

Henderson City-County
Planning Commission
February 7, 2023

The Henderson City-County Planning Commission held a meeting February 7, 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, Gray Hodge, X.R. Royster, Frank Boyett. Bobbie Jarrett, Mac Arnold and Tommy Joe Fridy were present via ZOOM. Stacy Denton, Doug Bell and Kevin Herron were absent. Staff present: Director Brian Bishop, Jennifer Marks, Theresa Curtis, Heather Lauderdale, Chris Raymer and Attorney Steve Arnett.

MEETING BEGAN AT 6:00 PM

Chairman Dixon: I would like to call this February 7, 2023 meeting of the Henderson City-County Planning Commission to order.

I would like to thank you for coming, we've got a good group and a lot of work to do tonight so, let's get to it.

Madame Secretary, can you call the roll?

Heather Lauderdale: Yes, thank you.

Chairman Dixon: Very good, do we have a quorum?

Heather Lauderdale: We do.

Chairman Dixon: Thank you very much.

I would also like to introduce Mr. Steve Arnett who is sitting in our attorney's chair this evening, Tommy Joe is out of town and I think he is going to be joining us via ZOOM.

We have several public hearing items; I'll entertain a motion to go into public hearing.

MOTION WAS MADE BY GRAY HODGE, 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 order of business is approval of the **minutes from the January 3, 2023 meeting.**

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY GARY GIBSON TO APPROVE THE JANUARY 3, 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 are approved.

Before we proceed, it has been pointed out or suggested that the commission may consider re-ordering the agenda. With the intent being if we should go into a tomorrow meeting as well, then we would only have one issue remaining that we need to deal with.

So, I'm going to propose we proceed in this order; Rezoning #1139, MET Tower 4241 Site Plan, MET Tower 4242 Site Plan, the Alleyway closure request that we have tabled and then Rezoning #1140 with a Development Plan.

I'll entertain a motion to re-order the agenda if that is the commission's wish.

MOTION WAS MADE BY X.R. ROYSTER, SECONDED BY KEVIN RICHARD TO RE-ORDER THE AGENDA.

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

All in favor say aye.

AYE: ALL

Chairman Dixon: Any opposed? Very good, that puts at the top of the public hearing agenda **Rezoning #1139**. I think Ms. Marks is going to introduce that?

Jennifer Marks: Yes, thank you Mr. Chairman.

Rezoning #1139 is submitted by Gary and Debra Murphy for the property located in Henderson County adjacent to 11247 Hwy 351 (PID#97-55) and containing approximately 52.86 acres. Applicants request a zoning change/map amendment from Surface Mining (SM) to Agricultural District (AG) to construct a Single-Family dwelling.

If you will look at your packet and/or on the screen, this is the parcel that we are looking at to rezone to agricultural surrounded by the white area there is other agriculturally zoned properties and behind it you will see that is all surface mining as well.

There are adequate infrastructures out there for the construction of a single-family home.

If anyone has any questions in regards to that rezoning I will take them now or I also have findings to read into the record whenever you're ready for those.

Chairman Dixon: Any questions for staff from the Commission?

Kevin Richard: I have one.

It's kind of hard to tell from the map. So, the flag portion of the parcel that connects with 351; what's the road frontage for that?

Jennifer Marks: I believe, if you look on the plat in your packet it is 52.862 feet. So, right now we require a fifty-foot (50') frontage.

Kevin Richard: I just wanted to confirm what the number was.

Chairman Dixon: A single family is not allowed in the current zone?

Jennifer Marks: Correct.

Chairman Dixon: Any other questions for staff from the commission?

Would anyone here tonight like to speak in favor of this rezoning?

Thank you, sir. I will need your name.

Chris Hopgood: Chris Hopgood.

Chairman Dixon: Address?

Chris Hopgood: 318 Second Street, Henderson.

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

Chris Hopgood: I do.

Chairman Dixon: Thank you very much. How can we help you?

Chris Hopgood: I represent the Murphy's and was assisting them with this rezoning.

They acquired this property from Penn Virginia so they acquired it as it was zoned which was surface mining. They live close nearby and would like for their son to build a single-family dwelling on it so, that's the nature of the rezoning.

We will be glad answer any questions anyone's got.

Chairman Dixon: Thank you sir.

Does the commission have any questions for this gentleman?

Thank you.

Anyone else here tonight want to speak in favor of this rezoning?

Is there anyone here to speak otherwise or questions?

Yes sir?

Your name sir?

William Litsey: William Litsey.

Chairman Dixon: Address?

William Litsey: 931 First Street.

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

William Litsey: I do.

Chairman Dixon: Thank you.

William Litsey: Already approximately fifty percent (50%) live outside of the City Limits inside of Henderson according to the report that I read with the Henderson City-County Planning Commission Master Report.

A study by a non-profit, 501(c) advocacy group found that single-family housing, especially rural single-family housing costs far more in infrastructure cost both in maintenance in creating that much infrastructure to the place and also just in the heating and cooling cost in that area as well as an increased reliance on car travel for that housing project to get the resources it needs to continue to sustain and I find that allowing more single-family housing, especially outside in the county will only continue to exasperate financial problems inside of the city as well as the planning problems we have seen as far as over fifty percent (50%) of lots being taken up by parking and etc.

Chairman Dixon: So, you're in opposition of this rezoning?

William Litsey: I am in opposition.

Chairman Dixon: Any questions for this gentleman?

Jennifer Marks: If I may speak really quick. Again, we did mention that utilities are already in this area.

If you'll notice, all of those lots fronting where this one would currently go are actually all single-family homes so there is already infrastructure so, we would not be increasing any kind of cost there and also, they would be responsible for putting in their own septic tank. So, from a sewer standpoint that would be what is taken care of there.

William Litsey: Okay.

Chairman Dixon: Anything else, sir?

William Litsey: No, that's it.

Chairman Dixon: Thank you, sir.

Anyone else want to address this issue? Anything else from the commission?

Ms. Marks, I think you have findings of facts you would like to share with us?

Jennifer Marks: I do, would you like to swear me in?

Chairman Dixon: I would.

Your name?

Jennifer Marks: Jennifer Marks, 1990 Barret Ct, Suite C.

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

Jennifer Marks: I do.

Chairman Dixon: Very good.

Jennifer Marks: Rezoning #1139, submitted by Gary and Debra Murphy for the property located in Henderson County adjacent to 11247 Hwy 351 (PID# 97-55), and containing approximately 52.86 acres.

Applicants request a zoning change/map amendment from Surface Mining (SM) to Agricultural District (AG), to construct a Single-Family dwelling.

I move that the Planning Commission recommend that the Henderson County Fiscal Court (the “County”) APPROVE Rezoning Application #1139 changing the zoning classification from Surface Mining District (SM) to Agricultural District (AG) 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;

Although the proposed rezoning isn’t in agreement with the future land use map of the comprehensive plan, the existing zoning is inappropriate and the proposed zoning is appropriate because;

- The property in that area has developed into single family residences,
- Surrounding parcels are zoned in a similar nature,
- This rezoning will not negatively affect other parcels in the area,
- Rezoning creates positive infill in a currently vacant area.
- This proposed development is served by adequate infrastructure/utilities.

Chairman Dixon: Thank you. Does the commission have any further questions?

Hearing none, I’ll entertain a motion in regard to Rezoning #1139.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY FRANK BOYETT TO ADOPT INTO A MOTION THE STATEMENT THAT MS. MARKS HAS READ INTO THE RECORD AS FINDINGS OF FACTS TO REZONING #1139.

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

Any amendments to the motion?

Madame Secretary please call the roll.

AYE: ALL

Chairman Dixon: Thank you, the motion passes.

According to the amended agenda now we will deal with these two (2) tower site plans that are non-public hearing items so I need to motion to go out of public hearing.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY KEVIN RICHARD TO GO OUT OF PUBLIC HEARING.

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

All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed?

We are out of public hearing.

Ms. Marks, are you going to take care of the towers too?

Jennifer Marks: Yes.

Chairman Dixon: Thank you.

Jennifer Marks: Mr. Chairman would it be okay if I read both of these site plan descriptions in at the same time so that their representative may discuss both of them since they are similar in nature.

Chairman Dixon: Yes, thank you.

Jennifer Marks: Item number three (3) under non-public hearing is the **MET Tower 4241 Site Plan** submitted by Cordelio Power for the property located in Henderson County being a portion of PID# 106-41

(Latitude 37.820652 Longitude 87.419003 W). Applicants are requesting a site plan approval.

Item number four (4) is MET Tower 4242 Site Plan which is submitted also by Cordelio Power for the property located in Henderson County being a portion of PID# 115-16 (Latitude 37.760362 Longitude 87.372096 W). Applicants are requesting a site plan approval for that as well.

So, for the first one if you will look here, I'm going to give a brief overview and then their representative will be able to go into more detail on kind of what their plans are.

You will see here that the first MET tower is planned, I believe they are leasing a portion of that property to be able to place these towers and my brief description is what they would call a weather tower. They will be placing these to do some testing on wind for later, potential placement of wind turbines.

Then the second tower...4241 is going to be the more northern one and then 4242 is down here in the southern area and then I believe that their representative, two (2) of them if you guys want to get up and give more information on what the plan is or if there are any questions or however you guys want to do that.

Chairman Dixon: What are these sites zoned?

Jennifer Marks: They are both zoned surface mining.

Chairman Dixon: Okay.

Yes sir?

First of all, does the commission have any questions for staff? Very good.

Your name sir?

Kyle Gerking: Kyle Gerking.

Chairman Dixon: Your address?

Kyle Gerking: 6212 144th Street, Weeping Water, Nebraska, 68463.

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

Kyle Gerking: I do.

Chairman Dixon: Very good. How are you associated with this project?

Kyle Gerking: I represent Tenaska, we have a joint development agreement with Cordelio Power so we're supporting their efforts to potentially develop a project here in Henderson County and these meteorological towers provide us information regarding the wind resource here so we can assess the viability of a potential wind farm at this location.

Frank Boyett: I've got a question for you.

I understand that these towers you're putting up right now probably won't have too much of an effect on migratory bird flight paths but being a wind farm, having you given any thought on how to mitigate that?

Kyle Gerking: That will be part of the actual development of the actual wind project. We will do studies with U.S. Fish and Wildlife Service and follow their wind energy guidelines that they put out for developers so, we will be out there doing studies to identify the species of concern and assess the risk and work to mitigate that.

Chairman Dixon: How tall are these towers?

Kyle Gerking: These are just shy of two-hundred feet (200').

Chairman Dixon: And what is this on top of them?

Kyle Gerking: There's anemometers and wind vanes on them to measure wind speed and direction at multiple elevations on the tower.

Chairman Dixon: How long do you expect to gather data before you proceed?

Kyle Gerking: It all varies based on the development cycle timeline of the project but typical would be three (3) to five (5) years and then they come down and everything is removed.

Chairman Dixon: Any other questions?

Kevin Richard: I guess from an illumination standpoint, obviously a two-hundred foot (200') tall tower you'll have to have some lighting for helicopter or aircraft but will there be any ground-level lighting at these sites?

Kyle Gerking: Below two-hundred feet (200') we're actually below the threshold for notice to the FAA...

Kevin Richard: So, you don't have to have lights, okay.

Kyle Gerking: but we did opt for, there's voluntarily, high visibility options that we added so the towers we're proposing will have the same marker balls you see there and we do have an obstruction light on the top as well, a solar powered obstruction light and then there is guy guards at the bottom so, those are visible.

Chairman Dixon: Any other questions?

Dickie Johnson: I know we're talking about the tower but is there going to be a perimeter fence around these towers?

