ability to make that turn.

Brian Bishop: Again, Commissioner, I would caution you because the City could also come in and make a claim for a prescribed easement. There are just too many variables.

Gray Hodge: Okay.

Tommy Joe Fridy: We can't, as a body assume that the property owner could not put up a post and make a square corner. As well as we can't assume that he can.

I can give you examples both ways and Brian is giving you one that the city may have a prescriptive easement by using it but the other one is

that the property owner and previous property owners have given permission and you can't get a prescriptive or adverse possession if you have permission to use the property. We don't know. So, you can assume either way. You can assume that you could straighten out those fences and you could assume that the city might have a prescriptive easement, we don't know.

But you can assume one way just as easy as you can the other way.

Chairman Dixon: Other questions from the commission?

Would anyone else like to address this matter in some fashion?

I think we've had a good, long time to think about it.

If there is no further comment, I want to make sure everyone gets a chance to speak as much as they like.

I'll entertain a motion in regard to this alleyway closure request submitted by Christian Life Church.

What we're tasked with here tonight is making a recommendation to the City Commission one way or the other. The City Commission will be taking final action, correct?

Tommy Joe Fridy: Yes, correct.

Chairman Dixon: We're gathering information for them and giving them our best advice. They do the actual deciding.

What is the pleasure of the commission?

MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY DICKIE JOHNSON TO RECOMMEND TO THE CITY OF HENDERSON TO DENY THE ALLEY CLOSURE REQUEST SUBMITTED BY MARK S. CARTER, CHRISTIAN LIFE CHURCH TO VACATE A PUBLIC ALLEYWAY LOCATED BETWEEN GARFIELD AVENUE AND ROOSEVELT STREET IN THE CITY OF HENDERSON.

Chairman Dixon: We have a motion and a second. The motion is to recommend denying the request to close the alley, is that correct?

Bobbie Jarrett: Yes.

Chairman Dixon: Any further discussion by the commission?

Madame Secretary, please call the roll.

YES: KEVIN RICHARD, BOBBIE JARRETT, X.R. ROYSTER, DICKIE JOHNSON, DOUG BELL, STACY DENTON, GRAY HODGE

NO: MAC ARNOLD, GARY GIBSON, KEVIN HERRON

(COMMISSIONER FRANK BOYETT WAS NOT AVAILABLE TO VOTE DUE TO SIGNING OFF ZOOM CALL)

Chairman Dixon: Is that everyone?

Heather Lauderdale: It is.

Chairman Dixon: I've got seven (7) to three (3) in favor of the motion to recommend denying the alley closure. Is that correct?

Heather Lauderdale: Yes.

Chairman Dixon: Thank you all very much. I'll entertain a motion to go out of public hearing.

MOTION WAS MADE BY X.R. ROYSTER, SECONDED BY KEVIN RICHARD TO GO OUT OF PUBLIC HEARING.

Chairman Dixon: I have a motion and a second, any discussion? All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed.

Chairman Dixon: Thank you. Thank you, folks.

Do we need to go back...

Theresa Curtis: Finance.

Dickie Johnson: We got to go back to administrative business.

Theresa Curtis: We have to do the finance report.

Chairman Dixon: Okay, let's deal with the **March Finance Report**, please.

Theresa Curtis: Yes, Mr. Chairman. The March 2023 Finance Report, we're at 77% of budget and we have three (3) months left to go.

We just need approval, please.

MOTION MADE BY DOUG BELL, SECONDED BY KEVIN RICHARD TO APPROVE THE MARCH FINANCE REPORT.

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

All in favor say aye.

AYE: ALL

Chairman Dixon: Any opposed? The finance report has passed.

I think the next item of business is under Administrative Business, is that correct?

Brian Bishop: Yes sir.

You may remember at our last meeting, the Planning Commission directed staff to come back with **findings of facts for Rezoning #1141**.

We have done that and we have provided that to you. You should see it on your desk in front of you and I'll do my best to answer any questions about that you may have.

Chairman Dixon: Questions for staff?

Kevin Richard: It's in front of us?

Theresa Curtis: It's in your packet in the very back.

Brian Bishop: I'm sorry, I thought we put that out too.

Theresa Curtis: It's the very last thing.

Chairman Dixon: Do we need to read this into the record?

Tommy Joe Fridy: Because it was distributed you could move to adopt it as recommended and as presented but it's binding (inaudible); or read parts of it.

Chairman Dixon: I'll entertain a motion in regard to the Rezoning #1141 findings of facts as presented.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY DOUG BELL TO ADOPT THE MOTION AND FINDINGS OF FACTS THAT HAVE BEEN DISTRIBUTED TO THE PLANNING COMMISSION IN WRITTEN FORM.

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

Tommy Joe Fridy: Would you amend your motion to say motion and findings of facts? We short-handedly call them findings of facts but it's also a motion.

Dickie Johnson: Yes.

Chairman Dixon: We've amended the motion.

Doug Bell: I second the motion.

Chairman Dixon: The second is amended.

Madame Secretary, please call the roll.

YES: GRAY HODGE, KEVIN HERRON, STACY DENTON, DOUG BELL, GARY GIBSON, DICKIE JOHNSON, MAC ARNOLD, BOBBIE JARRETT, KEVIN RICHARD

NO: X.R. ROYSTER

Chairman Dixon: Any opposed?

Heather Lauderdale: One (1).

Chairman Dixon: The motion passes.

We do have some other business. Mr. Bishop, we have another meeting coming up real quick?

Brian Bishop: Yes sir. I would like to remind the commission that we have a special called meeting on April 12 at 6 p.m.

We will hold that meeting in the Fiscal Courtroom, third floor. We are doing that because we anticipate a large crowd. We will be able to livestream via the Fiscal Court's Facebook page.

So, a similar set up as this but it's going to be a little different. The Fiscal Courtroom will be used to accommodate a possibly larger crowd.

This will be for the rezoning for the property located behind Wal-Mart, in between the Wal-Mart structure and Balmoral Subdivision.

Chairman Dixon: That will be the only item on the agenda?

Brian Bishop: That is correct.

Chairman Dixon: Does anyone have anything else they would like to bring before us for the good of the cause?

Kevin Richard: I'm sorry, I can't remember your name.

Jeremy Schmidt: Jeremy Schmidt.

Kevin Richard: Jeremy, thank you for your patience and waiting through all of these proceedings for thirty (30) seconds of action.

Jeremy Schmidt: Glad to be here.

Chairman Dixon: If we have nothing else, I'll entertain a motion to adjourn.

MOTION WAS MADE BY X.R. ROYSTER, SECONDED BY KEVIN RICHARD TO ADJOURN.

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

All in favor signify by saying yes.

YES: ALL

Chairman Dixon: Any opposed? Very good, we stand adjourned.

Thank you all very much.

MEETING ADJOURNED AT 7:50 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, April 4, 2023 to the best of my ability.

Heather Lauderdale, HCCPC Clerk

X
