

Henderson City-County  
Planning Commission  
June 5, 2018

The Henderson City-County Planning Commission held their regular meeting June 5, 2018 at 6:00 p.m., at the Henderson Municipal Center, 222 First Street, 3rd floor assembly room. Members present: Chairman Herb McKee, David Williams, Mac Arnold, Rodney Thomas, David Dixon, Gary Gibson, Kevin Herron, Bobbie Jarrett, Kevin Richard, Gray Hodge, Doug Bell and Attorney Tommy Joe Fridy. Dickie Johnson was absent.

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

*(The following minutes were transcribed from an audio recording of the meeting on June 5, 2018. The audio recording is on file at the Planning Commission office and will be retained)*

**MEETING BEGAN AT 6:00PM**

Chairman McKee: Let's call this May meeting of the Henderson City-County Planning Commission to order, this June 5 meeting. Madame Clerk will you please call the roll?

Chairman McKee: We have a quorum?

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

***MOTION WAS MADE BY MAC ARNOLD, SECONDED BY KEVIN RICHARD TO GO INTO PUBLIC HEARING.***

Chairman McKee: We have a motion and a second; any discussion? All in favor signify by saying aye.

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: We are in Public Hearing.

First on the agenda is the consideration of the minutes from the **May 1, 2018** meeting. If you've have an opportunity to review those, are there any additions or corrections?

***MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY RODNEY THOMAS TO APPROVE THE MAY 1, 2018 MINUTES AS DISTRIBUTED.***

Chairman McKee: We have 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.

First item on the agenda is **Lot 1 Beasley & Williams Minor Subdivision and Consolidation.** Mrs. Wayne are you going to lead that discussion?

Claudia Wayne: Yes sir.

Chairman McKee: Please proceed.

Claudia Wayne: This was submitted by Stan and Tracey Williams for the property located in Henderson County at 14223 US Hwy 60 East, Reed, KY (PID#112-103). Applicants are requesting approval for Lot #1, which is located in a Flood Hazard area.

They're requesting to subdivide the property and take the house that's going to be Lot 1 and subdivide off the three (3) parcels and consolidate it to the existing farm.

The reason it's before you is because it's in the Special Flood Area and the Flood Damage Prevention Ordinance requires us to bring this before the Planning Commission for approval. Otherwise, this would have been approved in-house. The staff does recommend approval.

Chairman McKee: Questions for staff?

David Williams: Is the house in the Flood Plain? Where is the Flood Plain?

Claudia Wayne: Yes. It's the entire area that's in the flood area.

Brian Bishop: Commissioner Williams this is east of the Spottsville Bridge so a great, large amount of that is in the Flood Plain.

David Williams: Ok.

Chairman McKee: Let the record show that Doug Bell is in attendance. (DOUG BELL ARRIVED AT 6:02 P.M.)

Any other questions for staff? Hearing none, the Chair will entertain a motion.

***MOTION WAS MADE BY RODNEY THOMAS, SECONDED BY MAC ARNOLD TO APPROVE LOT #1 BEASLEY & WILLIAMS MINOR SUBDIVISION & CONSOLIDATION SUBMITTED BY STAN AND TRACEY WILLIAMS FOR THE PROPERTY LOCATED IN HENDERSON COUNTY AT 14223 US HWY 60 EAST, REED, KY (PID#112-103). APPLICANTS ARE REQUESTING APPROVAL FOR LOT #1 WHICH IS LOCATED IN A FLOOD HAZARD AREA.***

Chairman McKee: We have a motion and a second; any discussion?  
Madame Clerk, will you please call the roll?

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: The application is approved, thank you.

Next on the agenda is **#1084 Assignment of Zoning Classification in Conjunction with Annexation**. Mr. Bishop, please proceed.

Brian Bishop: Yes sir.

Rezoning #1084 Assignment of Zoning Classification in Conjunction with Annexation submitted by the City of Henderson for the property located in Henderson County, at 438 Old Corydon Road (PID#46D-13), and a portion of Old Corydon Road right-of-way, containing approximately 1.171 acres. The applicant is seeking annexation of this parcel from County Agricultural (AG) to City Medium Density Residential District (R-2).

This property may look familiar because I believe it was two (2) months ago we assigned zoning for the parcels located just northeast of this parcel. You may remember that the City water utility has installed water and sewer lines in the area that would increase the density allowed by this...which would increase the density.

The City is requesting that this portion of the property here, and this portion of the road be annexed into the City. Staff recommends approval and I will do my best to answer any questions you may have.

Chairman McKee: Questions for staff?

David Dixon: We're skipping over a lot to get to this one?

Brian Bishop: Yes sir, that is correct.

David Dixon: The ones on either side stay agricultural?

Brian Bishop: That is correct. That would be this lot and this lot.

David Williams: The back lot is...the one that adjoins on the back; that's Industrial zone?

Brian Bishop: I believe that is Commercial.

David Williams: Commercial. Is it in the City?

Brian Bishop: It is in the City, yes sir.

David Williams: So, technically we aren't really leap-frogging in this case, we're just going around it.

Brian Bishop: If you're going along the road, yes. If you're actually looking at being contiguous, no.

Chairman McKee: Any other questions for staff? Hearing none, is there anyone who would like to speak for or against this application? Seeing none, the Chair will entertain a motion.

***MOTION WAS MADE BY DAVID DIXON, SECONDED BY GARY GIBSON THAT THE PLANNING COMMISSION RECOMMEND MEDIUM DENSITY RESIDENTIAL DISTRICT (R2) ZONING ASSIGNED TO THE ABOVE PARCEL (PID#46D-13), AND LEAVES THE MOTION OPEN FOR OTHER MEMBERS OF THE PLANNING COMMISSION TO ADD FINDINGS OF FACTS IN SUPPORT OF THIS MOTION BECAUSE; STAFF RECOMMENDS APPROVAL BECAUSE THE PROPOSAL IS COMPLIANCE WITH THE COMMUNITY'S ADOPTED COMPREHENSIVE PLAN. CHANGES HAVE OCCURRED TO ALTER THE BASIC CHARACTER OF THE AREA TO SUPPORT THIS REQUEST IN THAT THERE HAS BEEN A SEWER LINE EXTENSION***

**CONSTRUCTED TO SERVE THE EXISTING RESIDENCES. THE EXISTING SINGLE-FAMILY RESIDENCE WAS CONSTRUCTED IN 1884. THE EXISTING RESIDENCE IS COMPATIBLE WITH THE SURROUNDING USES IN THAT THERE ARE OTHER SINGLE-FAMILY RESIDENCES IN THE AREA. THE PROPERTY IS SERVED BY ADEQUATE UTILITIES.**

**THE PROPOSED MAP AMENDMENT (ANNEXATION) IS IN AGREEMENT WITH THE GOALS AND OBJECTIVES OF THE COMPREHENSIVES 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). GUIDE DEVELOPMENT TO EXISTING CENTRALIZED AREAS SERVED BY ADEQUATE INFRASTRUCTURE TO AVOID DECENTRALIZED AND SCATTERED DEVELOPMENT (BALANCING LAND USE OBJECTIVE A). PROMOTE STABILITY OF EXISTING NEIGHBORHOODS AND ALL ASPECTS OF HOUSING INCLUDING INFILL, REDEVELOPMENT, AND ENCOURAGE NEW DEVELOPMENT WHERE APPROPRIATE (HEALTHY NEIGHBORHOODS A).**

Chairman McKee: We have a motion and a second; any discussion? Would any Planning Commissioner like to add findings of facts to those that were offered by Commissioner Dixon?

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

**ALL IN FAVOR: AYE**

**OPPOSED: NONE**

Chairman McKee: So mote it be.

Next on the agenda is **Rezoning #1085**, Mr. Bishop please proceed.

Brian Bishop: Yes sir. This is submitted by Brad Alexander, and Larry and Mary Alexander for the property located in Henderson County, adjacent between 4212 and 4400 Briscoe-Benton Road (PID#107-54), proposed Lot #7 of the Alexander Farm Subdivision, containing approximately 2.00 acres which would be taken out of a 39.7721 acre tract of land. That property is currently zoned Agricultural. The applicant is requesting a zoning classification from Agricultural (AG) to Residential-1 (R1). This is in the county, as well.

This may look familiar to some of you folks. We actually saw a Preliminary Subdivision for this last month. The applicant has switched gears, they have decided instead of creating one (1) large lot, which would be 17 acres; or two (2) lots that would equal seventeen (17) acres. They would now like to create one (1) lot which would be Lot #6 at seventeen (17) acres which we will see later in the meeting, and this lot that is going to be two (2) acres, that would be Lot #7 of the proposed subdivision.

The applicant has requested R-1 because the proposed use will be a one family residence. The area is surrounded by farmland and one (1) family residences. Staff recommends approval and I will do my best to answer any questions you may have.

Chairman McKee: We didn't take any action on the presentation that was made earlier, did we? That has to be undone?

Claudia Wayne: No.

Chairman McKee: No.

Questions for staff?

David Williams: Will you please outline again where the bigger lot is in blue, and the smaller is down there in the southwest corner, right?

Brian Bishop: Commissioner Williams, that is an existing lot. This was, I believe, Lot #5 of the existing minor subdivision. Proposed Lot #6 will be roughly in this area and will contain 17 acres. Proposed Lot #7 will be roughly in this area and will contain 2 acres.

David Williams: Ok, so we end up with three (3) new lots with this, three (3) separate lots?

Brian Bishop: Two (2) new lots. One (1) large lot, which is roughly 17 acres and one (1) smaller lot which will be 2 acres. The 2-acre lot is the lot being rezoned from Agricultural (AG) to (R1).