Kyle Gerking: Not around the tower itself, there may be...sometimes you put them around the guy structures if there are cattle or something but there are no plans to install them here, there's not livestock.

Dickie Johnson: I just wondered about, you know, the concerns of individuals going out there and trying to climb it.

You don't have any safeguards blocking off any possibilities of climbing?

Kyle Gerking: There's really not anything to climb. It's just a ten-inch (10') pole.

Kevin Richard: Basically, a monopole tower.

Dickie Johnson: Oh, okay.

Kyle Gerking: It's supported by guys but it's just a ten-inch (10'') pole that lets down to eight inches (8'').

Dickie Johnson: Tubular then, it ain't like a bolt-together tower.

Kyle Gerking: It's not a lattice tower.

Dickie Johnson: Okay.

Chairman Dixon: It's my understanding, staff can assist me on this or perhaps Mr. Gerking but if this project is deemed feasible and the parties would like to proceed, that will begin a rather lengthy procedural process before us. Is that correct?

Jennifer Marks: We are actually in the process now or getting to the beginning stages of creating a wind ordinance. The county currently does not have, you know like we have a solar ordinance, a wind ordinance would be something else. We are working with Kyle and people that do these because there is currently not one in the State of Kentucky for us to re-create the wheel. However, there's not one for Kentucky so we will be doing that here in the new future in case those do come to fruition so, you all will see that, of course, come to you for that approval.

Chairman Dixon: There is no such ordinance in the State of Kentucky?

Jennifer Marks: According to the Energy and Environmental Cabinet, wind ordinances are not registered with them currently. There are some in Indiana and Tennessee that we can pull, Missouri has several so we're going to be pulling those.

Chairman Dixon So that may lay in the future as the gentleman point out, three (3) to five (5) years is typical data gathering time.

Any other questions from the commission?

Is anyone in the audience that would like to speak in favor of these towers?

Is anyone here to speak against them or ask questions?

I'll entertain a motion in regard to MET Tower 4241 Site Plan.

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY DICKIE JOHNSON TO APPROVE THE SITE PLAN SUBMITTED FOR MET TOWER 4241 SUBMITTED BY CORDELIO POWER FOR PROPERTY LOCATED IN HENDERSON COUNTY PID# 106-41 REQUESTING THE SITE PLAN APPROVAL.

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

Madame Secretary, please call the roll.

AYE: ALL

Chairman Dixon: The motion passes.

I'll entertain a motion in regard to MET Tower 4242 Site Plan.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY X.R. ROYSTER TO APPROVE MET TOWER 4242 SITE PLAN SUBMITTED BY CORDELIO POWER FOR THE PROPERTY LOCATED IN HENDERSON COUNTY AND BEING A PORTION OF PID#115-16.

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

Madame Secretary, please call the roll.

AYE: ALL

Chairman Dixon: The motion passes, thank you.

We need to go back into public hearing, I'll entertain a motion to do so.

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY GRAY HODGE TO GO BACK INTO PUBLIC HEARING.

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

All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed?

We are back into public hearing.

The next item is the Alleyway Closure Request we discussed before; I'll entertain a motion to take that off the table.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY FRANK BOYETT TO TAKE THE ALLEYWAY CLOSURE REQUEST OFF THE TABLE.

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

All in favor say aye.

AYE: ALL

Chairman Dixon: Any opposed?

Very good, we are back discussing the Alleyway Closure Request. I think Mr. Bishop is going to help with that one.

Brian Bishop: Yes sir.

You may remember that this item was at last month's meeting, as the Chairman said. The neighbors raised several questions that we asked Mr. Doug Boom, our City Engineer to address.

Mr. Boom has done that and has put his correspondence in the packet. So, with that we would like to ask Mr. Boom to come forward so he can answer any questions.

Chairman Dixon: Your name, sir?

Doug Boom: Doug Boom, 222 First Street, Henderson.

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

Doug Boom: Yes.

Chairman Dixon: Thank you.

Doug Boom: After the meeting last month, the next day I went out to look at it and I did notice some of the issues like the trees against the fence line and those were eventually cut down.

Jennifer Marks: Do you want the pictures, Doug?

Doug Boom: Yes.

(Referring to the photos shown on the large screen regarding the alleys) So, this is actually looking off of Garfield towards the properties and you can see that first garage there is the first lot next to the church.

This is actually looking down from Maple through the alley. There is a drop off at the blacktop right there that the city will address.

This is actually looking from the church property, looking back up towards the east up to Maple. There appears to be plenty of access there for anybody to get in and get out.

This is the actual drop off at Maple that the city will address with some pavement to eliminate that.

Brian Bishop: Doug, can you elaborate on what they'll do?

Doug Boom: I'm sorry. They will come in and either overlay to at least bring it down five (5) or ten (10) feet off the edge off the pavement to make a smooth transition so there's not a drop off; there is a drop off.

Brian Bishop: You might want to mention the timing with the asphalt plan.

Doug Boom: That will be done this spring when the plants open.

The Public Works Director is here if you all have any comments on that.

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

Everybody has, I think, a copy of his report in the packet.

Dickie Johnson: Thanks for going out there and identifying the issues that was obvious.

Frank Boyett: I think you've reasonably addressed the concerns of the neighbors.

Chairman Dixon: Thank you sir.

Is there anyone else here that would like to speak in favor of this proposal? Is there anyone here who would like to speak against this proposal or have any further questions about it?

Yes sir?

Dane Shields: Good evening, Dane Shields, 101 First Street, Henderson, Kentucky.

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

Dane Shields: I do.

Chairman Dixon: Thank you. How can we help you?

Dane Shields: I represent two (2) of the members of the public that own real estate on this public alleyway that have been using the public alleyway for ingress and egress for a number of years.

They're here with me tonight it's Patty Morris at 519 Roosevelt. This alleyway runs parallel with Roosevelt Street.

So, the way this area has developed, the owners on Roosevelt Street have built their garages on the alleyway and so that's how they get in and park. Patty Morris is the property owner adjoining the church lot and her property touches a point of the right of way that's going to be closed and she does not consent to the alleyway being closed.

Her next-door neighbor also is on the alleyway, that's Gayle Wallace, she's at 1923 Roosevelt. She also has a garage on the alleyway and she uses this alleyway for ingress and egress.

Next to her property is 1525 Roosevelt, I have Ashley Dodge and Nick McClure and they use this public alleyway for ingress and egress and wish for the alleyway to remain open.

Now I don't like objecting to things that churches or school's want to do, that's a good thing but this is public property that the public has a right to use that's being asked to be closed for the benefit an entity for their private use.

So, on behalf of members of the public that have the right to use public property, we're asking for your discretion not to close the alleyway. We do really appreciate Mr. Boom going out and some bushes were trimmed and the end on Maple that does need to be addressed but that is not the issue here.

The issue is, is a public alley going to be closed for the benefit of a private entity where members of the public use the alleyway and I think there are some, Mr. Arnett may be able to speak to this, I think that (inaudible) findings of fact to grant the closure of an alleyway one of the

findings of fact have to be that a member of the public who abuts the alleyway has consented to it by giving a written consent in front of a notary public and certainly that it's not the case here.

So, I would ask this commission's discretion in allowing the public to use a public alleyway for the purpose it was intended instead of allowing a private entity to be able to close it for their personal use and deny the public the right of that use.

So, that's what I have.

Brian Bishop: Mr. Chairman, can I add one thing?

Chairman Dixon: Yes.

Brian Bishop: The Planning Commission is not closing the alley itself; we are only recommending for the alley to be closed or left open. The board of commissioners will decide on that themselves, not us; or not the Planning Commission, excuse me.

Chairman Dixon: So, we're being asked to make a recommendation or not.

Brian Bishop: We are being asked to make a recommendation. We do not have the legal authority to close the alley.

Chairman Dixon: Ok.

Can you show us where this property corner, who doesn't want it closed abuts this section and how wide that is?

Dane Shields: Yes. Can I point with my pen or?

Jennifer Marks: So, which address are you talking about?

Dane Shields: The church is right here, where you're pointing. (Referring to the map on the large screen). The individuals I represent are right beside it; 1519 right beside it, 1523 and also here tonight is 1525 in opposition and also, we have a text message from the owner of

23 Maple, which is right here on the alley and they all object to the alley being closed. They use it, as members of the public for ingress and egress.

Chairman Dixon: At what point does any of their property overlap the portion of the alley proposed for closure?

Dane Shields: Well, the one that touches it, that touches the point that's being closed would be right here.

Jennifer Marks: Mr. Chairman, here is the plat that shows the portion of the alley that is being requested to be closed. So, you would go from here to here; the property line for the next one looks like it right here.

Chairman Dixon: I don't see the overlap in the (inaudible).

Dane Shields: I can't tell where the line is. I was out on site today and it's not marked so.

Doug Boom: This is the church lot, right here.

Dane Shields: Alright.

Doug Boom: (Inaudible-speaking too low to pick up on microphone)

Dane Shields: Okay so it touches the lot line.

Frank Boyett: Where does it touch the lot line?

Doug Boom: It's at a point that shares...

Dane Shields: It's at the point.

Jennifer Marks: So, right here would be blue dot that they're referring to that would touch, I believe this was 1519? Yes.

Dane Shields: So, there is a...

Tommy Joe Fridy: Mr. Chairman?

Chairman Dixon: Yes, counselor?

Tommy Joe Fridy: This is Tommy Joe Fridy.

Mr. Chairman and the commission, the pertinent point is not whether a property touches the alley proposed to be closed, it's whether they use that public alley to access their property.

Chairman Dixon: Thank you.

Frank Boyett: Are there not alternative routes they can use for access?

Dane Shields: Maybe so, that's not the point.

Frank Boyett: Yes, it is.

Dane Shields: They use the alley and so the public and so the public is using the alley and they're using the part of the alley that wishes to be closed.

Now, you're right Frank, they can go another way but they've been using that public alley.

Frank Boyett: Yes, but the church has safety issues there with their kids for their school. There is a legitimate interest in closing that alley.

Dane Shields: Well, let me address that.

We have North Middle School on one of the busiest streets in Henderson. We have Henderson County High on one of the busiest streets in Henderson. We have the Thelma B. Johnson school on Green Street, one of the busiest streets in Henderson and they deal with more cars that run down McKinley. This is an alleyway where the neighbors have been cognizant that there are kids in the neighborhood so they try not to use that alleyway while the school is in session but they use it on weekends and in the evenings.

And so, what do those schools do to safeguard children?

They have patrol people that are out there, they can put up lights to warn the traffic that kids are there or signs, they can put limit signs up and

that's what schools do in busy sections of town to be safe for the kids. Of course, you want to do that, so that's within their power. This isn't any different than any other school and we don't close down Green Street because Thelma B. Johnson is on Green Street.

Brian Bishop: Mr. Chairman, may I say something here?

Chairman Dixon: Yes.

Brian Bishop: To Mr. Shields point, none of those examples occupy both sides of the public right of way either with a playground.

Chairman Dixon: Any other questions?

Dane Shields: Thank you for your consideration.

Chairman Dixon: Thank you.

I'll ask again, is anyone here to speak in favor of this alley closing?

Yes sir, would you like to address it?

Your name sir?

Mark Carter: My name is Mark Carter, I'm Pastor of the Christian Life Church and Principal of Christian Life Education Center.

Chairman Dixon: We need your address.

Mark Carter: My address is 8061 Old US 60 E, Spottsville, Kentucky.

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

Mark Carter: Yes.

Chairman Dixon: Thank you, please proceed.

Mark Carter: Again, I believe I explained last month that we have sixty-seven (67) kids that attend our school. We do own the property on both sides of the alley and the section that we wish to close is only the section where we own the property on both sides. We understand that there is

an entrance and an exit, two (2) different places where the neighbors...actually some of these neighbors are actually closer to another entrance than they are to the one that we use.