David Williams: Thank you.

Chairman McKee: Any other questions for staff? Hearing none, is there anyone who would like to speak for or against this application?

Seeing none, the Chair will entertain a motion.

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY DAVID DIXON MOVES THAT THE PLANNING COMMISSION RECOMMENDS SINGLE FAMILY RESIDENTIAL DISTRICT (R-1) ZONING ASSIGNMENT TO THE ABOVE PARCEL (PID# 107-54), AND I LEAVE THE MOTION OPEN FOR OTHER MEMBERS OF THE PLANNING COMMISSION TO ADD FINDINGS OF FACT IN SUPPORT OF THIS MOTION, BECAUSE: CHANGES HAVE OCCURRED TO ALTER THE BASIC CHARACTER OF THE AREA TO SUPPORT THIS REQUEST IN THAT THERE HAS BEEN AN INFLUX OF RESIDENTIAL GROWTH IN THIS AREA. THE PROPOSED SINGLE- FAMILY RESIDENCE IS COMPATIBLE WITH THE SURROUNDING USES IN THAT THERE ARE OTHER SINGLE-FAMILY RESIDENCES NEAR THE SITE. THE PROPERTY IS SERVED BY ADEQUATE UTILITIES.***

***THE PROPOSED MAP AMENDMENT (REZONING) IS IN AGREEMENT WITH THE GOALS AND OBJECTIVES OF THE COMPREHENSIVES 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). PROMOTE STABILITY OF EXISTING NEIGHBORHOODS AND ALL ASPECTS OF HOUSING INCLUDING INFILL, REDEVELOPMENT, AND ENCOURAGE NEW DEVELOPMENT WHERE APPROPRIATE (HEALTHY NEIGHBORHOODS A). PLAN FOR HOUSING THAT ADDRESSES THE MARKET NEEDS FOR ALL RESIDENTS, INCLUDING, BUT NOT LIMITED TO, MIXED-USE AND HOUSING NEAR EMPLOYMENT AND COMMERCIAL AREAS (HEALTHY NEIGHBORHOODS D).***

Chairman McKee: We have a motion and a second. Would any Planning Commissioner like to add to findings of facts presented by Ms. Jarrett?

Heather Lauderdale: Was that a second by David Dixon?

David Dixon: Yes.

Heather Lauderdale: Thank you.

Chairman McKee: Any additional findings of fact? Hearing none, Madame Clerk would you please call the roll?

***ALL IN FAVOR: AYE***

***OPPOSED: NONE***

Chairman McKee: So mote it be.

Next on the agenda is the **Sputzman Creek Cell Tower**, Mr. Bishop please proceed.

Brian Bishop: The applicant is proposing a one hundred ninety-nine-foot (199') monopole tower on the property owned by A.C. and Nancy Griffin. The property contains 15.135 acres and is currently zoned agricultural.

The applicant is represented by Pike Legal Group and I believe there is someone from that firm here to represent the applicants and make a presentation regarding this application.

Chairman McKee: Before we proceed, on the advice of counsel and in connection with the staff, I've been asked to give you the following information:

***“No testimony or evidence will be allowed or considered regarding the environmental effects or health effects of radio frequency emissions from the proposed cell tower as the same is beyond the jurisdiction of the Planning Commission and the Planning Commission is prohibited by law from considering the same.”***

Everybody get that? Nothing having to do with the environmental. So, are there any questions for staff?

David Williams: Brian, does this cell tower meet all conditions that we can impose on this site?

Brian Bishop: Commissioner Williams, staff believes it does. We have met with the County Codes Administrator, Mr. Randy Tasa. We have met with the Director of the Airport, Mr. Allen Bennett to ensure that we have done our due diligence.

David Williams: When you did your investigation of this particular site, did you find anything that concerned you about it at all?

Brian Bishop: I think anytime it's near a residence, that's something that concerning but, in my opinion, it is not dangerously close to any residences.

Chairman McKee: Any other Commissioners have questions?

Does the applicant wish to present first?

Brian Bishop: I believe so.

Robert Grant: For the record, my name is Robert Grant. I'm an attorney at Pike Legal Group, we represent AT&T Mobility. We do have a power-point presentation.

Chairman McKee: Can I interrupt you please?

Robert Grant: Yes sir.

Chairman McKee: What is your name, sir?

Robert Grant: Robert Grant.

Chairman McKee: Mr. Grant, would you please raise your hand and repeat after me? Do you swear the statements you are about to make are the truths to the best of your knowledge?

Robert Grant: Yes sir, I do.

Chairman McKee: Thank you sir, please proceed.

Robert Grant: We have with us tonight, before I begin, I have Mr. and Mrs. Griffin with me, they own the property. I also have Glen Katz with me who is a real estate expert on real estate values.

I'm going to do everything I can after consulting with staff and counsel, I intend to make a very brief presentation so don't let this huge

presentation binder concern you. I hope to keep it under ten (10) minutes at the very least.

This site is one of nearly three-hundred (300) sites that AT&T is currently deploying across the Commonwealth of Kentucky. Almost all of those sites are in rural areas that are either unserved or underserved.

This is part of a program that is connected to their FirstNet program which is designed to...I think there is a tab on FirstNet, it's all about improving access to our first responders. This is critical, it's a matter of public safety as well as public convenience.

When you think in terms of our cell phones, you think mostly in terms of convenience and our phones these days are computers in our pockets. Not only do we make voice calls with them but we access the internet, transfer data, we do everything that you do with a computer right now.

But in terms of public safety, it is absolutely essential that we penetrate these unserved areas. According to the FCC, seventy percent (70%) of all 911 calls across the nation are now made wirelessly. So, it is a matter of life and safety that our cellphones work and that fifty-two-point five percent (52.5%) of all homes, according to the Center for Disease Control, rely exclusively on cell phones. That means they've cut the cord, they no longer have land lines.

So, it is crucial, it is absolutely crucial that we have cell service in these areas. Cell service is expanding at an astronomical rate. This is twenty-first (21) century technology, this is how we communicate today folks. More and more homes have multiple devices. The growth of the usage has expanded astronomically. No only in terms of voice but in terms of data. What data does is it gobbles up bandwidth. So, what that means to our users, to our customers, to you and your community is that when you need to make that emergency call, you know you may not be able to get

the call through if there is inadequate service in the area because somebody's watching YouTube videos on their smartphone.

What this site is intended to do is to correct these service issues in this area. The location of the site is on KY Hwy 136 E, Robards Lane. Mr. and Mrs. Griffin are here. This is in an unincorporated area of Henderson County. It's one point seven (1.7) miles from the McLean County line. This parcel that we're using is a very large, ninety-three (93) acre parcel that is zoned Agriculture. This is an agricultural area.

The cell tower that we are proposing is one hundred ninety-five-foot (195') monopole. Monopoles are the towers that look like light poles, they're just a single pole that rise up out of the ground and at one hundred ninety-five feet (195') we did a survey of the FCC registered towers within seven (7) miles of what we're proposing. There are approximately fifteen (15) FCC registered towers within this seven (7) mile radius and every one of them, except for one (1), is taller than this tower. This tower at one hundred ninety-five feet (195') is tall but it's shorter than everything else in the area.

This is a survey of the site and as you can see it's located at the rear of the property and it's...and staff mentioned that it's near a residential use but it's one thousand, forty-nine feet (1,049) from the nearest home.

The tower is designed with a zero-fall zone radius. What that means is in the event of a wind event that causes it to fail, the way the industry designs failure is that it's built in with safeguards where it kinks about two-thirds (2/3) of the way up the tower rather than falling like a tree. Even if it fell like a tree, it's going to be quite a distance from the nearest residence but it doesn't do that. So, there's no concern for the safety of any residents in the area.

This is a drawing that shows the surrounding properties and here are distance measurements to the nearest residents, the two (2) nearest residences are about one thousand-forty feet (1,040') away. As your staff has pointed out, this site meets all the requirements of your zoning ordinance, it meets every one of them. It meets all the requirements of State Law, it meets all the requirements of federal law. This deployment by AT&T started in 2016 so it's taken us a couple of years to get to this point. There are many layers of review that we go through with one of these sites before we get to the final decision maker, which is you guys.

So, with that said, I promised I would keep this short. Certainly not all of this, and I'm going to shut up and answer any questions.

Chairman McKee: Questions for Mr. Grant.

David Williams: Yes sir. Mr. Grant, you said it was not going to be the height of the tower but what will be the final elevation of the top of the tower? Do you know that?

Robert Grant: Yes, let me look at the survey, it's in the survey. Are you talking about the ground elevation?

David Williams: What will be the elevation at the top of the tower because...

Robert Grant: Well there's a four foot (4') ...

David Williams: ...tower on top of a hill so it may get higher than everything else.

Robert Grant: Hold on just a second and I'll tell you. The ground elevation is four hundred thirty-five feet (435') and the tower is one hundred ninety-five (195) and there will be a four-foot (4') lightning

arrester at the top of it. So, if you add one hundred ninety-nine (199) to the four-thirty-five (435) ...

David Williams: Six hundred thirty-four (634).

Robert Grant: Yes sir.

David Williams: I guess you wouldn't know what the actual elevations of other towers in the area are. What kind of, you're going to have to put a light on this thing, what kind of light are they proposing?

Robert Grant: Actually, this will not have to be lighted. Anything under two-hundred feet (200') there's no lighting requirement for air safety. The only time we put a light at the top of it is according to FAA requirements, and it's for the safety of pilots in the area.

In this instance one of the reviews, the many layers of review we went through was this was reviewed by the FAA and there was a determination that no lighting was necessary.

David Williams: I'm sure AT&T did a study as to why this tower was necessary?