We understand them liking to use our entrance but we maintain it and we maintain it fairly well. We have put rock in the alley, instead of the city...the city has too but the last time it was rocked was last spring and we did that and we maintain and make sure bushes are not impeding in the alley and so we maintain it, it's well maintained.

We're just concerned about the safety of our kids. They do play across the alley where we own the property over there and that's where the playground is and we do maintain sixty-seven (67) kids as best as we can but sometimes, they do get in the alley.

As the gentleman said earlier, the school on Second Street and the school on Green Street, they don't own the property on both sides. We do. We just have an alley that runs up through the middle of our property and it's just not safe for our kids. We do the best we can and we've been there twenty-nine (29) years and we've not had an incident with a kid getting hurt by a car in the alley. In fact, since we have purchased the property, we have very few cars that come up through the alley but it's just something we're concerned about; the safety of our kids playing in the alley and since we own the property on both sides it just makes sense to us that we close that one section and it still leaves two (2) entrances for all the neighbors. Even the Henderson city trash truck, I don't believe comes through our section of the alley. Our trash collector does but the City of Henderson I believe comes in one and then makes the curve and goes out the other, that's what I've seen them do.

Also, since we've bought the property on the other side, we have a storage building there and they tell us that's not...you can't have a storage building on a property that you don't have the main building so, that would also have to be...we have a couple of buildings over there for

storage and they would have to be moved to the other side of the alley to where our main church building is.

Our main concern, again is the safety of our kids that play in the alley, they were playing there today. We do a good job; I think of keeping them safe and we have for twenty-nine (29) years but all it takes is one (1) time. It would just be safer and it would be nice not to have an alley running up through the middle of our property.

Chairman Dixon: Okay. Any questions for this gentleman from the commission?

Thank you, sir.

Dickie Johnson: I have a question and I brought this up at the last meeting. The long lot, I guess coming of...is that Roosevelt or Maple?

Down there where the lot line is, you can see where traffic cuts on that corner right there.

Doug Boom: There's a fence there.

Dickie Johnson: There's not a fence there.

Doug Boom: There is a fence.

Dickie Johnson: Well, is the fence angled?

Doug Boom: Yes.

Dickie Johnson: But that property line...

Doug Boom: Here's a picture of it.

Dickie Johnson: Yeah, I know but the property line goes out. So, if that land owner decided to put a fence up on his property line how would people like the city trash truck be able to turn that corner or anybody that's pulling a trailer around that corner?

Doug Boom: There is already a fence there. It's at an angle...

Dickie Johnson: I know but if that land owner come up there and said I want to put a fence on my property line which would cut that angle off how would the traffic get through there?

I'm just asking a question.

Doug Boom: The Public Works Director is here...

Dickie Johnson: Yeah, okay, well I didn't know who I needed to address it to.

Jennifer Marks: I think the important thing to note there, sorry Dawn, is that the GIS is only somewhat correct because alley's obviously move, we know that. So, I know that you're seeing this here and we don't currently have one with us but I can look for a plat showing that easement there or showing how much or if this is an accurate property line.

Dickie Johnson: That's my concern.

Jennifer Marks: I got ya, I mean there is a current...you can kind of see that there, a chain-link fence that goes down through there but take these lines with a grain of salt until we're able to get an updated plat for that area to know what the parcel lines are.

Dawn Kelsey: They wouldn't be allowed to put a fence in an easement.

Chairman Dixon: Excuse me, ma'am. I need your name please.

Dawn Kelsey: Dawn Kelsey.

Chairman Dixon: Your address?

Dawn Kelsey: 222 First Street.

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

Dawn Kelsey: I do.

Chairman Dixon: Thank you.

Dawn Kelsey: They wouldn't be able to...

Dickie Johnson: I understand that.

Dawn Kelsey: Okay.

Dickie Johnson: But when we're looking at these hypothetical property lines and it goes out into that corner, if that property owner actually owns that and he decides, well I'm going to, you know, put the fence on my property line and we wouldn't be able to do anything about it.

Brian Bishop: Dawn, is there a prescribed easement there from the city standpoint?

Dawn Kelsey: Yes. We would work with the property owner but they wouldn't be able to do that.

Dickie Johnson: Yes. Well, that's the reason...my concern is if we close this alley, that was some of the questions that was brought up last month. Is how would the vehicles make the turns because some of them say, well we go straight through pulling a trailer.

Doug Boom: You can pull from Garfield through that alley and access that alley to the north as well.

Gary Gibson: What I would like to bring out is closing that alley to make it safer for the kids; are we keeping anyone from getting to their back alley?

Doug Boom: No. They still have access off Maple as well as Garfield.

Gary Gibson: They've still got a way to get to their alley and we have to remember that is an alley.

Doug Boom: Correct.

Gary Gibson: We're not blocking anyone from getting to their house?

Doug Boom: That is correct.

Chairman Dixon: Any other questions. Any other questions for Mr. Boom?

Mrs. Kelsey, I have one.

Can you share any kind of precedence here?

Dawn Kelsey: I'm sorry?

Chairman Dixon: Has this or something similar to this been done in the past?

Dawn Kelsey: Closing an alley or a portion of an alley? Yes. Actually, the last alley that you all closed...

Chairman Dixon: Where the landowner...

Dawn Kelsey: Mr. Shields represented the landowner and we only closed a partial alley because there was one person whose property touched the alley we were closing and we left that open for that person.

The same situation here is because he needed access from the one-way.

Here, the individuals have two (2) accesses. So, actually we're in better shape with this one than we were one on the Metzger's alley if you all will remember that.

Chairman Dixon: Okay, thank you.

Mr. Shields, do you have something you would like to add?

Dane Shields: Please. On the Metzger's one, the difference in that case is the property owners consented to it in writing. We do not have that here.

The owner that...these people that use the alley and a point of their property touches the alley to be closed; where there is a direct touching upon a single point of the public way to be closed, which we have here, that person has not consented in writing.

So, I think there's a defect proceeding when you don't have consent from a person whose property touches the property, be closed at a point if there is no consent there is a different procedure for closing the alley. And that is when the City Attorney goes to the Circuit Court and closes it and I just don't think we're in a proper procedure, procedurally.

Chairman Dixon: Tommy Joe, are you there?

Can we tell if he's with us?

Tommy Joe Fridy: I am but I had trouble becoming un-muted.

Can you hear me now?

Chairman Dixon: Yes, you are now un-muted.

Did you happen to hear Mr. Shield's last comments?

Tommy Joe Fridy: I did but I would defer to the City Attorney because the city...we are only holding a public hearing as a Planning Commission as an accommodation to the city. This is a city proceeding. So, I defer to the City Attorney as to the legality and to Mr. Shields' point of law because I represented the City of Sebree for so long I know the answer but let's get it from the City Attorney.

Dawn Kelsey: This is exactly the same thing you all did with Metzger's because that property owner touched the alley abutting the alley, in his definition of abutting and he did not consent in the closing of the alley.

So, what you all did is you did a partial closing, you didn't close it for him if that touched the alley that's being closed.

In this situation, you are only closing the alley past that property owner but what you could do to make it very clear is just move the alley closing one foot (1') off of that property line and then they no longer abut according to Mr. Shield's definition of abut which is not defined in the statute because I just checked it and then that would be clear but you all have done this before just like he did in the Metzger's closing.

Chairman Dixon: Okay, thank you.

Gray Hodge: Can I ask a question?

Chairman Dixon: Yes.

Gray Hodge: Dawn?

Dawn Kelsey: Sure.

Gray Hodge: Is there any credence to Mr. Shields' argument where members of the public have enjoyed use of that alley for years, I don't know if it pre-dated the church's ownership of property on both sides of that alley but they have had public access to that alley and they have enjoyed the use of that alley for years, does that give them any precedence to claim that they should be able to retain the access to that alley in the future?

Dawn Kelsey: No, I don't believe so but I will tell you that in the end, it says that if a legislative body or city determines that a public way located within in the city should be closed in whole or in part, that's up to the City Commission but there is no argument in the statute that...I've always used it, the statute is only concerned with the people who adjoin that alley.

Dane Shields: I will say this, the statute that deals on point with this, it's KRS and it says if the people who touch the part that's being closed give their written consent, ya'll just make the findings of fact and then you can close it or recommend the closing of it. If you don't have the written consent, and Steve is looking at the statute, then there is a different procedure that the city has to go through and that's the City Attorney filing an action in the Circuit Court.

Dawn Kelsey: So, what we can do to make it very clear is just move the alley one foot (1') in, away from the property line then they no longer abut the alley, according to your definition and it's clear that no written consent from your client would be necessary.

Dane Shields: So, what you're doing with that, you're manipulating lines for the convenience of a private owner and depriving the public from use of a public way.

Now, you know I hear what you're saying but the public has been using this alleyway and if you manipulate the lines so you take it out where they don't have any rights, the statute protects rights but you change the lines so then they don't have rights, I think that's just manipulation to favor someone who's getting a piece of property for nothing and it's depriving owners who have been using that public alleyway.

It's your discretion but I'm just...

Brian Bishop: Mr. Chairman? May I emphasize that we're only recommending, I want to make sure we're being very clear about that.

Chairman Dixon: Okay.

Steve Arnett: And if I may add, the statute is directed to a legislative body, the city and the city can do whatever they want to, this is merely a process for this board to make a recommendation or not make a recommendation. The city can take whatever action they deem necessary.

Gray Hodge: We make a recommendation one way or the other but regardless it goes to the city?

Dawn Kelsey: Yes.

Brian Bishop: Exactly.

Steve Arnett: Yes, yes.

Dane Shields: I agree.

Chairman Dixon: I think that's been clear from the beginning that we're just making a recommendation. If someone wanted to amend the application so this closure is one foot (1') shorter, what do we do, start all over?

Frank Boyett: That would make it a lot cleaner than trying to amend it from up here.

Dawn Kelsey: Right.

Chairman Dixon: So, we're not going to amend it.

Frank Boyett: That's what I mean.

Chairman Dixon: I mean, is the city going to amend it? Is the applicant going to amend it?

Dawn Kelsey: The applicant would need to amend it.

Gray Hodge: Or we recommend the city deal with it.

Frank Boyett: We ought to at least give them our inclinations on whether it ought to be closed or not, that's what we're charged with doing.

Chairman Dixon: That's a good point. Any other comments from the commission here? Questions for anyone?

Gary Gibson: Well, we're here to recommend one way or the other. It's up to the city to do whatever they want to but our job is to recommend one way or the other.

Chairman Dixon: Right.

Gary Gibson: And they can take it from there.

Chairman Dixon: Would anyone else in the audience like to speak to this matter?

Yes ma'am, please.

Your name, ma'am?

Gayle Wallace: Gayle Wallace, 1523 Roosevelt Street.

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

Gayle Wallace: I promise.

Chairman Dixon: Thank you.

Gayle Wallace: Can I just point some things out to you on the map?

Chairman Dixon: By all means.

Gayle Wallace: Because I feel like you still aren't getting the full picture because they said, oh, you can get into your garage easy.

Chairman Dixon: Ma'am, without the mic we can't hear you and can't record you.

Dickie Johnson: Do we have a pointer?

Gayle Wallace: This is the alley that is in question. The first thing is right here, this is the turn they're saying we can do. There is a light post, you know big, big light post right there so that obstructs. Right here, you don't see the fence but there is a fence right here and they say you should be able to easily get in there and get in your garage; it's not that easy with that chain-linked fence, you still have to deal with that.

The other thing, the pot hole, which has to do with the entrance.

This is my house, I lived there when I was a little girl so this is an old homeplace and I had plans to do some more stuff to my backyard which if that gets closed, I probably won't do that.