Robert Grant: Absolutely. We've got further down the slides here, this is the current coverage.

David Williams: In yellow or green? What is current coverage?

Robert Grant: This right here is our current coverage. The green is the best signal and for megahertz they've got there...when you look at what it's going to be afterwards you see the difference.

David Williams: Now, are there other companies with cell towers in here that would provide coverage for this area?

Robert Grant: Excuse me, sir?

David Williams: Are there other cell towers, other companies cell towers in this area?

Robert Grant: No sir. One of the first things that we do when our engineers determine that there is a lack of service in an area, there's a need to put a facility in, they create a search area. Then we send a team of site acquisition consultants into this search area and the very first thing they do is that they look for an existing tall structure to put our antennas on, particularly another tower. Under State Law, that's exempt from zoning and it is the right thing to do. We have agreements between all the carriers to do this. What it does is that it gets the antennas on the air faster, much much faster at a much less cost and it solves the service problem. So, the industry is committed, they are very serious about co-locating. I've been doing this for nearly fifteen (15) years and I would say that an extremely high percentage of the sites that I've worked on in a leasing capacity for the carriers have been co-location sites, we do a lot of it. But there were no co-location alternatives in this instance, if there had been we would be on it.

David Williams: Thank you.

Robert Grant: You're welcome. Anything else?

Chairman McKee: Any other questions for Mr. Grant?

Robert Grant: Yes sir.

Gray Hodge: Did you say the tower is essential for emergency communications?

Robert Grant: Well, I'm not saying it will be available for your emergency equipment...emergency folks to put their equipment on it. What I'm talking about is that seventy percent (70%) of all E911 calls are made with a wireless cell phone and part of the FirstNet program is to

bolster those services across the country. The program is more complicated than just making a cell call wirelessly. There's a whole lot more to it that only the engineers understand but it's all about improving access. Not only of the public to make a E911 emergency call but for first responders who are also using their mobile devices.

Gray Hodge: So, then it would be essential for emergencies?

Robert Grant: It's absolutely essential for emergencies if that's what you're asking, yes.

Gray Hodge: So, then would it be designed as an Occupancy, Category III structure instead of an Occupancy, Category II?

Robert Grant: I don't know the answer to that.

Gray Hodge: Well, there's a letter in there from Sabre that says it's Occupancy, Category II which is a normal structure.

Robert Grant: Right.

Gray Hodge: Versus an Occupancy, Category III which is an essential structure which is typically what you would design an emergency communications structure for.

Robert Grant: Yes, I've run across this issue once before a few years ago and I don't remember all the details and nuances; I know what you're talking about. I will tell you that, you know, these towers are always designed as two (2), Type II.

Gray Hodge: The other question had to do with fall radius.

Robert Grant: Yes sir.

Gray Hodge: AT&T will have one carrier on it, for their use?

Robert Grant: Yes, and it will be available for other carriers. I believe this is designed for at least four (4) carriers. So, there would be space for three (3) other carriers to put their equipment on as well.

Gray Hodge: Do you know if any of those other spaces have been leased out?

Robert Grant: Not at this stage. These towers tend...it depends on the other carriers' needs and how their network is designed, not all the networks are the same. I know that we have agreements with all of them so that we go on their towers, they come on our towers. So, the space is there, it will be available for other carriers but right now it will just be AT&T.

Gray Hodge: So, is there any reason to think that a properly designed and a detailed and maintained antennae tower is going to fail?

Robert Grant: Absolutely not. They are designed to ANSI standards that exceed, I mean anything around them, anything constructed in these buildings in your downtown area.

Gray Hodge: Right. So why do we talk about fall radius on the tower and not on this building?

Robert Grant: You know, our engineering experts raised the same question, you know what I mean? It's kind of a double standard, it's like if there was a wind event.... if there was a tower built next to the tallest building in this town and a wind event came in serious enough to do some damage, you know, these towers have withstood like Hurricane Andrew and other hurricanes; it's the only thing standing. So, the buildings around it are down and they were constructed to those standards; it's something that concerns people so they are designed with

those fall radius'. Those fall radius' are included in our packet to put people's minds at ease.

Gray Hodge: Thank you.

Robert Grant: Yes sir.

Chairman McKee: Any other questions for Mr. Grant? Will you be available for questions if they come up later?

Robert Grant: Yes sir.

Chairman McKee: Thank you Mr. Grant, we appreciate your...wait, wait counsel wants to ask...

Tommy Joe Fridy: May I ask? Would you like to include your PowerPoint and/or your written material in the record?

Robert Grant: I absolutely would, thank you for reminding me. I would like to make this PowerPoint...I have a copy of this that I would like to provide. I have sufficient copies for all the board members if you want, I will be happy to provide you a copy or I'll just file one for the record.

Chairman McKee: Would any Commissioner like a copy? If you do and need one, staff will have a copy on file. Thank you, Mr. Grant. Is that all Mr. Fridy?

Tommy Joe Fridy: Yes.

Chairman McKee: Is there anyone who would like to speak for or against this project?

Yes sir, please come forward. When you get at the podium, will you please state your name and address for the record.

Eyrn Shaw: Yes. My name is Eryn Shaw and I live at 16730 Hwy 136 E. Mr. Bishop, do you have the map that was up here earlier?

Chairman McKee: Just a moment please, would you please raise your right hand? Do you swear the statements you are about to make are the truths to the best of your knowledge?

Eryn Shaw: Yes sir.

Chairman McKee: Thank you sir please proceed, I'm sorry.

Eryn Shaw: Well, I'll try to keep this brief; you see I have about one (1) piece of paper, this won't take us long at all.

Now, something that was just brought up about the 911 emergency response. Now, I can give you a first-hand account; about four (4) weeks ago I had a barn fire and I used a cell phone and I called 911. I had responders from Niagra, then Robards Volunteer Fire Department at the house in approximately ten (10) to fifteen (15) minutes. I had no cellphone problem, no 911 problem as it is right now without the cellphone tower.

Brian Bishop: Mr. Shaw is that the right map?

Eryn Shaw: No, there's one that has everything numbered, it's broken down a little bit different than that; it was the one playing up here earlier. There you go, ok.

If the Commission will note...

Brian Bishop: Mr. Shaw, there's a laser pointer right there.

Chairman McKee: You must be by the microphone sir in order for us to get you in the record. If you leave the microphone, we won't be able to record what you say.

Eryn Shaw: (REFERRING TO THE GIS MAP PROJECTED ON THE OVERHEAD SCREEN) This would be my property, 101-1, right here. Now, when you look at this, it looks like this is a great big distance to

where they want to put this. I have a pond right here in this corner where my boys fish and they swim. From there to here, if those children walked it, it would take them about two and a half (2 1/2) minutes and that's walking up a hill. It's not that far. It's literally as far as from right here to across the street, that's about how far it is.

So, this thing that, "oh it's way away from the adjacent house"; true. My house sits right in here but we use this area right here. So, basically my kids fish and swim not very far at all from this tower.

Also, this is somewhat of a topographical map but it really doesn't show you the question that was brought up earlier by Mr. Williams as far as the overall height of this tower. This section of land, right there, is the highest elevation of anything in this area, substantially so.

Now, this section here of my property is probably the second highest. Without the tower, it's already higher. So, we're going to add another one hundred ninety-five-foot (195') structure above that.

Now, I know the Planning Commission cannot hear any kinds of environmental effects, I understand that so I won't address that. However, I moved from the city to my farm here to raise cattle, to have a nice scenic area and for me to sit on my back deck that I built last year and have a hundred ninety-five-foot (195') structure sitting on the highest point out there; I object to.

Now, I know there are mixed reviews. I've talked to some real estate agents as far as how your property value is affected or not affected. But one thing they all agree on is if you go to sell the property it will definitely turn-off buyers if there is a tower that close to the location. Irregardless of the fact if it actually affects the value or not it will affect peoples interest in buying the property. I know the property owner, he's a super nice guy and I don't have a problem with him. I just have a

problem with the cellphone tower that close to my property and my neighbors' property.

We have children; there's one (1), two (2), three (3) other households that are adjacent property owners that also have small children. Again, I realize I can't go into any environmental effects, so. I would ask the Commission to please consider not allowing this in this location. I'm not against cellphone towers, we have some other cellphone towers in the area that are strictly in pastures or fields and they really don't have anybody, anywhere near them and I just ask that maybe we could find another location besides right here at this time. Thank you.

Chairman McKee: Any questions? Thank you, sir. Anyone else care to speak for or against this application? Yes sir, please come forward.

When you reach the podium would you please state for the record your name and address?

Harold Herron: Harold Herron, 16806 Hwy 136 E.

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

Harold Herron: To the best of my knowledge.

Chairman McKee: Please proceed, Mr. Herron.

Harold Herron: I believe that one (1) of the houses that's one-thousand forty-feet (1,040') supposedly, to the proposed antennae; I've lived there for twenty-one (21) years. I too moved to get away from the growth, if you will, and as you can see it butts up against my property, across the back-end of my property. It actually is southwest of my property. If there was a wind or tornadic incident it would be blown towards my house; since it was brought up earlier.

But, I don't know, I've owned this property for twenty-one (21) years and its home, it's not a residence, it's a home. It's a home to my kids; I don't live here because I have to, I live here because I choose to and I will not live underneath a cell tower. Like I said, it's not a residence, it's my home. Ya'll are going to allow this to go on my home. So, make a wise choice, do the best you can.

I am so upset about this, you cannot believe how mad I am about this. I'm trying to be very calm. So, I don't have anything else.

I've never met this gentleman or his wife, I have nothing against any of them.

Chairman McKee: Any questions for Mr. Herron?

Harold Herron: I have two (2) children that live there; I don't know what else to say. I think there's little stipulations in that we can't ask about...the environment and all that stuff but part of the thing is...what we can ask and what we can't. I didn't have two (2) years to present a PowerPoint to present to you, I hope you understand that. So, I'm just a regular person, not a lawyer.

Chairman McKee: We thank you for your testimony, Mr. Herron.

Harold Herron: Ok.

Chairman McKee: Thank you sir.

Harold Herron: I hope you...if you build something up next to somebody else's property, they ought to have some say in it; whether or not that's ok or not. Ya'll have a good evening.

Chairman McKee: Is there anyone else who would like to speak for or against this application? Yes sir, please come forward and will you state your name and address for the record?

A.C. Griffin: My name is A.C. Griffin. I'm the owner of this property.

Chairman McKee: And your address?

A.C. Griffin: I live at 5370 South Pleasant Valley Road.

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

A.C. Griffin: Yes sir.

Chairman McKee: Thank you Mr. Griffin.

A.C. Griffin: At my house there is zero (0) reception. The only way I get any reception is with a Microcell tower which is a little canister that is powered by current. So, like last week when the power went off throughout the county, I was dead in the water with cellphone service. It's powered off the landlines. So, when water gets in the boxes of AT&T, I have no reception, I cannot talk.

First-hand experience, we've had health issues and tried to communicate with the hospital and in that respect, it can be a nightmare; that particular time there was snow on the ground. So, the farm there, last year...like I said, I'm glad he got reception when his barn burnt, I'm sorry his barn burnt but I walked all the way across that farm last Spring when I hung up a tractor because the cellphone would not work, I was going to call my son who is on the other side of the farm, to come get so I walked for fifteen (15) minutes. That's no big deal but I'm just saying not every time there is reception with AT&T there. Like I said, if you come down South Pleasant Valley, that's one of the things with my neighbors, they say, we don't have anything, we're dead in the water pretty well. If you're talking to someone and like I said, there's no reception. I'm just throwing it out for what it's worth.

I hate for somebody to look at a tower, I'm sorry that someone has to put up with the inconvenience and I have no qualms with any of the neighbors and try not to but I'm just trying to speak from the position I'm in.

Chairman McKee: Thank you Mr. Griffin.

David Williams: Mr. Griffin, who is your service with?

A.C. Griffin: AT&T.

David Williams: Both services, your cellphone and...

A.C. Griffin: AT&T.

David Williams: Ok, thank you.

A.C. Griffin: At the time of the health issue, I switched to Verizon; still dead in the water.

David Williams: You were with Verizon when you had the health issue?

A.C. Griffin: Pardon?

David Williams: You were with Verizon when you had the health issue?

A.C. Griffin: I had AT&T and I thought it would be better so I switched to Verizon; I went back to AT&T because it was no different. Right now, I'm presently with AT&T.

David Williams: But you still don't have service? You didn't have coverage with either service?

A.C. Griffin: No. The only way I can talk away from the house say at the barn or such is, like I said, I may have one bar; sometimes you've

got it and sometimes you don't. Like I said I have talked to numerous customers and the phone will go dead and I have to call them back. That's not a big deal, but like I said, it can be inconvenient when you're trying to negotiate something.

Chairman McKee: Any other questions for Mr. Griffin? We thank you Mr. Griffin.

A.C. Griffin: If this tower would allow me to talk at my house or on my other properties, like I said, I own from there pretty well over to South Pleasant Valley except for one (1) parcel of land, I would be very appreciative.

Chairman McKee: Thank you sir.

A.C. Griffin: I live approximately a mile away from it.

Chairman McKee: Would anyone else care to speak for or against this application?

David Williams: I would like to ask Eryn how his service is with.

Chairman McKee: Commissioner Williams.

David Williams: Eryn if you wouldn't mind, can you come back up here for a moment? Who is your service with?

Eryn Shaw: AT&T.

David Williams: AT&T. You have clean, good service there?

Eryn Shaw: Yes. We run all kinds of devices at the house. We have WIFI, everything. My wife can do on-line classes from our house, so.

Again, I'm not against having a cellphone tower in Niagra because Mr. Griffin is correct, there are places you can go down in a valley, you know, and you can lose signal pretty easy. However, I'm just asking

can we find another location? I don't want it to be gone completely, I just don't want it there.

David Williams: So, I guess my question to you then Eryn is if not there, where? And whose backyard would it be in then at that point?

Eryn Shaw: Therein lies a good question. If you'll look at the map, I mean, we can go....well, where's the pointer again?

All this area, for lack of a better term, is uninhabited; it's all farmland. So, I mean again, we have some cellphone towers in the area. If you go across 416 like you're going to 1078, there's one (1) there. But again, it's in the middle of a field with nobody around. I mean, we've got all kinds of land in Niagra, all kinds of farmland. Does it have to be in my backyard?

Any other questions?

Chairman McKee: Thank you sir.

Eryn Shaw: Thank you.

David Williams: Can we get the AT&T guy back up here?

Chairman McKee: You want Mr. Grant back up?

David Williams: Yes.

Chairman McKee: Mr. Grant, could you please come to the podium again? Your testimony is still under oath. Please proceed  
Commissioner Williams.

David Williams: Mr. Grant, why this particular site? Is the site here because of the elevation of the...? the ground elevation or is there because that's where you get the maximum bang for your buck by putting a tower there?

Robert Grant: This is the site that when our engineers looked at the alternatives...first of all, it has to be located within a very tight search area. Our site acquisition teams go in and look at the parcels in the area, they look for properly zoned largest parcels, they talk to people. So, we have to first of all have a willing landlord. We want to find a site because we lease space from them. Then we have to find a site that's within this tight area that meets the engineering needs at the right elevation. We have to have a site that meets our environmental needs. We've got all these layers of review so they look for a spot in a high elevation, on a large parcel that gives us some buffering from the areas that our engineers look at and say will work. In this instance, our engineers were presented with a candidate and they decided that this was the best place to locate this tower to meet their objectives for the project. Looking back at those before and after coverage plots, there's going to be a significant, significant improvement in coverage to this community. Not just these homes right around this cell site but what it does is, you have to keep in mind the way this technology works, think of a honeycomb. All of these sites work together, and they work together as a team and there is overlapping coverage so that for example, when you drive down the road on the phone in your car the call is passed from tower to tower as you move down the road.

So, when you've got an under-served area, you have people with cellphones either transferring data or making calls, that's putting a strain on the capacity of the system that not only this area is weakened but all the surrounding sites around it so the community as a whole is weakened.

This land use is public utility infrastructure. It's not like any other zoning application that you guys see. This tower, normally you see an application from a property owner for a barn or garage or home

extension or to build a home, that's to benefit them and them alone. This public utility infrastructure benefits the community as a whole and not only will it resolve Mr. Griffin's service issues, it will resolve everybody's service issues in the area within this search area and it will strengthen the network as a whole so even the service expands out to the greater Henderson County area.

So, anyway that's how it works. As far as the mention of property values, we've got Glen Katz here and he has submitted a report with the record, if you have any questions from him he will be glad to answer those. But he's done a number of studies all across the state, and the conclusion of all those studies is that this does not negatively impact property values. Keep in mind, this is public utility infrastructure. That raw land does not have public utilities running to it; water, electricity, telephone, generally has a lower property value. That when people want to buy property to develop or to live, they want essential public utility services. They want water, they want electricity and they want communications services; not only telephone services but this new state-of-the-art technology that we have.

You know, if we can move this at this stage of the game it would delay this project and we would have to start all over with all our layers of review, it would take another couple of years and then we would be back here before you again and we would be in somebody else's backyard at that point with someone else who isn't happy that this tower is going to be near them. What we find in these public hearings, and I've done a lot of them, is that folks want their cellphone service to work, they want it to work well, they're not against cell towers, they're not against their phone working, they just don't want it in their backyard out of fear. But in this instance, this is a ninety-six (96) acre parcel, this is a large parcel

that provides a lot of buffering from those homes that are over a thousand feet (1,000') away.

That was a lot more than you asked me, I'm sorry. I'm a lawyer it's hard to stop talking.

David Williams: I appreciate it. Did I catch that you wanted a resident leaser? That you wanted someone who actually lived on the land that you leased from?

Robert Grant: No, no, no sir. We lease a one hundred by one hundred (100x100) piece of land and in this instance that's what we've leased from Mr. Griffin. That's kind of a standard size lease for these sites all across Kentucky, all across America. The only time they're smaller than that is when we get into maybe an urban area where we're in a very tight space and there is a commercial building or something. But we leased this space from Mr. Griffin in this instance and the only way we can put one of these facilities in the community to serve the community and we have to be in the area to serve the area. We can't serve an area from across town. It's not creating an industrial zone where you can stick a factory or something all the way across town, this is public utility infrastructure, we have to be in an area to serve an area. We have to lease space so we've got to find someone who's willing to lease this one hundred by one hundred (100x100) area from us for a new tower. So, that's one of the very first criteria that we look for.

David Williams: Now, you made your argument for putting it right here and not wanting to move it, that's not what I'm asking you but if it were on some of this other un-occupied land that Eryn had just talked about, would it be just as visible from those sites to these people being a two hundred foot (200') ... would the tower have to be actually higher to get the coverage that you want?

Robert Grant: The only way I can answer that question is to get down into the weeds to look at the exact parcel you're talking about to look at the current ground elevation and when we start moving a site somewhere else then that impacts our engineers' calculations about how it's going to connect to the rest of the network and sometimes it requires us to build a taller tower, for example because it loses...you know, remember... think honeycomb and think about all of these sites inter-related and there's a hole in the middle where there's no facility and we need to go in the middle of that hole and our engineers want to locate it at the right distance from the other towers that surround it, that it will be communicating with. If we get too close to one of those towers then those two (2) sets of antennas tend to interfere with each other. If we get too far away then we don't get the coverage we need and sometimes we've got to increase the height of a tower.