The other thing I want to say is, I would challenge any of you to go out there actually look at this and keep in mind the access into these garages and this one because he works out of there and also could a firetruck, if we had a fire in our garage or in the back of our house, is there any way a firetruck could access without that? I think they could there, I may be wrong but I think they could get to us from there but I don't think that they could, or even an ambulance, I'm not sure.

Any questions?

Chairman Dixon: Any questions for this lady?

Gary Gibson: Yes. By closing that front alley, that's still not going to solve your problems getting into your back lot from the other alley because we're not even talking about the other alley. The people that live on the other are still going to have problems into their back lot.

Gayle Wallace: The other thing too though is what the church has done, I know for the last year at least is they station people out there in chairs to block the alley during recess and stuff. I mean everybody is really concerned about the safety issues but like I said, if we have a fire it's going to be bad luck.

Chairman Dixon: Any other questions?

Thank you, ma'am.

Would anyone else like to speak to this matter?

Your name sir?

Nick McClure: Nick McClure, I live at 1525 Roosevelt, I run a small lawncare...

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

Nick McClure: Yes.

Chairman Dixon: Good.

Nick McClure: I run a small lawncare so I take my truck and trailer up and down through that alley and really if you take an eighteen-foot (18') truck and a twenty-two-foot (22') trailer, you are not making that corner even with the fence pulled back like that without running off into someone's property. That was the argument last time that I brought up. Then, the other two (2) points of entry from the alley are not off of the main road, you have to go around the block to be able to enter and exit

which makes it very inconvenient and haven't had to do that in the last seven (7) or eight (8) years since I've lived there.

Then, of course, the alleyway entrance being tore up and it's not been a concern and we've called about it before in the past, it's been a few years but nothing had been done about it and they told us with the trees that they come through the neighborhoods or they do each section every ten (10) years so, once they do your section it will be another ten (10) years before they come back through there and trim anything. So, it hadn't been trimmed in a long time until within two (2) weeks of our last meeting. So, it's not something that's well maintained and never has been up until now when they're requesting for this.

And also, last time their argument was they were wanting to make that a parking lot. So, are they moving the playground or something in between the alleyway and Roosevelt because they don't have anywhere else to put it. I don't understand why they wouldn't have a fence maybe around the playground. They already take the precautions, all of us as neighbors do respectfully avoid the alleyway when the kids are out there or whenever people are coming in and out to pick up kids. For several years they were parking out around the front of our houses and stuff where we couldn't enter and exit our driveways and I spoke with the preacher several times about it because I couldn't pull in and out and he said he would take care of it. Well, it ended up coming down to I had to call the law and then the law had to contact them to let them know they are not legally allowed to block or congest roadways for their own purposes of picking up kids because they had to be on their property which they did in time do, in the end and now they use the whole, gravel parking lot in between the church and that grass patch that they own that's in between the alleyway and Roosevelt. So, if they're turning that into a parking lot, I don't understand why they need to close it because of kids playing over there because that's not going to be the case if that happens. You wouldn't think, anyway.

Any of ya'll can take a full, crew cab, F-250 pick-up and a twenty-two-foot (22') car trailer and try to make the bend from Garfield up to Maple, it's not going to happen without tearing up adjoining properties on that corner, it's just not and I've been doing this for a couple of years going in and out of that alley and always respectfully, with kids. I've even come up on Maple myself and took the drop off, stopped right in front of my garage right at that point and had to back all the way back up to Maple to avoid making them move their kids or people or anything like that. So, we've always been very respectful but they have not been as much towards us.

And they were also talking about giving out baskets and stuff like that every year, I can tell you right now ain't no neighbor on Roosevelt Street is going to tell you they brought a basket there in four (4) or five (5) years. When we first moved in there seven (7) years ago, they came one time; that very first year and we ain't had nothing good come out of it since between them.

Chairman Dixon: Anything else, sir?

Nick McClure: No.

Chairman Dixon: Anybody have any questions for this gentleman?

Thank you, sir.

Is there anyone else who would like to speak on this matter? One way or the other? Or just have a question, perhaps?

Does the commission have any further comments?

Okay, I'll entertain a motion in regard to this alleyway closure request and what would be our recommendation to the City Commission in this regard.

Dickie Johnson: Mr. Chairman, it's been pretty tough to sit here and listen to all the information but hearing what the City Attorney said and I would like to make a motion to deny the alley closure.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY X.R. ROYSTER TO DENY THE ALLEY CLOSURE SUBMITTED BY MARK S. CARTER OF CHRISTIAN LIFE CHURCH TO VACATE A PUBLIC ALLEYWAY LOCATED BETWEEN GARFIELD AVENUE AND ROOSEVELT STREET IN THE CITY OF HENDERSON. MY REASON IS, I CAN SIT HERE AND LOOK, I HAVE FAMILIARIZED MYSELF WITH THAT AREA AND I DON'T DENY THAT THIS GUY DRIVING A TRAILER, IT'S ALMOST IMPOSSIBLE TO GET AROUND AND IF YOU TAKE INTO CONSIDERATION THE PROPERTY LINE, IF THAT'S THE REAL PROPERTY LINE.

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

The motion is that you recommend denial of this alley closure, correct?

Dickie Johnson: Yes.

Chairman Dixon: Any further discussion?

Madame Secretary, please call the roll.

AYE: KEVIN RICHARD, BOBBIE JARRETT, X.R. ROYSTER, DICKIE JOHNSON, GRAY HODGE

NO: MAC ARNOLD, GARY GIBSON, FRANK BOYETT

Chairman Dixon: Is that everybody?

Heather Lauderdale: Yes.

Chairman Dixon: I've got 5-3.

Heather Lauderdale: That would be correct.

Chairman Dixon: Okay, the motion passes. The recommendation is to deny the alley closure.

That recommendation goes on to the City Commission where they can take whatever further steps, they deem appropriate.

Thank you all.

Brian Bishop: Mr. Chairman, can we wait a minute until everyone can shuffle out?

Chairman Dixon: Sure, by all means.

Okay, I think we have moved ourselves up to Rezoning #1140 with a Development Plan.

I would like to read the following guidelines for this evening's testimony and I will ask the commission to approve such guidelines.

If the Regular Meeting and Public Hearing scheduled for 6:00 p.m. Tuesday, February 7th, 2023 have not been sooner concluded and adjourned, it will stop at 9:00 p.m.; and, by motion and vote of the Planning Commission be **continued** and reconvened the following night, Wednesday, February 8th, 2023 at 6:00 p.m. and stop at 9:00 p.m.; and, by motion and vote of the Planning Commission be continued and reconvened at 6:00 p.m. and stop at 9:00 p.m., from night to night thereafter, until finished.

MEETING RULES:

1. The Planning Commission very much wants to hear all evidence, comments, statements, positions, suggestions, and questions (collectively referred to as "comments"). Each presenter may or may not allow questions during their presentations, at their discretion. All general comments will be heard at the end, after all presentations by Staff and County Representatives, unless the chairman elects otherwise or unless changed by vote of the Planning Commission.
2. There will be no time limit on attorneys and attorneys will present/comment first:
 - We will begin with attorneys.
 - Then non-attorneys.
3. Attorneys may ask questions directly.

4. Questions from non-attorneys must be presented to the Chairman (either verbally or in writing) along with who the question is to be directed to; and, the Chairman will ask the question. That is, non-attorneys may not ask questions directly.
5. Each non-attorney will **initially** be given **3 minutes**. After every non-attorney has had 3 minutes, if there are non-attorneys who would like additional time, an additional 3 minutes will be given, and this procedure will be repeated, **until everyone has had an opportunity to present all they desire to present.**
6. **Speakers are asked not to repeat something that another speaker has said**, but may come forward either in person on the virtual platform and say they agree with one or more other speakers and present anything new they may have.
7. Planning Commissioners may comment and ask questions at any time.
8. The Chairman will ask for a motion, second, discussion and vote to approve or change these rules, at the beginning of the public hearing.

Chairman Dixon: Do I have a motion?

MOTION WAS MADE BY GARY GIBSON, SECONDED BY X.R. ROYSTER TO APPROVE THE FINANCE REPORT AS PRESENTED.

Chairman Dixon: We have a motion and a second.

All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed?

Good, we're going to try to make use of those speaking guidelines.

Mr. Bishop, I think you're going to kick this off for us?

Brian Bishop: Yes sir.

This is **Rezoning #1140 with a Development Plan**, submitted by Riverview Coal, LLC for the property located in Henderson County across from 6784 Sulpher Springs Rd (PID# 35-11) containing 8.36 acres and PID# 35.10 containing 46.64 acres for a total of 55 acres combined. Applicants request a Zoning Change/Map Amendment from Agricultural District (AG) to Heavy Industrial District (M-2) to construct a new underground coal mine portal.

The applicant has proposed the construction of a mine ventilation fan, office/bathroom, drainage basins, a sewage lagoon, a sub-station and related improvements such as parking with driving aisles.

Staff has done our best to provide guidance on this one. In this case, we have not provided findings of fact because we do not feel that it is appropriate to make a recommendation on this at this time. So, we request that when you make your motion, you direct staff to come back with findings either for or against.

With that, I'll do my best to answer any questions that you have and I believe the applicant has a presentation he would like to make.

Chairman Dixon: Just to be clear, we're in a similar situation as far as we're charged with holding public hearings and making a recommendation to Fiscal Court.

Fiscal Court will have the final decision in this regard.

Brian Bishop: Correct.

Chairman Dixon: As far as the rezoning.

We will be, hopefully, making a decision one way or the other as far as that recommendation. As Mr. Bishop pointed out, we will then ask staff to bring back findings of facts that we will consider just the findings of fact at the next meeting.

So, the applicant is with us? A representative of the applicant? Good.

May I have your name sir?

Bill Adelman: My name is Bill Adelman.

Chairman Dixon: Could you spell that, please?

Bill Adelman: A-d-e-l-m-a-n.

Chairman Dixon: Very good. Your address?

Bill Adelman: 805 Robinson Road in Morganfield, Kentucky.

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

Bill Adelman: I do.

Chairman Dixon: Thank you. Please help us understand what the plan is.

Bill Adelman: Is my presentation up yet?

Brian Bishop: We are loading it now.

Bill Adelman: First of all, I'm the General Manager of Riverview Coal located in Union County. With me tonight I have Brenden Keller, who's our mine engineer. We've got David Lamb, Associated Engineering, Kim Humphry, she is our community liaison; that's our group.

Chairman Dixon: Welcome, thank you for coming.

Tommy Joe Fridy: Mr. Chairman, this is Tommy Joe Fridy.

Chairman Dixon: Yes sir? Yes?

Tommy Joe Fridy: Would you ask this gentleman if his attorney is present? He cannot represent a corporation or an LLC unless he is an attorney in a rezoning matter.

Chairman Dixon: Is your attorney present, sir?

Bill Adelman: No sir, no.

Tommy Joe Fridy: Is he an attorney?

Bill Adelman: No.

Chairman Dixon: He is not. Where does that leave us, Tommy Joe?

Tommy Joe Fridy: Ask him if they would like for us to table this.

Chairman Dixon: Would you like us to table this until we can...

Bill Adelman: If we cannot proceed tonight, yes, we would like that.

Chairman Dixon: If they cannot proceed then yes, they would like to have it tabled. Are you saying they can't proceed without an attorney present?

Tommy Joe Fridy: They can't present.

Dickie Johnson: Are you a principal owner of Alliance?

Bill Adelman: No.

Dickie Johnson: No, well.

Frank Boyett: Tommy Joe, can the coal company appoint Mr. Adelman as attorney-in-fact, would that suffice?

Dickie Johnson: He isn't an attorney, if he's not going to have a law degree.

Frank Boyett: I mean acting as their attorney-in-fact.

Tommy Joe Fridy: Do they have an authorized representative that can sign and present to the Planning Commission such a document? Their application did not do that.

Frank Boyett: Oh, I know that but...

Tommy Joe Fridy: Yes, they can.

Frank Boyett: Okay.

Tommy Joe Fridy: It's a technical point that there is opinion on both sides of that but the Henderson County Planning Commission has taken the position that a corporation can have a non-attorney as an attorney-in-fact who has authority to bind the corporation.

Brian Bishop: T.J., when did the...

Tommy Joe Fridy: Or LLC.

Brian Bishop: T.J., when did the Planning Commission take that action?

Tommy Joe Fridy: It's part of the application that was approved by the Planning Commission and it is State Law that a rezoning/map amendment, being a quasi-judicial proceeding contrary to an alley closing or a subdivision or a site plan, is a quasi-judicial proceeding and just like a non-attorney cannot represent a corporation in court, there is law that says they cannot in a planning commission.

Chairman Dixon: So, there is nothing these representatives from Riverview can contribute this evening? Is that what I'm hearing?
Tommy Joe?

Tommy Joe Fridy: An engineer could contribute factual engineering information or a surveyor could present factual information regarding a survey but they can't represent this corporation.

Now, it's been our policy to allow a power of attorney or attorney-in-fact but it must be given to the Planning Commission in writing.

Jennifer Marks: Tommy Joe?

Tommy Joe Fridy: I was told that Riverview was told this in advance.

Jennifer Marks: Tommy Joe, my question is; on their application they submitted for a zoning change/map amendment, they put in David Lamb who is here, that is their engineer as the applicant's agent/attorney and then Mr. Henderson did sign the application.

So, would that be sufficient for David to be able to make the presentation on their behalf?

Tommy Joe Fridy: I didn't read the application to say that but if the Planning Commission so finds then I would say you could proceed. I think it is a dangerous precedent.

Chairman Dixon: Ms. Marks, could you again what you just read about that signature?

Jennifer Marks: If you will look in their packet in this section, the application we require to be submitted for a zoning change/map

amendment, you will see on there, it's like the fourth little box down, the applicant's agent/attorney which is usually where they put the person who is going to be presenting on their behalf, they do have David Lamb who is here, who did their development plan and who has worked with them as the engineer on the project as their agent/attorney.

Then, if you flip to the back page of the actual application, you will see where John Henderson is the one that signed the application.

Chairman Dixon: Excuse me a second.

Jennifer Marks: I don't want to speak out of turn, they can probably let me know that John Henderson, I would believe he is able to speak on the company's behalf. So, he would be a person that is acceptable to sign the application saying who their representative would be.

Tommy Joe Fridy: John Henderson is an attorney.

Bill Adelman: Yes.

Tommy Joe Fridy: He is the in-house attorney for the coal company.

Bill Adelman: Yes.

Chairman Dixon: Okay, and we had on the application signed by...

Dickie Johnson: Is he here?

Bill Adelman: He's not here.

Dickie Johnson: Can you get him here?

Bill Adelman: I can get him on the phone.

Chairman Dixon: We have on the application signed by this Vice-President of Land Management, Mr. Henderson, that David Lamb is their agent.

Did we not see this coming, may I ask?

Brian Bishop: When we met with the folks, we told the applicants they need to have someone who is able to legally bind the corporation to the rezoning.

Jennifer Marks: Which, really quickly if you all will also look at Rezoning #1139, the one we just had take place in the beginning of this meeting; the applicant's agent/attorney is Chris Hopgood and that's who was allowed to speak on their behalf and then they signed their application.

Dickie Johnson: Chris is an attorney.

Jennifer Marks: Correct but it says applicant's agent/attorney so it doesn't say that they're required to be an attorney; per our application.

Frank Boyett: Is Mr. Lamb here?

Jennifer Marks: Yes, he is.

Frank Boyett: Are you prepared to make this presentation?

David Lamb: Certainly.

Chairman Dixon: Hold up here... Tommy Joe, do you have a recommendation? Sorry to put you on the spot but that seems to be where we're at.

Tommy Joe Fridy: I recommend that we do not allow a non-attorney to represent a corporation in a rezoning.

Chairman Dixon: Very good, thank you.

Thank you, sir.

We've got to chew on this a little bit.

Bill Adelman: Okay.

Dickie Johnson: Let me make an assumption; if we table this and reconvene tomorrow night at 6, can ya'll have somebody here?

Bill Adelman: Yes.

Dickie Johnson: Is there a problem with that?

Chairman Dixon: I think that might be as good...

Gary Gibson: We can table it for one night or do we have to wait a certain amount of time?

Dickie Johnson: No, we can do it. I mean we read it into the record.

Chairman Dixon: We would not adjourn this meeting.

Tommy Joe Fridy: You can do it. You don't adjourn, you continue the meeting, with a motion until tomorrow at 6 p.m.

Dickie Johnson: I'll make that in a form of a motion.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY GRAY HODGE TO CONTINUE THE MEETING UNTIL TOMORROW NIGHT, WEDNESDAY, FEBRUARY 8 AT 6 P.M.

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

The motion is to continue this meeting tomorrow evening at 6 p.m. and Riverview will have the proper representatives on hand.

Dickie Johnson: Sorry for the inconvenience.

Chairman Dixon: I apologize to you all over there, too.

Gary Gibson: We need a roll call.

Chairman Dixon: Yes, do we have any further discussion?

Please call the roll.

YES: ALL

Chairman Dixon: Very good, we have tabled that item.

Going back to our original agenda, I need a motion to go out of public hearing.

MOTION WAS MADE BY FRANK BOYETT, SECONDED BY X.R. ROYSTER TO GO BACK INTO PUBLIC HEARING.

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

All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed?

We are out of public hearing.

The next item on the agenda is the **January Finance Report**. Mrs. Curtis?

Theresa Curtis: Yes, Mr. Chairman.

Our January Finance Report, we're at 62% of budget and if you have any questions, I'm here to answer them. We just need approval.

Chairman Dixon: Any questions concerning the Finance Report?

I'll entertain a motion to approve.

MOTION WAS MADE BY GARY GIBSON, SECONDED BY X.R. ROYSTER TO APPROVE THE FINANCE REPORT AS PRESENTED.

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

All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed?

The Finance Report is approved.

The Bond Report?

Jennifer Marks: Yes, Mr. Chairman we have one (1) item up for discussion tonight and it is the Gray Stone Subdivision for developer Brad Hazelwood.

If you all will remember we separated that out a couple of years ago now. We currently hold a bond for them in the amount of \$25,135 for sidewalks. The recommendation from the City Engineer is that the sidewalks have been completed and we need to go ahead and send that

to the city for acceptance and once the city accepts that we will release the remaining bond on those.

Chairman Dixon: Any questions? I'll entertain a motion in regard to the Bond Report.

MOTION WAS MADE BY MAC ARNOLD, SECONDED BY X.R. ROYSTER TO ACCEPT THE BOND REPORT AS SUBMITTED.

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

All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed?

The Bond Report is approved.

Pertaining to Administrative Business, I believe there is a copy of the proposed Planning Commission Committee's, I'll entertain a motion to approve these appointments as presented.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY KEVIN RICHARD TO APPROVE THE PLANNING COMMISSION COMMITTEE APPOINTMENTS AS PRESENTED.

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

All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed?

The Planning Commission Committees are approved.

Other business, does staff have any other business?

Brian Bishop: No sir.

Chairman Dixon: Does anyone else have any other business?

I'll entertain a motion to continue the meeting until tomorrow night, February 8, 2023 at 6 p.m.

Kevin Richard: No, we're not adjourning.

Dickie Johnson: No, we're continuing.

Chairman Dixon: Sorry.

I'll entertain a motion to call it a night and see you tomorrow at 6 p.m. Thank you, very much.

Dickie Johnson: You have to take official action on that.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY KEVIN RICHARD TO CONTINUE THE MEETING TOMORROW NIGHT AT 6 P.M.

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

YES: ALL

Chairman Dixon: Any opposed?

We're going to continue the meeting until tomorrow night, I hope everyone can attend. Mr. Arnett, will you be able to join us tomorrow night?

Steve Arnett: Yes sir.

MEETING ENDED AT 7:25 PM

The Henderson City-County Planning Commission held a *continuation* of the meeting from February 7, 2023 at 6:00 p.m. on February 8, 2023 at 6 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, Bobbie Jarrett, Dickie Johnson, Gary Gibson, Gray Hodge, X.R. Royster, Frank Boyett. Mac Arnold was present via ZOOM. Stacy Denton, Doug Bell and Kevin Herron and Tommy Joe Fridy, Attorney were absent. Staff

present: Director Brian Bishop, Jennifer Marks, Theresa Curtis, Heather Lauderdale, Chris Raymer and Attorney Steve Arnett.

MEETING BEGAN AT 6:01 PM

Chairman Dixon: Very good. I've got 6:01 p.m. I would like to call this February 8, 2023 meeting of the Henderson City-County Planning Commission to order.

I would like to thank everybody for coming, welcome back.

Could you please call the roll?

Heather Lauderdale: Yes, thank you.

Chairman Dixon: Do we have a quorum?

Heather Lauderdale: We do.

Chairman Dixon: Thank you, ma'am.

I'll make a note that this is a continuation of our meeting of February 7 and we have one item on the agenda involving the public hearing.

I'll entertain a motion to return to public hearing.

MOTION WAS MADE BY GRAY HODGE, SECONDED BY KEVIN RICHARD TO RETURN TO PUBLIC HEARING.

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

All in favor say yes.

YES: ALL

Chairman Dixon: Any opposed?

We are in public hearing.

Before we go much further, we need to determine if we have the appropriate parties present tonight.

Mr. Adelman, you have been sworn in, will you introduce the members of your team, please?

Bill Adelman: Yes. Here tonight I've got Mr. John Thomason who is an attorney representing us. We have David Lamb, he's the engineer. We have Eric Blanford who is the Assistant General Manager at Riverview and we've got Kim Humphry who is our Community Liaison.

Chairman Dixon: Very good. Your attorney's name again, sir?

Bill Adelman: John Thomason.

Chairman Dixon: Very good, thank you.

Bill Adelman: Thank you.

Chairman Dixon: I'll note here the applicant is represented by counsel.

I would also like to remind everybody that the commission has casts some guidelines in terms of this public hearing.

Is anyone here that was not here last time? Do you want me to read these things again? (Laughter)

I'll try to apply them the best I can.

We are dealing with **Rezoning #1140**. Staff, will you introduce this please?

Brian Bishop: Rezoning #1140 with a Development Plan, submitted by Riverview Coal, LLC for the property located in Henderson County across from 6784 Sulpher Springs Rd (PID# 35-11) containing 8.36 acres and PID# 35.10 containing 46.64 acres for a total of 55 acres combined. Applicants request a Zoning Change/Map Amendment from Agricultural District (AG) to Heavy Industrial District (M-2) to construct a new underground coal mine portal.

Chairman Dixon: Will you show us some relevant maps, please?

Brian Bishop: Yes sir.

The applicant has proposed the construction of a mine ventilation fan, office/bathhouse, drainage basins, a sewage lagoon, a sub-station and other related improvements such as parking lot with driving lanes.

If this rezoning is approved, a detailed site plan will come back to the Planning Commission which will address more detailed items such as drainage, lighting and parking will also be required of this project.

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

Chairman Dixon: I'll also remind everybody that our charge tonight is conduct this public hearing and send a recommendation to Fiscal Court in regard to this rezoning; Fiscal Court will have the final, decision making job.

Do we have a vicinity map that might be helpful?