So, it really is critical for this to work, for it to work the way it's supposed to work is that we set it where we need to set it. The answer to your question is, is that wherever we put it it's going to be visible and it may or may not have to be a taller facility to do that.

David Williams: At what height would an aviation light be required, do you know? How tall would the tower have to be?

Robert Grant: The general rule of thumb is anything under two-hundred feet (200') does not require lighting. The only exception to that is that a site that is near an airport or some flight path, sometimes we have to light something a little shorter in those rare instances. But generally speaking, anything under two-hundred feet (200'), no lights.

David Williams: Thank you.

Chairman McKee: Any other questions?

David Williams: One more. What is the federal act that administers these rules that we follow on these cell towers?

Robert Grant: It's the Telecommunications Act of 1996. What happened was, was America was falling behind the rest of the world in the deployment of wireless technology and there was a lot of concern about that. There was this emerging technology and everybody else in the world were out ahead of the curve on it and America was falling behind.

So, Congress enacted this statute to ensure that this deployment moves forward, that we move into the twenty-first (21) century with this technology and it created a very odd synergy where federal law enters with state and local law with this particular land use. Because as you well know, most land uses do not have those concerns.

David Williams: Thank you Mr. Grant.

David Dixon: Is that the same law that restricts our discussion here?

Robert Grant: It's the same law that restricts any discussion of the health effects of radio emissions. State law does that too, they both do it.

Chairman McKee: Other questions for Mr. Grant? Thank you, sir, we may need you again so I appreciate you staying around.

Robert Grant: Thank you. I'll stay as long as necessary.

Chairman McKee: Mr. Herron, you've had your hand up, please come to the podium. I'll remind you that I'm still under oath, go ahead sir.

Harold Herron: This particular location, AT&T or somebody from AT&T or some organization or whatever sent me basically an invitation... I know I can't talk about health but I think I figured out

how to do it. But anyway, they asked me if I would lease my property to them and I talked to my wife who is a Registered Nurse and she said no. Because of the health effects, we will not lease our property to AT&T to use that. Now, that's not got any discussion, I'm just telling you me personally and that is the reason why I declined to put the cell tower on my property.

Chairman McKee: Mr. Fridy?

Tommy Joe Fridy: Please refrain from talking about health issues.

Harold Herron: Ok. I didn't want it on my property.

Tommy Joe Fridy: Just give me a second. I personally, staff and the Planning Commission would love to hear that. Federal law and the state law adopted federal law tells us we can't hear it and there have been cases thrown out because of that.

Harold Herron: I understand, I'm sorry. I thought since it was my...not because of that, that's the reason I neglected to accept the money and take it; not anybody else. I don't want that to influence you guys, that was my influence. So, please understand that.

Like I said, this property is on the backside of our property, back over on this other road, you know, there's also some strip mine property back over there, that's Green River river bottoms less than away from us and there's nothing in the strip mines and river bottoms.

So, yeah there is a place you could put it. I believe they also contacted Mr. Shaw. That's all.

David Williams: Mr. Herron, let me ask you this if the tower was located somewhere else but had the aviation light like a white strobe,

would that be irritating to you? Would that distract from your environment there?

Harold Herron: If it's a mile away and I can't see, no it wouldn't bother me.

David Williams: Well, chances are you would be able to see it. It would be a higher tower...

Harold Herron: I am opposed to it and I can't be opposed to it because I'm opposed to it but I'm opposed to it; visually seeing it. I live right in line with Big Rivers and the aluminum plant, I see it, I hear it; you go out there on Sunday and you can hear them blowing steam off. I'm an outdoor person, it may not look like it but I'm an outdoor person, I'm out in the yard all the time. Visually seeing it, it would bother me but that's not why I'm bothered by it. So, I can't talk about health, so. I atrial fibrillation, and I can't... I can't talk about it.

It seems to me that you determine what I can and can't talk about, I've already lost the conversation. So, I understand.

Tommy Joe Fridy: Federal law and state law says we can't. To talk about health, you have to go to a different place, not Henderson, you have to go to...

Harold Herron: I understand, I got that.

Tommy Joe Fridy: There are places you can talk about it, this just isn't the place.

Harold Herron: Well, this is where they're considering it.

Tommy Joe Fridy: I understand.

Chairman McKee: Thank you Mr. Herron.

Harold Herron: Thank you.

Chairman McKee: Do you have any instructions for the Commissioners Mr. Fridy at this point?

Tommy Joe Fridy: Let's wait until...I do but let's wait until the point that we're about to... until we've heard all the testimony and close the public hearing.

Chairman McKee: Do you have additional comments to make sir. You'll have to get to the podium so we can hear you in the microphone.

Eryn Shaw: It's what Mr. Herron kind of touched on briefly and what the attorney had said. They act like it's a really, arduous task for AT&T to decide where this piece of property is going to be. Truth be told, the individuals decide where it's going to be because they've got to strike a deal, they've got to find a buyer is what they're looking for.

The way this comes about is that they drive down the highway, and they hit you up, they leave a sticker on your door; "if you're interested, give us a call"; that's how it works. It's not this "oh, we found the spot and it's got to be here", it's "we've got somebody who's going to enter into a lease that we both agree with, they'll take the money and we'll only pay an "x" amount to them, and that's our spot", that's how it works.

Chairman McKee: Thank you sir. Is there anyone else who would like to speak for or against this application?

At this point, let me say thank you to all of those who did come and offer their thoughts for this process, we appreciate your input. Is it time now, Mr. Fridy?

Tommy Joe Fridy: Whenever you close the public... after you close the public hearing.

Chairman McKee: Oh, well we haven't voted yet.

Tommy Joe Fridy: Are you keeping it open for other... do we have another...

Chairman McKee: This is the last item on the public hearing list.

Tommy Joe Fridy: If there's no other testimony I recommend you close the public hearing.

Chairman McKee: And not vote?

Tommy Joe Fridy: Well you vote outside...you can vote outside the public hearing.

David Williams: Mr. Chairman?

Chairman McKee: Yes?

David Williams: Mr. Fridy, what are our... can you explain what our latitudes are on this particular issue? Our hands are tied in ways because of the Telecommunications Act of 1996.

Tommy Joe Fridy: They're tied a great deal... before I do that, I'll... my admonishment is that you cannot consider health issues or environmental frequency issues. You have to make your decision outside of what little you may have heard in that arena, and you've heard a lot of other things.

Chairman McKee: Would you like me to close the public hearing now?

Tommy Joe Fridy: I don't think it matters. You have the latitude to determine if this is a viable spot. You can deny it because of matters...I'm grappling because there are matters that haven't been put in evidence that would allow you to deny this application. But the factors you've heard, it is possible to deny it on location but you have to

consider that wherever you put a cell tower there is probably going to be someone that doesn't want to see it and just the fact that a property owner doesn't want to see it is not grounds to deny the application. Aesthetics is not a viable basis to deny an application because federal law has said we need cell towers. If there is no other location, you can put a cell tower in a residential subdivision.

Now, I'm afraid I'm not helping you much because the law is extremely narrow and there is so much overriding burden that we, the Planning Commission, have by both federal and Kentucky has adopted the federal Law. But even if they hadn't, we're pre-empted by federal law in a lot of areas. But there are factors that don't apply here. Like if you were close to Audubon Park or you were close to a historical site but none of those factors have been introduced into evidence here; and there are some others, but.

David Williams: I'm always careful when I start asking you questions Mr. Fridy, because I know I make you nervous sometimes...

Tommy Joe Fridy: But they're legitimate questions it just an extremely difficult area.

David Williams: I guess the question I had, and you kind of made an allusion to it but you, yourself have not heard any testimony that would give us grounds to deny this particular application?

Tommy Joe Fridy: I'm not sure of that.

David Dixon: Are we still in public hearing?

Chairman McKee: Yes, we are.

David Dixon: I would like to hear from the applicant's attorney again, please.

Chairman McKee: Mr. Grant will you please come to the podium.

Tommy Joe Fridy: Even if you weren't, you could open the public hearing and ask your question.

Robert Grant: Yes sir?

David Dixon: We had a description earlier about how the company goes about locating landowners who would like to agree to have a cell tower on their land, was that an accurate description?

Robert Grant: Yes sir. Our engineers look at where there is a service gap and they determine, within a very tight area where a tower has to be to resolve those service issues. Then our boots in the field will look at parcel maps, they will look at zoning maps and they will look to determine based upon what the zoning requirements are and to make certain that wherever we locate a tower, we first meet the requirements of your zoning ordinance. In this instance we've met each and every requirement of your zoning ordinance.

David Dixon: How many landowners were contacted in regards to this tower's potential location?

Robert Grant: I don't know. I do know that there were a number of property owners contacted, there were a number of property owners who were not interested in leasing space. So, that becomes the second tier, that within this search area we have to find someone who is willing to lease space to us within the area where the tower has to be in order to correct the service issues. How our boots in the field vary. Sometimes they knock on doors, sometimes they'll leave a note on the door when nobody answers the door, sometimes they'll make telephone calls, sometimes they send letters via U.S. Mail. So, the methods they use to

reach out to the owners in the area vary from site to site; and really vary from owner to owner.

But the critical component is, is that if someone is not interested in leasing space to us, then we move on to another parcel. And we keep ticking through parcels in a search area. In this instance the search area has about a half mile radius, a really tight radius.

So, this is the parcel where we found a willing landlord, it's a large parcel, it gives us good separation.

David Dixon: You've got a half-mile radius you said?

Robert Grant: Yes sir.

David Dixon: Ok, thank you.

Robert Grant: Yes sir.

Gray Hodge: I have a question.

Robert Grant: Yes sir.

Gray Hodge: You've done a search for a site. You've done RF Engineering, there's been a survey, there's been structural engineering, there's been a boat-load of legal fees; how much has AT&T invested into this one hundred by one hundred (100x100) site at this time would you estimate?

Robert Grant: I don't know the exact answer to that. I do know that in other sites over the years, I've had property managers for the carriers tell me that ballpark it costs them about half a million dollars (\$500,000) to put one of these sites in.

Gray Hodge: Average?

Robert Grant: Average. That's a huge investment in infrastructure for this community and that investment has been made for a site that we've been through all those layers that you mentioned and done all of that work for a site that meets each and every requirement in your zoning ordinance.

If you check through your requirements, I had a slide up there on my Power Point that checks through each and every requirement in your ordinance that we have to meet. We diligently met each and every one of them.

So, in response to your question to counsel, I have a different view. My view is, under federal law, you have to have a substantial evidence basis to vote this down and it has to be based upon our failure to meet the criteria of your zoning ordinance or state or federal law and we meet all that criteria.

So, to be blunt, a no vote would not withstand an appeal in Federal Court, it would be overturned in Federal Court.

David Williams: So, what are the federal regulations as regards to the proximity to historical sites and parklands, and parks?

Robert Grant: Oh, you know, we use...part of the due diligence we have to do is tied into the Environmental Protection Agency and a branch of that "meet the review" is a SHPO review; the State Historic Preservation Officers. Where one of the things that they do is... we have consultants that go in and look at a site, they look at an area and one (1) of the first things that our site acquisition team does is we want to make sure there aren't any historic structures in the area. But our NEPA folks do a more detailed analysis. They take a look and make certain that there are no historic registered properties that will be impacted. They make certain there are no Tribal burial grounds which are also historic structures, and

make sure none of that exists; then they make sure there are no other environmental sites. For example, on sites that we've had in Ohio in the Rust Belt, there are a lot of dirty sites that we want to identify those and avoid those at all cost. It doesn't apply here but for example, kind of a red flag might be something like this is a junkyard or an auto salvage yard where there could be a lot of petroleum and battery acid and things like that in the soil that makes it environmentally unviable to put one of these sites in.

So, we work really hard for several years to go through all of these steps, all of these governmental layers to make absolutely certain that we've complied with all of these requirements long before we present an application to you. If we were to have gotten in this site and determined there was a burial ground, it would have been an Indian burial ground then we would have pulled this site and started over and gone somewhere else. It's crucial that we meet all the requirements of state, federal and local law, as we have here.

Rodney Thomas: Quick question.

Robert Grant: Yes sir.

Rodney Thomas: If we voted no and this would be turned over in appeals, why does the state bring it before the Planning Commissions?

Robert Grant: I'm sorry?

Rodney Thomas: Why does the state bring it before Planning Commissions if it could get overturned if we voted yes or no?

Robert Grant: The inter-play between federal, state and local boards is that the Planning Commission has the power to adopt cell tower regulations that plan for the design and location of one of these sites, that's the power that you have. At one point this Planning Commission

adopted some Cell Tower Regulations so, what that does is that gives an applicant like us the opportunity to go in and say, “what does this community want?”. Right?

Rodney Thomas: Ok.

Robert Grant: And your regulations tell us what you want, it gives us a guideline; a set of rules to follow. So that, to answer your question, that’s your opportunity to develop regulations to put these things where you want them and design them the way you want them, and you’ve done that and we’ve complied with that, we’re in full compliance with all of your requirements.

So, we fully comply with the law, we fully comply with your standards so the answer to your question is in those instances you’ve got no basis to vote it down.

So, we’re here today to make a determination as to whether we’ve complied with all those standards, and we have. And to give the public and opportunity to voice their views. That has a greater impact in instances where we’re requesting a variance or a waiver of one of your standards, and we’re not doing that here. We’ve requested no waivers, no variances, we’re in full compliance.

Rodney Thomas: Thank you.

Robert Grant: I do want to say we appreciate their concern. I’m not standing here... I really appreciate their concerns. These are good people who care about their homes and communities. But this is an essential public utility service and it’s also a classic (inaudible) land use. No matter where we put it, there will be somebody that won’t be happy about it. We also find that it’s a little bit like a water tank or something. You know once the steel is in the air you don’t really see it anymore.

You know it's this phase of the game where we're talking about change that is challenging and difficult for the folks that live in the area. I appreciate and understand what they're saying. They're afraid of what this is going to do to their community and they have some concerns about that and they're nervous about that but what it's going to do is give them first-rate, state-of-the-art telecommunication services.

David Williams: Are we going to get 6G out of this?

Robert Grant: As far as I know there's not any 6G yet, this is 4G LTE technology.

David Williams: 4G?

Robert Grant Yes, it's good stuff.

David Williams: Mr. Brian, when we wrote our Cell Tower Reg's for all the zoning ordinances, how much latitude did we have given the state and federal dictation on these? Or Mr. Fridy.

Tommy Joe Fridy: Are you asking me?

David Williams: Either way.

Tommy Joe Fridy: I respectfully submit to you that this is not the time to have that discussion but I also respectfully disagree with Robert, and I think he has done a very eloquent job and he has a client to represent but just because he meets the criteria of the application does not mean that you do not have the power or authority or jurisdiction to turn his client's application down.

Now, I hate to make this next statement, this is so technical that the odds of layman being able to make a case that's adequate for you to turn one down is very, very remote. His statement that if you turn it down because he's made a complete application, I think is wrong, I disagree

with it; I respectfully disagree with it. But on the other hand, I seriously doubt that the people that are against this cell tower have given you enough information to turn it down. I hate to make that statement but I believe that's where we are. I can tell you with absolute certainty you postpone it and we do findings of fact, there might be enough in what they've testified to withstand appeal but we will be on the slight side, in my judgement.

Chairman McKee: Questions?

Gary Gibson: All I have to say is that we can turn it down or whatever we want to do but we have approved cell towers before here in the city, here in the county so it's nothing new for this to come before the board. But we do have a right to turn anything down regardless of what the other people do.

The cell tower in Smith Mills, with the blessing of Smith Mills that we approved about two (2) years ago, that area got a whole lot better coverage than what they had. We need to represent the people of the county too because there are a whole lot of people in the county that aren't getting good service and anytime we can help them get better service the better we are in doing our job, representing the people of the county. Now, I'm not backing cell towers at all, I know what they're out there for, they're for the benefit of the people and they are a good benefit to the people but we can turn it down if we want to.

I know you all can do what you want to but we have cell towers here in the city and to me a cell tower is a whole lot safer in the county than it would be sitting up here in the city. But they are here, they are going to be here and there will probably be more; that's all I can say.

Chairman McKee: Thank you Commissioner Gibson.

Any other questions for Mr. Grant? Any other questions from Commissioners for Mr. Grant I should say. Would you make yourself available for the member of the audience to answer a question?

Robert Grant: Absolutely, would you like for me just to stand to the side of the podium?

Chairman McKee: Yes, please sir. Eryn, will you please come up. I'll remind you that you are still under oath. Now you may ask your question.

Eryn Shaw: I just have one (1), quick question. If Mr. Griffin had not agreed into a lease contract with you and all other adjoining property owners had rejected you, which they did, where was your next location at? You had to have planned for that because you said up here that we enter into contracts provided that the landowners agree to a contract. Well, if everyone with the exception of Mr. Griffin rejected you... had he rejected you too, where do you go then?

Chairman McKee: Mr. Grant, if you choose to answer that question would you please come to the podium?

Robert Grant: It's really a hypothetical question that I can't answer. The fact of the matter is, is that Mr. Griffin did agree to lease space to us, that our RF Engineers liked the space, it serves the purpose of closing this gap in coverage, and that he leased space to us, we did all of our due diligence and we have presented an application that meets all requirements of the law.

So, no, I'm not in a position to answer a hypothetical question.

Tommy Joe Fridy: May I ask a question please?

Chairman McKee: Yes, you may.

Tommy Joe Fridy: Does your applicant have the power of eminent domain?

Robert Grant: No sir, we do not. Unlike some public utilities, we don't have the power to do that. We partner, not only with property owners with our leases, but we partner with our community to build public utility infrastructure for you, we do not have the power of eminent domain.

Chairman McKee: Mr. Herron, did you have a question for... You've got it answered? Thank you, sir.

Yes ma'am, will you please come to the podium?

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

Jackie Heitkemper: Jackie Heitkemper, 16863 Hwy 136 E.

Chairman McKee: Will you please spell your last name for the record?

Jackie Heitkemper: H-e-i-t-k-e-m-p-e-r

Heather Lauderdale: Thank you.

Chairman McKee: The clerk thanks you, when she gets to write this out that will be very helpful. Do you swear the statements you are about to make are the truths to the best of your knowledge?

Jackie Heitkemper: Yes.

Chairman McKee: Please proceed ma'am.

Jackie Heitkemper: I have a very simple question. More than likely, even though we feel like we live in paradise, we will move if that tower is constructed. I would like to know when the construction will start and when that tower will be there so we know how much time we have. That's it.

Chairman McKee: Thank you.

Mr. Grant, do you choose to answer that question?