The one that shows the City of Corydon?

There we are in relation to the City of Corydon at the top of the map.

Any questions for staff from the commission?

Frank Boyett: This is about two (2) miles from Corydon?

Brian Bishop: Frank, we can measure that for you real quick but that sounds about right; ballpark.

Frank Boyett: That's good, a ballpark.

Chairman Dixon: Very good. Any other questions for staff?

Okay, Mr. Adelman are you authorized to present?

Bill Adelman: Yes.

Chairman Dixon: I think you've been sworn in so you can proceed.

Bill Adelman: Yes.

(Presenting a slideshow exhibit)

Riverview is a part of Alliance Coal. Alliance Coal has seven mining operations across the country; Kentucky, Indiana, Illinois, West Virginia and Maryland.

Besides the seven mining operations we have some entities that provide us with services of electronics, rock dust and roof bolt manufacturing in our own shops and a lot of them are located here in West Kentucky.

The reserve that we're talking about here today is the Corydon Reserve. It has approximately 133 million tons and at the rate we anticipate mining that coal it should last twenty (20) years or more.

So, this is an aerial photo of a current bath house arrangement similar to what we're discussing here with this permit application. It is, what we call Portal #2 for the Riverview mine located in Union County.

It has the bath house, a combination of bath house and offices. It has a shaft whereby there is a hoist and a hoist building that lowers the shaft cage up and down; lowering the men down to four-hundred feet (400').

Back over here there's a fan, an exhaust fan that blows air. The air goes in this shaft and comes out this shaft over here that ventilates the mine.

Here's a sub-station for electrical power and there are other buildings over here as well. Dry storage here and here, here's the nurse's station and here are some rock dust tanks. The rest of it is normal parking, the driveway and access to our facility.

This is a regional view, similar to what you had up here a minute ago that shows the community of Corydon right here, Highway 145 that comes down to our portal site right here. Here, is also the location of the community of Dixie and Highway 60 that goes back into Morganfield.

As we zoom in here, 145 is up here and this is Sulpher Springs Road with access to our property right here. This is the property zoomed in, this is a preliminary layout of the facility. The bath house and office building would be right here. The air shaft is right here and the fan that is associated with that as well.

Entrances; we have a couple of proposed entrances right here; nothing confirmed yet and some basins that may or may not be located in those positions right there. That's the general layout of the property.

The impact to Henderson County; investment and job creation has an annual impact to our community of nearly \$300 million dollars; that's pulled from Missy Vanderpool.

Coal severance tax that we will be paying on behalf of Henderson starting in 2023; we mined approximately 1.2 million tons this years of sellable coal in Henderson County and when we get up to full capacity, we expect that to be up to 8 million tons in the years to come.

In 2022, by example Riverview Coal paid over \$20 million dollars to the state in coal severance tax from producing 9.4 million sellable tons; that was last year.

Our employment at the new site will be 466 jobs with average pay of \$85,000 per year. This expansion will add 260 new jobs to our operation in addition to all that benefit we will pay annually county, state, school, library and property taxes.

Thank you.

Chairman Dixon: Thank you, sir.

Any questions from the commission for this gentleman?

Nothing at this point?

Gary Gibson: On the air shaft, are you going to put a berm around the air shaft.

Bill Adelman: Right now, our plans are to put an up-cast on it so the sound will go up in the air and its already kind of on a hill so, we anticipate the noise to be minimal.

Gary Gibson: You're not going to run it through a sound barrier building before it goes out?

Bill Adelman: No plans for that right now.

Chairman Dixon: Any other questions at this point?

Dickie Johnson: Not at this point.

Chairman Dixon: Not at this point, very good.

Thank you, sir, I'm sure we'll probably hear from you again.

Bill Adelman: Okay.

Chairman Dixon: Is there anyone else who would like to speak in favor of this project at this point?

Okay. Is there anyone here who would like to speak in opposition to this or has questions about this?

Yes sir?

Your name sir?

Wayne Hughes: Wayne Hughes, I live at 7609 Wheeler Road, right there at the junction of this site.

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

Wayne Hughes: Yes sir, I do.

Chairman Dixon: Thank you.

Wayne Hughes: Thank you.

I appreciate you allowing me to come forward to this commission. My wife and I have been living there almost forty-five (45) years there, her family has lived there over one-hundred (100) years in that community straight across from this site and here dad would be over 100 today if he was still living to give you an idea and he lived there his whole life.

I appreciate this and I would also like to acknowledge the folks from Riverview. They asked my wife and I to come down yesterday morning and we were very appreciative and were treated very kindly. We saw this program and I just wanted to point out our appreciation to you and

your kindness to us yesterday but I do have concerns and they are aware of that.

I have concerns that we're even meeting tonight, before permits are permitting by the state or by this board or the county that power is already being put in. Over ten (10) electrical poles have already been placed on that property over the last two (2) weeks by Grove Electric.

We're also very concerned about traffic and safety in that area. I don't have a map and I apologize but I pointed it out to them but if anyone knows, I know Mr. Gibson is very familiar with it living there in Corydon that Sulpher Springs and Wheeler Road are very narrow, county roads and Wheeler is even more narrow than Sulpher Springs.

In the presentation by them and the Fiscal Court, Wheeler Road has never been mentioned in this plan but I feel and most of us feel in the community that Wheeler is a prominent route coming to this site coming from the east out of Webster County, Hopkins County, McClean County and maybe even southern Henderson County and beyond for workers to get there which is a very, narrow, curvy road.

The roads are not designed to handle 300-450 cars, if any of you know coal miners, they do not carpool very well. They are individuals and I understand three (3) shifts will be involved with this so, that would be 300-450 cars in a twenty-four (24) hour period on very narrow, county roads.

Kentucky Highway 145 that comes out of Corydon out to Dixie and all the way to Poole is a State Highway, it is a divided highway but it's narrow and very curvy and hilly which could be dangerous with a lot of traffic that will occur in a twenty-four (24) hour period.

With this 300-450 cars, this does not include...this is just workers, it does not include any kind of trucks, tractor trailers, vans or any type of suppliers coming in and out of this site on a daily basis or any local traffic or local farm equipment that moves heavy through there in the spring and fall.

The two (2) bridges, one on Sulpher Springs and one at the connection of Wheeler and Sulpher Springs are too narrow and the erosion at Wheeler bridge, the bridge at the Wheeler Road connection is having some erosion problems around it now.

In a few spots on these roads there are some big ditches with very little shoulder on those roadways to pass. Between my house and my brother's house, this is going down a hill towards Sulpher Springs on Wheeler Road, only one car can go through there at a time on that hill because you will go into a ditch and it would be hard to get out.

Kentucky Highway 145 from Corydon to Poole is also very curvy and this road is not designed for such traffic during a twenty-four (24) hour period.

On our visit down yesterday, Highway 351 and 141 down in Union County are much better state roads that approach into this Portal #2 and I would also like to point out the entrance is off of a State Highway 359. The entrance for this project would be off of a narrow, county road.

Why I say that is that we're very concerned for local traffic and we're also concerned for the miners that will be employed there; their employees. Three (3) years ago there was a wreck on Sulpher Springs just right up the road there from this site and it was a coal miner going to Riverview.

Then before that there was another one over on what we call Pritchett-Crooks Road if you're familiar with that area is one county road over and he was killed; he was also a coal miner, they travel through that area now.

We are asking, I guess requesting that the Commonwealth of Kentucky and the Henderson Fiscal Court will set aside the appropriate funds and reserves to upgrade these roads and bridges for the safety of the community and their employees.

The physical site itself has great concern for my wife and I especially and about ten (10) households that surround that within approximately a three-quarter mile radius; I'm going by road not by the way the crow

flies. If you go by the way the crow flies you might pick up another house or two and if you saw the picture of their site down there which is a beautiful site, well maintained by them but if you'll notice, that was out in the middle of nowhere and maybe as I was out there yesterday, I noticed maybe one (1) house within a mile of that property; maybe two (2) at the most.

They have a nice driveway back into their property which this will be right there on the road.

We're concerned about the lights, noise and construction that will take place over a two (2) year period and we are requesting that when you do look at the lights and they have acknowledged this to us but I want to bring it before this board, required directional light for this property that will shine downward because it's going to be up on a hill there and they're going to cut about five (5) feet off that hill so, we would like the lights to be directed downward.

We are concerned about the noise of a fan. It is west of us and wind carries noise. I understand but when I got out of my car down there yesterday, I could hear the fan. So, it is going to travel with the wind. If you're on my hill and you're welcome to come out and look any day of the week, even in the middle of summer in July we've got a little breeze on our hill and we are concerned about the decibel noise of that fan and what the decibel noise will be.

The construction site and the ability to travel Sulpher Springs Road to Highway 145, we're concerned about blockage and not being able to get through and the local traffic getting through there at that time. The reason, I'll give you an example, the other day there was a group there doing some survey work for them had a dozer in there and the other day when we had the ice situation, Sulpher Springs was covered in ice and Wheeler Road was covered and my wife and I went down the road to Highway 145 to check the roads and see how they were, with ice on Sulpher Springs there was a low-boy tractor trailer; everyone knows what a low-boy is, had stopped out on Highway 145 with four (4) or (5) cars backed up behind him and backed all the way down Sulpher

Springs Road a good piece all the way to that bridge to load a dozer. He backed up and the reason we know that real well is a cousin was blocked up in that traffic and we made that to the attention of Riverview.

We're also requesting vegetation berms to help reduce the noise and the lights and if at all possible, around that fan.

I understand the science of throwing sound up in the air but it's still going to travel to a certain distance. I am not a person that has that ability to tell you what that distance will be.

Sewage. We're also very concerned about this sludge pit/pond/lagoon for raw sewage there. There is a large ditch and I will go into that flood in just a second but there is a lot of water that runs in there and we're fearful as well as man intends to protect the environment and those around us, things happen and leakage can happen. There is a large ditch there and it flows to Highland Creek and Highland Creek flows into the Ohio.

Why we're concerned about that is the floodplain there in that area. There are three (3) major ditches coming in three (3) different ways just below this site. One is what I call the Dixie Watershed, I don't know if that's the official name or not but I call it that, there is a lot of water that comes down from the community Dixie back in behind our farm and it bleeds into it.

There is another one that comes down by Wheeler Road, kind of a little more to the south and then there is another one that comes down Sulpher Springs Road. Two of them merge right at the bridge of Sulpher Springs and Wheeler road under that bridge and continues to come out under Sulpher Springs Road. That area floods at least once or twice a year; the roadway does, right at the bridge of Wheeler and Sulpher Springs all the way up to my brother-in-law's driveway and sometimes in front of my mother-in-law's driveway and back into that area of Sulpher Springs in two (2) different spots to the point where we have seen it where you cannot get through there for a few hours and water is rushing fairly quickly. It doesn't happen every time but we've already had one of those episodes already, I can't remember if it was December or January

when we had the heavy rain but we get a good two-inch (2") rain or better within 24 hours, it roars through there.

So, that is a great concern; that there will be nothing done with the water so it will dam up or force water to be backed up onto us even more than what it is now or back up on properties even further back up the streams towards Dixie or Wheeler or wherever; those are concerns.

The other is blasting. We understand blasting is going to occur between October of this year and May. As I said earlier, there are about ten (10) homes within this blast zone and they said they would do their very best to control those and we believe they will do that but things happen, like I said earlier. So, we are very concerned about the blasts and what will happen there.

The other is, I don't know if this group is familiar with Dixie, it's well known for the Texas Gas storage field in Dixie. I don't know if you all know that or not, it's one of the largest storage fields in this country; I don't know if you're aware of that or not. We are very concerned about that and this is butted up right next to that and there are several gas and oil wells in the area and we are fearful of the danger. What I've been told, by people much smarter and have a higher pay-grade than I do is that it's more of a fear for the underground than it for us on top unless something happens and it ignites the whole thing and then we will make the world news.

A couple of more comments and I'm sorry to take so long but I appreciate you listening.

What does the Dixie community get from this? I understand these are wonderful numbers for this county and whatnot for the next twenty (20) years plus but what does the community of Dixie really gain? We have no stores. We have mainly older residents; we have some young people with children and we live out there for a reason. Mainly, it's family but we all live out there because we cherish the ability to get away from the hustle and bustle of life and enjoy the wildlife and game there. We have no fear about our children outside playing and that something is going to happen to them.

All of this will change if this rezoning is approved. In making this decision, I hope many of you have been Dixie and have looked at this site. If you have not, I hope that before you vote on this you will go out there and look at this community. I don't think any of you would want this on the doorstep of where you live and we actually feel that when this was announced by Fiscal Court and Alliance Coal the appreciation of homes dropped, immediately; and the properties around the site. I know that none of us will get a property tax decrease; that was a little light humor, you can laugh, I know it won't happen but it's a nice thought. My wife just inherited the farm and house across from the site. Her mother passed away November 1 and we were looking to, within the next year to renovate and possibly rent that house if not within the year, then within a year and a half as so. Now, we're not sure anyone would want to rent there because the house looks directly over this site.

I'll remind you three (3) families turned this proposition down; the Sigler families, the Dixon family and the Speaks family; one family accepted to do this with you.

Some say the Sigler family would have done it if the price would have been right; no, David would have never done it, he just kept jacking up the price to force the program on.

My wife Diane and I pray that you will deny this application for this rezoning. Again, thank you again for your time and allowing us to come forward.

Chairman Dixon: Thank you sir. Does the commission have any questions for this gentleman?

Dickie Johnson: Maybe later.

Chairman Dixon: Maybe later. Thank you, sir.

I apologize to everyone because I allowed that time limit to go right by.

Wayne Hughes: I apologize.

Chairman Dixon: That's okay, it's my fault.

I will see if maybe we can get some answers. Is there anyone here who can speak to the questions about traffic and the roadways and the possibilities of improvements in that area?

Brad Schneider: Henderson County Judge Executive, Brad Schneider of 1552 Autumn Lane.

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

Brad Schneider: I do.

Chairman Dixon: Thank you, Judge.

Brad Schneider: It's the responsibility of the Henderson County Fiscal Court and the county to make sure our roads are safe and to consistently assess the safety of our roads. And if we find safety challenges, to fix them just like we would do anywhere else in the county we would do that in this case too.

If the mine is allowed to proceed and we feel like those roads need to be improved to handle the expected traffic and any flooding challenges that might occur.

Chairman Dixon: Thank you, sir. Any questions for Judge Schneider from the commission?

Gary Gibson: I have one.

As Wayne said, the road will pick up all types of traffic it hasn't had before and they are dangerous roads. They are narrow and if people get off the road they're going to be in the ditch. It will increase the traffic, probably by three (3) or four (4) times and you're talking about three (3) shifts; day shift, afternoon shift and midnight. So, at times that road is going to be heavy. At times, I live on the same road on the other side of Corydon and during the time around 5 p.m., I can't even get out onto the highway there is so much traffic going through. So, it's going to make a difference on the traffic flow and the road really does need to be improved in that process because the traffic is what I'm worried about. It's definitely going to make a difference.

Frank Boyett: Judge, can you give some estimate on how long it might take to improve those roads?

Brad Schneider: Depending on what we discover. What we observe, we asses anywhere from a few months to a year or two depending on what we see. But again, we try to keep up with assessments of all roads that we think are having problems based on changing traffic patterns or other things; drainage as an example and fix them as we can.

Chairman Dixon: Thank you. Other questions?

Dickie Johnson: I know the Judge has addressed the possible flooding issues and Mr. Hughes did bring it up and I'm not sure if there are alternative routes if these roads flood for the coal miners can get into this site. Can anybody answer that?

Brad Schneider: They chose the location, so I'll let them...

Dickie Johnson: That's the reason I'm saying...can you answer that.

Bill Adelman: As far as the flooding?

Dickie Johnson: Yeah, is there alternate routes that these roads flood?

Bill Adelman: No, that's not ours. (Referring to the GIS map projected on the screen)

Jennifer Marks: That's the GIS map, so it shows the road. So, you're here...

Bill Adelman: I wanted to show the roads from Dixie to the site.

Jennifer Marks: Then go to your vicinity maps.

Bill Adelman: So, Dixie is here and our site is right here. Mr. Hughes lives on Wheeler Road; you can identify it. We have driven, our engineers drove both routes from Dixie taking Hwy 145 or taking Wheeler Road to our site and it's the same amount of time.

So, we anticipate anyone coming from the Dixie/Poole area, they'll take Hwy 145 and I'm not sure anyone was speaking about flooding on Hwy

145 but Mr. Hughes referenced down there on Sulpher Springs Road and Wheeler Road.

The other thing to think about with our site, we're not, you know this isn't a surface mine. We're not going to be disturbing the land. We're basically going to take the top off that hill so we can have a flat spot for our facility but other than that, we're not going to change the drainage or terrain. We're not going to make big changes to waterflow or anything else like that so what's out there now is pretty much going to stay the same.

We're not going to contribute to any flooding at all.

Dickie Johnson: That answers my question; is there an alternate route for you to get to?

Bill Adelman: Yes, yes.

Brian Bishop: Mr. Chairman, can I address a couple of questions from Mr. Hughes?

Chairman Dixon: Yes, and I have something as well. Go ahead.

Brian Bishop: The issue with the lighting; during the site plan process, the Planning Commission requires and we have historically required this, that any lighting be night-sky friendly. So, they will not let light leak off. That is something the Planning Commission requires during the site plan.

The second, I'm not going to give the mathematical equation because I will get it wrong but the post-development run-off cannot be greater than the pre-development run-off. So, the run-off that is coming off that site cannot be more than what was there now and that is something that the Planning Commission will handle with the help of the County Engineer during the site plan process.

Bill Adelman: Along with the lighting, the LED lights now can be much more directional than you could years ago. So, we anticipate using directional lighting that shines on what we need it to shine on and not the rest of the community.

Chairman Dixon: Very good, thank you. Mr. Bishop, do you have anything else?

Brian Bishop: No, sir, that's it.

Chairman Dixon: Some other notes/questions that Mr. Hughes had I would like you to address. The question of noise, what mitigating factors are you putting in place?

Bill Adelman: The primary noise source beside traffic will be the fan. The fan will have an up-cast on it which will throw the majority of that noise into the air and we have not eliminated putting a berm up as necessary or trees, barriers; whatever we need to do. We have other facilities like this in several communities and nobody likes to have us near by but we do become good neighbors, we help neighbors out and do everything we can do to minimize our impact.

Chairman Dixon: The previous speaker brought up blasting. What kind of blasting is going to be involved?

Bill Adelman: So, the shaft, which is about four-hundred feet (400') deep will be started conventionally. So, they'll drill approximately ten (10) or fifteen (15) feet and then we've got a thirty-foot (30') diameter hole and they'll drill down, once they get to bedrock, they'll drill down ten (10) or fifteen (15) feet and then they'll shoot that. So, we'll have explosions in this hole from a period beginning in October and going through may of 2024 while they complete the shaft construction.

We will take a pre-blast survey. We survey all the houses and structures in the area and we'll monitor those during and after blasting for any damage and of course we're responsible for making repairs as necessary.

Chairman Dixon: There was a concern and question raised about gas storage fields in the vicinity.

Bill Adelman: I'm not sure exactly how close it is to this site but all of our mining is coordinated with the Kentucky Department of Natural Resources so, we have to get permits to mine anywhere near storage fields, oil wells and gas wells.

Chairman Dixon: Okay, thank you sir, thank you.

Does anyone else have anything else for this gentleman right now?

Gary Gibson: Yes, I have. How deep is that shaft that you all are connecting to down? The coal shaft that is already there.

Bill Adelman: The coal shaft already there? No, it's not there yet.

David Lamb: He's asking for the seam depth. About four-hundred...

Bill Adelman: About four-hundred fifty feet (450').

Gary Gibson: It will be there by the time you all get your fan there.

Bill Adelman: Oh yes.

Gary Gibson: And that one has nothing to do with the one right outside Corydon itself, that shaft?

Bill Adelman: No, that was the other shaft that goes into an old mine. We're not going to mine in that mine.

Gary Gibson: So, it's not connected to the same one?

Bill Adelman: No sir.

Gary Gibson: Okay.

Chairman Dixon: The removal of the coal, how is that going to be accomplished?

Bill Adelman: So, we'll mine the coal...one of those slides it says we'll mine 1.2 million tons in Henderson County this years so, we're already in Henderson County. We're already headed in that direction and will be in that direction. All the coal will come out at the old Highland Mine facility which was a Peabody mine there near Highland Creek and that's where our coal from this site will come out. From there it will go through existing overland belts and join up with Riverview's existing coal pile and our preparation plant will process it. Then, it will leave by barge to the customers.

Chairman Dixon: Okay, thank you. Any other questions right now?

Thank you, sir.

I'm just going to go down my list here, folks who have signed up who wish to speak. If you would like to, you're more than welcome and we would sure like to hear from you.

I have a Melissa Clements.

Melissa Clements: Good evening.

Chairman Dixon: I'll need your name.

Melissa Clements: Melissa Clements, I live 16260 Hwy 136 E, Robards.

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

Melissa Clements: I do.

Chairman Dixon: Thank you very much.

Melissa Clements: Thank you for allowing me to speak tonight.

What I coming to you about is I grew up out there. My dad is Wayne Hughes and I lived most of my life on Wheeler Road. I learned to drive out there. I don't know if you know who B.T. Wayne is but B.T. Wayne told me when I was sixteen years old (16), my mom taught at the high school; he said if you can drive the Little Dixie roads, you can drive anywhere. And he was right. They're curvy, they're hilly but what you see out there is beauty. It's gorgeous, I loved growing up out there. What is sad to me right now is I want to build a house out there right now. My grandmother's house is located on Sulpher Springs Road and where this entryway will be will be right across the road.

My husband I are looking to build a home right behind her house off to the side and our address would be Sulpher Springs Road.

I have two (2) small children; I have a twelve-year-old (12) son and an eight-year-old (8) year old daughter and I'm worried. Would you want this in your front yard? Is this what I want to look at for the rest of my life on a farm that is generational? That's been in my mother's family

for a hundred (100) years? Do I want to move out there and build a brand-new home and worry about the safety of my children learning how to drive out there?

I went to the old Corydon School. I wanted my kids to experience the things I experienced growing up on a farm.

The church that I go to still to this day that I travel thirty (30) minutes across country from Niagra to Dixie every Sunday. This is not just having an effect on what's going on right there, it's having an effect on others outside and my plans to build a home have come crashing down around me; where I thought I would finish out my life because I don't want to build a home right across from a coal port that I'm going to listen to a fan and I would directly see the lighting from where the house would be. You can go out there and see where they've been cleaning up for where we're looking to put a house because they've been cleaning up currently.

This is concerning and I appreciate Riverview Coal, I do. I appreciate all of you but I can't be okay with this. I want to be able to enjoy what my family has and has been there for a hundred (100) years and I want my kids to be safe and I want them to feel like they can come back out there when they're older and grown and raise a family out there because it's possible; it's absolutely possible. But this is going to take away that possibility and I am sad that I will not be able to experience what my mother, my father and my uncle who is terminally ill right now and lives three-hundred (300) yards from where this will be. My cousins, the memories I shared with them, I wanted my kids to have that experience and this will prevent that from happening because I will not do that.