Robert Grant: As I said, we have nearly three-hundred (300) sites across just the Commonwealth, and of course AT&T is a national company so we have sites that are on our build plans, being constructed all over the country. That's just the preface to say that it will go on the build plan, and there's all of these other sites that have already been approved in Kentucky that are on the build plan. The build plan is... fluid is the word I'm looking for. Meaning that one day a site is nearing the top and other sites are moved up ahead of it so I don't have an answer for her, when this site will be constructed. It will go on the build plan and I would hope that it would be sometime this year but possibly early next year. I guess it's June now, we're nearly halfway through the year.

Chairman McKee: Mr. Fridy?

Robert Grant: Yes sir?

Tommy Joe Fridy: Would you or your client agree to give updates, progress reports to any of the people that testified here tonight, but no one else if they provide you with addresses of what your project is?

Robert Grant: Absolutely. We would be happy to stay in touch with them and answer any questions they have, keep them apprised of the developments in this project.

David Dixon: I understood from your answer to the ladies' question, it could be as soon as a year, maybe two (2)?

Robert Grant: That's not, no, what I said was hopefully it will be by the end of this year. It's June, possibly early next year. But the build plan shuffles because there's so many sites across the state. Once it's on the

build plan, it will get constructed I just can't... she wanted to know a date of when that would be and I don't know what that date is. But I will gladly provide updates to her.

David Dixon: Thank you.

Robert Grant: You're welcome.

Chairman McKee: How long does it take to put it up usually, ninety (90) days?

Robert Grant: Yes, roughly. No, no, no, no... I think it's... I think the construction from start to finish is about three (3) weeks roughly. And then after that it's an un-manned site, a small pickup truck with a technician will go out there once every six (6) months to twelve (12) months just to check on everything and make sure everything's ok. So, it doesn't really impact traffic or anything like that. It's still in the air pretty fast.

Chairman McKee: So, once the bulldozer gets on the site to start getting the site prepared, three weeks?

Robert Grant: Pretty fast, yes sir. Roughly, yes sir.

Chairman McKee: Thank you Mr. Grant.

Tommy Joe Fridy: That it's transmitting the signal or it's in the air?

Robert Grant: Usually it's in the air. Steel in the air, antenna hung, switch flicked.

Brian Bishop: What color will the tower be? Will it be able to be less visible during the day and then it will blend in with the cloud cover color of the sky? Is that anything you guys consider?

Robert Grant: It's galvanized steel which is a brushed, light grey steel that generally blends into the skyline better than anything else. In the early days of wireless, we tried things like painting them blue, and sometimes rather than lighting we would put FAA strips on them. You'll see towers in places like that. This is going to be galvanized steel which blends in better than anything with the skyline.

Chairman McKee: Thank you Mr. Grant.

Robert Grant: You're welcome.

Chairman McKee: Are there any other questions for Mr. Grant before he takes a seat? Thank you, sir.

Robert Grant: You're welcome.

Chairman McKee: Are there any questions for staff or legal counsel? Am I certain that there is no one else who wants to speak for or against this application. Seeing none, thank you.

We have all the information you need to make a decision. The Chair will entertain a motion. This may be a first. (Referring to the time it has taken for a motion to be presented.)

***MOTION WAS MADE BY GRAY HODGE, SECONDED BY GARY GIBSON TO ACCEPT THE APPLICATION BY CINGULAR WIRELESS PCS, LLC, D/B/A AT&T MOBILITY TO THE HENDERSON CITY-COUNTY PLANNING COMMISSION FOR APPROVAL TO CONSTRUCT A NEW COMMUNICATIONS FACILITY ON KY HWY 136 E IN ROBARDS AS PROPOSED ON THEIR APPLICATION.***

Chairman McKee: Do we need findings of fact Mr. Fridy.

Tommy Joe Fridy: I didn't hear you.

Chairman McKee: Do we have findings of fact in our...

Tommy Joe Fridy: Your application is sufficient.

Chairman McKee: We have a motion and a second, is there any discussion before we vote?

Madame Clerk, will you please call the roll?

Heather Lauderdale: David Williams.

David Williams: I get to go first? I'm going to vote against it on principal, not anything that Mr. Grant has said or not said. I just do not like the fact that we are constrained in our testimony on this issue.

So, I vote against it.

Heather Lauderdale: Bobbie Jarrett.

Bobbie Jarrett: No.

Heather Lauderdale: Mac Arnold.

Mac Arnold: Yes.

Heather Lauderdale: Kevin Richard.

Kevin Richard: Yes.

Heather Lauderdale: Gary Gibson.

Gary Gibson: Yes.

Heather Lauderdale: Rodney Thomas.

Rodney Thomas: No.

Heather Lauderdale: David Dixon.

David Dixon: No.

Heather Lauderdale: Gray Hodge.

Gray Hodge: Yes.

Heather Lauderdale: Doug Bell.

Doug Bell: Yes.

Chairman McKee: What's the count?

Heather Lauderdale: Five (5) yes; four (4) no.

***ALL IN FAVOR: MAC ARNOLD, KEVIN RICHARD, GARY GIBSON, GRAY HODGE, DOUG BELL.***

***OPPOSED: DAVID WILLIAMS, BOBBIE JARRETT, RODNEY THOMAS, DAVID DIXON.***

Chairman McKee: Five (5) yes; four (4) no. That's the vote, the application is voted to be approved.

The Chair will entertain a motion to **close the Public Hearing.**

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY KEVIN RICHARD TO GO OUT OF PUBLIC HEARING.***

Chairman McKee: We have a motion and a second; any discussion? All in favor signify by saying aye.

***ALL IN FAVOR: AYE***

Chairman McKee: Any opposed?

***OPPOSED: NONE***

Chairman McKee: We are out of Public Hearing.

Next on the agenda is the Finance Report for May 2018, Mrs. Curtis are you going to lead that conversation?

Theresa Curtis: Yes sir.

Chairman McKee: Please proceed.

Theresa Curtis: We're at eighty-five percent (85%) of budget for the month of May, we've got one (1) month. I'm here to answer any questions if you have any.

Chairman McKee: Questions for Mrs. Curtis?

Doug Bell: I just have one (1) question. Is there any way we can have this in our packet so we may review it prior to the meeting, please?

Claudia Wayne: Sure.

Brian Bishop: We can do that.

Theresa Curtis: I can either put it in the packet or I can send it to you when we send out the agendas.

Doug Bell: Either way will be fine. Thank you.

Chairman McKee: Any other questions for Mrs. Curtis.

***MOTION WAS MADE BY DOUG BELL, SECONDED BY GARY GIBSON TO APPROVE THE FINANCE REPORT AS SUBMITTED.***

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

***ALL IN FAVOR: AYE***

Chairman McKee: Any opposed?

***OPPOSED: NONE***

Chairman McKee: The Finance Report is approved.

Next on the agenda is the Bond Report, Mrs. Wayne are you going to lead that conversation?

Claudia Wayne: Yes. This is Owensboro Health and the recommendation is to release the entrances and release erosion control and will be accepting the sidewalks.

Chairman McKee: The Chair will entertain a motion.

***MOTION WAS MADE BY MAC ARNOLD, SECONDED BY RODNEY THOMAS TO APPROVE THE BOND REPORT AS SUBMITTED.***

Chairman McKee: We have a motion and a second; any discussion?

Heather Lauderdale: Who was the second please?

Rodney Thomas: Rodney.

Chairman McKee: Rodney.

All in favor signify by saying aye.

***ALL IN FAVOR: AYE***

Chairman McKee: Any opposed?

***OPPOSED: NONE***

Chairman McKee: The Bond Report is approved.

Next on the agenda is the **Alexander Farms Subdivision Proposed Lot #6 Preliminary**. Mr. Bishop, please proceed.

Brian Bishop: Yes sir. This is submitted by Brad Alexander, and Larry and Mary Alexander for the property located in Henderson County on Briscoe-Benton Road (adjacent to 4400 Briscoe-Benton Road), Parcel ID#107-54, containing 16.935 acres. Applicants are requesting preliminary approval for Lot #6.

This is the property that I referred to earlier when we were discussing the Rezoning #1085. This had previously been Lot #6 & 7 on the previous Preliminary Plat. The applicant has changed course and instead of having Lot 6 & 7 contained in this 16.9 acres, they have decided to make this Lot 6.

The applicant has proposed a fire hydrant and they have submitted a sidewalk waiver in that there are not sidewalks in the immediate vicinity.

Staff recommends approval. We will also not sign the Final Plat and record it until we have confirmation that the fire hydrant has been installed. I will do my best to answer any questions you may have.

David Dixon: Where is Lot 7 in relation to this?

Brian Bishop: Lot 7 is a little further down the road Commissioner Dixon and is the two (2) acre lot so this is what that will look like.

This is approximately Lot 6, Lot 7 will be a little further down the road closer to this area.

David Dixon: Thank you.

Chairman McKee: Are the same facts and features applicable to the next application as well?

Brian Bishop: That is correct sir.

With one added caveat Chairman McKee, the Final Plat for Lot 7 will not be recorded unless two (2) things are complete: the fire hydrant being installed and the completion of the rezoning.

Chairman McKee: And they're also requesting a sidewalk waiver on that lot as well?

Brian Bishop: That is correct.

Chairman McKee: Do we need to handle those separately? The sidewalk waiver from the preliminary...

David Dixon: So, we've got subject-to's on both of these?

Claudia Wayne: Yes.

Brian Bishop: Yes sir.

Chairman McKee: Any other questions for Mr. Bishop? Since they're different, we'll take them separately.

***MOTION WAS MADE BY DAVID DIXON, SECONDED BY GARY GIBSON TO APPROVE ALEXANDER FARM SUBDIVISION PROPOSED LOT #6 PRELIMINARY, SUBMITTED BY BRAD ALEXANDER AND LARRY AND MARY ALEXANDER, (OWNERS) FOR THE PROPERTY LOCATED IN HENDERSON COUNTY ON BRISCOE-BENTON ROAD (ADJACENT TO 4400 BRISCOE-BENTON ROAD), PARCEL ID#107-54, CONTAINING 16.935 ACRES. SUBJECT TO INSTALLATION OF A FIRE HYDRANT.***

Chairman McKee: We have a motion and a second; any discussion? All in favor signify by saying aye.

***ALL IN FAVOR: AYE***

Chairman McKee: Any opposed?

***OPPOSED: NONE***

Chairman McKee: Will you like to make the same type motion for the sidewalk waiver Commissioner Dixon?

David Dixon: I can do that.

***MOTION WAS MADE BY DAVID DIXON, SECONDED BY KEVIN RICHARD TO APPROVE ALEXANDER FARM SUBDIVISION PROPOSED LOT #7 PRELIMINARY, SUBMITTED BY BRAD ALEXANDER AND LARRY AND MARY ALEXANDER, (OWNERS) FOR THE PROPERTY LOCATED IN HENDERSON COUNTY ON BRISCOE-BENTON ROAD (ADJACENT TO 4400 BRISCOE-BENTON ROAD), PARCEL ID#107-54, CONTAINING 2.0 ACRES. SUBJECT TO THE COMPLETION OF THE REZONING APPROVAL AND INSTALLATION OF A FIRE HYDRANT.***

Chairman McKee: We have a motion and a second; any discussion? All in favor signify by saying aye.

***ALL IN FAVOR: AYE***

Chairman McKee: Any opposed?

***OPPOSED: NONE***

Chairman McKee: Ok, make a motion for the Sidewalk Waiver on 6. We need a motion to waive the requirements for sidewalks on Proposed Lot #6.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT TO ACCEPT THE SIDEWALK WAIVER FOR PROPOSED LOT #6.***

Chairman McKee: We have a motion and a second; any discussion? All in favor signify by saying aye.

***ALL IN FAVOR: AYE***

Chairman McKee: Any opposed?

***OPPOSED: NONE***

Chairman McKee: Now, you're making the same motion for Lot 7?

David Williams: Correct.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY RODNEY THOMAS TO ACCEPT THE SIDEWALK WAIVER FOR PROPOSED LOT #7.***

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

Heather Lauderdale: Who was the second?

Rodney Thomas: Rodney. I'm getting all the seconds. (laughter)

***ALL IN FAVOR: AYE***

Chairman McKee: Any opposed?

***OPPOSED: NONE***

Chairman McKee: Did we cover it all Mr. Bishop?

Brian Bishop: I believe we finally got it.

Chairman McKee: Next on the agenda is **1776 South Green Street Site Plan**. Mrs. Wayne you're going to address that application?

Claudia Wayne: Yes sir.

Chairman McKee: Please proceed.

Claudia Wayne: This is submitted by Chambers Properties for the property located in the City of Henderson at 1776 S. Green Street. Applicant is requesting site plan approval for an office building.

He is wanting to construct a nine-thousand square foot (9,000sf) building to move his landscaping business to and office. The applicant has also submitted a sidewalk waiver request which I have and I can read it into the record.

“The fact that the sidewalk along 1776 South Green Street will serve no purpose for access to public or private facilities such as parks, shopping

centers or schools. We request a waiver of sidewalks as shown in the Subdivision Regulations.”

Theresa has put up what the building is going to look like, you can see that on the screen.

Also, if you bring up the GIS map Theresa, the property is across the road from Drury Lane. I wanted you all to see where the site is located and I think looking at GIS would help that.

David Williams: It’s on the south side of Hwy 60. I remember this in a Preliminary Conference...

Claudia Wayne: That’s where the business is going to be located, right there. Part of it is in the flood area but where the building is going is not.

Mac Arnold: Is that the location of that old cemetery?

Claudia Wayne: No, it’s behind it. It’s adjacent to it.

Mac Arnold: Adjacent to it, ok.

Claudia Wayne: They are also going to do a plat that will have an easement for sidewalks showing on the plat so if in the future if they ever go in, there will be an easement. Also, they will have other easements for utilities that will be located on it also.

I have a copy of the State Encroachment Permit from the state, all approvals from the utilities and the City Engineer. Staff recommends approval.

This will be subject to bonding for erosion control for \$11,400 (eleven thousand, four-hundred dollars) and also the submittal of the plat dedicating the easements.

So, there’s two (2) subject-to’s. One is the bonding for erosion control and one for the submittal of the easement plat.

Tommy Joe Fridy: You need to say what the easements are for.

Claudia Wayne: Utility easements and sidewalk easements.

Chairman McKee: But we still have to handle that as a separate issue, the waiver of the sidewalk.

Claudia Wayne: Yes sir.

Chairman McKee: So, the approval is subject-to a highway encroachment?

Claudia Wayne: No, we have that.

Chairman McKee: You have that? Utility easements?

Claudia Wayne: Erosion control...

Chairman McKee: Bonding?

Brian Bishop: Bonding for erosion control and a plat dedicating an easement for sidewalks and public utilities.

Mac Arnold: Brian.

Brian Bishop: Yes sir.

Mac Arnold: An easement of dedicating for sidewalks, does that mean if sidewalks ever go in, are they responsible for the sidewalks or would that be...

Brian Bishop: No sir, they are allocating the space on their property for the installation of future sidewalks if they are constructed.

Claudia Wayne: There are no sidewalks on that side of the highway, they're on the other side.

Mac Arnold: Ok.

Claudia Wayne: Plus, there's some elevation problems. We do have Mr. Chambers here and Keith Whitlege if ya'll have any questions of them.

Chairman McKee: Any questions for staff, first? Would you like to hear from the applicant?

David Williams: I just want to say, why did they miss this as an Independence Bank branch site? 1776? Come on Mike! (laughter)

Chairman McKee: They've got to have thought of it.

No questions? Ok, in the event that you approve the application, we will deal with the sidewalk waiver as a separate issue.

So, at this point the Chair will entertain a motion.

***MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY GARY GIBSON TO APPROVE THE SITE PLAN FOR THE OFFICE BUILDING LOCATED ON 1776 SOUTH GREEN STREET SUBMITTED BY CHAMBERS PROPERTIES FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON AT 1776 SOUTH GREEN STREET. SUBJECT TO BONDING FOR EROSION CONTROL IN THE AMOUNT OF \$11, 400 AND PLATS DEDICATING EASEMENTS FOR BOTH SIDEWALK AND PUBLIC UTILITIES.***

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

***ALL IN FAVOR: AYE***

Chairman McKee: Any opposed?

***OPPOSED: NONE***

Chairman McKee: Now, will you make the motion to waive the sidewalk requirements from the Subdivision Regulations?

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT TO WAIVE THE SIDEWALK REQUIREMENTS FROM THE SUBDIVISION REGULATIONS.***

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

***ALL IN FAVOR: AYE***

Chairman McKee: Any opposed?

***OPPOSED: NONE***

Chairman McKee: So mote it be.

Next on the agenda is **Gray Stone Subdivision, Section 5B Lots 259 & 261 Easement Extinguishment**. Mrs. Wayne, are you going to lead that conversation? Please proceed.

Claudia Wayne: This is submitted by Terry and Dawn Wheeler and Warren Roberge for the property located in the City of Henderson on Field Stone Drive. Applicants are requesting to extinguish a 20' public utility easement between Lots 259 & 261.

This is the plat...the easement that they're wanting to extinguish.

I have all approvals from utilities that it's ok to extinguish that easement and they are also moving the easement over to give another twenty-foot (20') easement between the two (2) lots because they're consolidating the big lot and giving part of it to Lots 261 and then part of it is going to Lot 269.

David Williams: 259?

Claudia Wayne: 259, I'm sorry, yes. We have all the approvals and staff recommends...the reason it's before you is because this easement was done as a major subdivision and it has to be extinguished as a major subdivision.

Chairman McKee: Any questions for Mrs. Wayne? So, they're extinguishing one and adding...

Claudia Wayne: Well, we don't...I'm just letting you know that all we're worried about is what we're extinguishing.

Chairman McKee: We're not giving anything up really, we're just extinguishing for clean-up...cleaning it up.

Brian Bishop: Mr. McKee, we're essentially relocating it.

Claudia Wayne: Yeah, relocating it.

Brian Bishop: That's a good way to describe it.

Chairman McKee: The Chair will entertain a motion.

***MOTION WAS MADE BY RODNEY THOMAS, SECONDED BY MAC ARNOLD TO APPROVE GRAY STONE SUBDIVISION, SECTION 5B- LOTS 259 & 261 EASEMENT EXTINGUISHMENT SUBMITTED BY TERRY AND DAWN WHEELER AND WARREN ROBERGE FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON ON FIELD STONE DRIVE. APPLICANTS ARE REQUESTING TO EXTINGUISH A 20' PUBLIC UTILITY EASEMENT BETWEEN LOTS 259 & 261.***

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

***ALL IN FAVOR: AYE***

Chairman McKee: Any opposed?

***OPPOSED: NONE***

Chairman McKee: So mote it be.

In your packet or on your place at the table you found a copy of the legal services agreement and the accounting services agreement. You've already approved those but do you have any questions or comments you would like to make about that?

Hearing none, the Chair will entertain a motion to adjourn.

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY DOUG BELL TO ADJOURN.***

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

***ALL IN FAVOR: AYE***

Chairman McKee: Any opposed?

***OPPOSED: NONE***

Chairman McKee: Thank you, thank you.

**MEETING ADJOURNED AT 7:55P.M.**