So, my parents won't get to have their grandchildren there with them, being able to see them for the remainder of their life.

So, I would really like this body to please consider this. Please consider what you're recommending to Fiscal Court right now and the effect it's going to have on more than just what you've been told. The effect it's going to have on an entire community and others that want to come into that community and live.

There is a reason that people live in Little Dixie, there is a reason and I would encourage you to come out there and see before you make a decision.

Thank you.

Chairman Dixon: Thank you, very much.

Does anyone have any questions?

Moving down the list, I have a Kim Humphry.

David Lamb? Would you like to address us, Mr. Lamb?

David Lamb: David Lamb, 2106 J.D. Buchanan Road, Hanson, Kentucky.

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

David Lamb: I do.

Chairman Dixon: Thank you, very much.

David Lamb: I represent Riverview Coal, I'm the engineer that submitted this package but we've been involved in this industry a lot and every effort was taken; the flooding and the things that were brought up I wanted to make clear. Not only will the Planning Commission require them not to have any additional run off, also the State of Kentucky requires that in their permitting process.

This development will be just like any other commercial development, it is an access point for folks to go to work and in my experience, and I can say that because I live about twenty-eight hundred feet (2800') from what they call their Warrior Portal in north Hopkins County Kentucky and it's kind of out in the country as well and they have been excellent neighbors there to that community and I feel like I've seen Riverview and Alliance operate for many years now and I think they are responsive to the community and I think you'll find that they will be good neighbors.

Chairman Dixon: Any questions for this gentleman?

Thank you very much sir.

Next on my list is William Litsey. Would you like to address the commission?

I asked for a William Litsey.

William Scott Denton: I thought you said Denton, sorry.

Brian Bishop: Mr. Chairman, I don't think Mr. Litsey is here.

Chairman Dixon: Okay, thank you.

You'll get your chance, sir. I'm just going to go down the list.

Denise Sutton? Ma'am, would you like to address the commission?

Allen Sutton?

Allen Sutton: I feel like the views that Mrs. Clements expressed have answered all my questions and concerns.

Chairman Dixon: Mr. Denton, have we heard from you? There he is.
(Laughter)

I'm sorry sir. Your name?

William Scott Denton: William Scott Denton.

Chairman Dixon: Your address?

William Scott Denton: 6908 Sulpher Springs Road.

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

William Scott Denton: I do.

Chairman Dixon: Thank you very much, please proceed.

William Scott Denton: Again, Mr. Hughes has stated most of the things that I would have stated but I would just like to add a couple of things to that.

I know he talked about the noise of the fan; they were nice enough to invite us down and show us their facility. We did them the same courtesy, we asked them to come to our property and they met us out there and saw our property. While they were down there, you have to take into account the cage buzzer. That goes off every time that cage goes up and down. 2:30 in the morning, 3:30 in the morning; if something is going up and down in that cage, that alarm goes off.

The back-up alarm from the beepers on the equipment, again trucks coming in and out, roof bolts getting loaded on and off the cage; we heard all of that.

I know when I first addressed them down there, they kind of looked at it different; most everybody says the fan. Yeah, the fan does make noise.

So, when they came out there, Bill was actually standing on my property and they were running a piece of equipment across the street; a trencher with a back-up alarm. We were looking at a piece of property where I'm potentially going to build my home, he walked down the hill and he could still hear the back-up alarm. So, I just would like, you know, the noise. Again, the traffic. And as far as this meeting here, I was told this was the only meeting that I got a say in. Basically, once it's voted on, it's over and that's why I'm here.

I don't feel like the entrances have been nailed down, like this is where the entrance is going to be, you know? I would be curious if this gets passed, do they just change the entrance? I mean...

Chairman Dixon: Maybe staff can help us out on that.

Brian Bishop: The entrance, the development plan is a generalized idea, it's not nailed down. The site plan is when that's nailed down. That's when the engineer brings in a stamped drawing that is technical in nature; it's nailed down for the site plan.

That comes back to the Planning Commission.

William Scott Denton: Will we have a say in that?

Brian Bishop: Let me make sure I understand that right. Say, as to where it goes?

William Scott Denton: I guess, as a concern.

Brian Bishop: That is held as a public meeting as well. I think there is a little misunderstanding here. The rezoning, this is the only time the rezoning will be at the Planning Commission so, that is exactly right.

The site plan is a separate meeting that comes back. It's handled a little bit differently. Typically, those are not given letters to all the adjoining property owners like a rezoning because we're not required to but the Planning Commission has gone above and beyond in the past and done that as well.

So, that is at the prerogative of the Planning Commission. If they direct us to do that, we will gladly do it.

William Scott Denton: Another question...

Chairman Dixon: Excuse me. So, when the site plan comes back to us, basically with more detail...

William Scott Denton: I just don't feel like it's detailed enough, you know?

Chairman Dixon: That has to happen, that's another step that has to happen before this thing...

William Scott Denton: Before it gets voted on?

Chairman Dixon: The rezoning is going to get voted on but the actual site and what it entails, where the entrances are, all these mitigating issues... that's still to come in a detailed site plan.

Do we hold a public hearing on a site plan?

Brian Bishop: It is not considered a public hearing item as the way it's advertised but the Planning Commission has always allowed people to come in and address it.

William Scott Denton: Yes sir.

Chairman Dixon: Okay.

It's my desire that the people be notified of that meeting when it is about to occur.

Brian Bishop: We can do that.

Chairman Dixon: Do we need people to leave their address?

Brian Bishop: Basically, what we will do is use the list provided for this rezoning, compare that to the current Property Valuation records and then send letters to anyone who touches and across the road. It also is advertised on our Facebook page; our website and we still have notifications in the gleaner. That is how we send it; we try to let as many people know as quickly as possible.

Chairman Dixon: I assume that's going to be okay with the commission that we take that extra step to make sure these folks are notified of that step in the process. Thank you.

Next question, sir?

William Scott Denton: My next question is, has it ever been considered to maybe bring the entrance of Highway 1557, they've ran power from there?

Chairman Dixon: I'm not familiar.

William Scott Denton: Highway 1557 would come straight off of Highway 60, at the curve of Highway 60. Housebridge Road.

I mean, they're currently running power to get from this site, could we not possibly make the entrance come from there? It's a two-lane road.

Chairman Dixon: So, we're talking Housebridge...

William Scott Denton: Where Housebridge comes out on 60.

Brian Bishop: Theresa, go....can I see that please? (Referring to the mouse controlling the information on the projected map)

You're speaking about right there at that intersection?

William Scott Denton: That's correct.

They're currently running power through the fields there to supply power to this mine. Could the entrance of this mine be considered to also come from Housebridge?

Gary Gibson: The only answer I've got is there is no road there.

You've got Housebridge Road but there is no road from Housebridge directly across to the mine.

William Scott Denton: I understand that.

Gary Gibson: They've got some to the farm ground for the farmers but that's their property and their road. There is no county road that goes across there anywhere close.

William Scott Denton: I'm just saying they've bought easements to run power through the farmers for this mine; is it possible they could buy easements to run an entrance?

Brian Bishop: Not a haul road, that's not the right term but basically a driving lane?

William Scott Denton: Yes. For the miner's traffic to get in and out of the mine; to keep it off of the narrow Wheeler Road, the narrow Sulpher Springs Road, you know...you wouldn't have to worry about your miners getting to work for flooding, 60 doesn't flood. Come straight off of 60 and turn right on to 1557, which is Housebridge Road and have a nice, little entrance to the mine.

Chairman Dixon: Anything else, sir?

William Scott Denton: Just the fact, you know, when Bill and Kim and their Engineer Brennan had met out there, I had made the comment to Brennan when he was standing there, I asked him; in your opinion, you standing here right now, would you want this in your front yard? He told me no.

This is thirteen-hundred feet (1300') from my bedroom window right now, is where this shaft is going to go. It's actually nine-hundred feet

(900') from where we had plans to build a house. Along with that, basically everything Mr. Hughes has said; the noise, the fan, the traffic. That's it. I appreciate your time.

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

Do we have anyone here that can speak to the feasibility of this alternate access road?

Okay. The only other name on my list here is John Thomason.

Mr. Thomason, would you like to address the commission?

John Thomason: Mr. Chairman, I assume I'll speak at conclusion if that's okay with you, Mr. Chairman.

Chairman Dixon: Of course.

John Thomason: Thank you.

Chairman Dixon: Is there anyone else here that would like to speak in opposition of this project?

Yes ma'am? Please approach.

Diane Hughes: I have a concern as a woman and a mother...

Chairman Dixon Excuse me, ma'am...

Diane Hughes: I'm sorry, I'm Diane Hughes.

Chairman Dixon: Address?

Diane Hughes: 7609 Wheeler Road.

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

Diane Hughes: Yes sir, I do.

Chairman Dixon: Thank you, please go ahead.

Diane Hughes: When we visited Alliance yesterday it was the first time, I had seen these plans and they presented them to us and they were very,

very good at presenting them but one thing stood out to me very quickly. At the top of the plans and I had never had heard this before, was a sewage lagoon. Alright, I never thought that in my lifetime I would live across from a facility that was using a sewage lagoon.

Now, it floods on Sulpher Springs and in my mind, at one point we had several years ago, a six-inch (6") rain and Beaver Dam flooded. We couldn't get out for a day and a half or longer.

You have a sewage lagoon sitting there on that ditch, which will drain down into Highland Creek. You can't tell me, I know the EPA regulates that and they will have to, they'll come into that but in 2023 you're going to construct or allow construction of a sewage lagoon where raw sewage is going into that pond? It may leak out if we get a six-inch (6") rain again, into that ditch that travels down to Highland Creek and out into the farmlands that are farmed. Now to me, that is just... I told them that was unacceptable to me. That just cannot happen in this day and time. If you ever...it's not in Henderson County, I know. So, please consider that. There are things you don't really think about until you sit back and watch these plans come across. I know with Alliance, it's a done deal I'm sure, it's a done deal but please think about what was going to happen to the city of Dixie, the people that travel those roads, please come out and travel Wheeler.

Those miners...my husband worked for Independence Bank for years and years in Providence, he knows miners. Those miners will take the shortest route. If they tell them to travel only 145, I don't care what you tell them, they're going to come across from Poole from Hopkins County and McClean County and they're going to hit 145 and when they get to Dixie United Methodist Church, they're coming down Wheeler Road. When you hit my hill, if you hit it a 50 mph, you're going to be in a ditch. And in the ditch that the county has constructed right now at my house, they can't get out, they are going to have to have a tow-truck to get them out, I can't pull them out.

The ice storm the other day, we didn't get out for two (2) days.

But this sewage lagoon is very, very heavy on my heart. I don't agree with this and somebody has got to talk with Alliance and another plan has got to be made because I cannot believe that this is going to happen in our lifetime.

Thank you.

Chairman Dixon: Thank you, ma'am.

Dickie Johnson: Mr. Chairman? I don't know who would have to address that. David, are you able to address the issue with the sewage lagoon or does somebody else need to? Bill?

Bill Adelman: The name sounds terrible; I will admit that.

Dickie Johnson: Yeah.

Bill Adelman: It's basically a septic system.

Dickie Johnson: Yeah.

Bill Adelman: Both mines with large bath houses that hold 450 people have to have some way to handle all that shower water. The one that, I think, if anyone has been going down 41-A going into Madisonville, we have a Warrior facility there in Nebo, right in front of the bath house, right next to Highway 41-A we have a quote, un-quote, sewage lagoon. It looks like any other pond and it is the final stage before the water is discharged into the ditches and streams.

Besides that, we are also talking to the City of Corydon about the possibility of extending their sewage system into this facility so that there will not be any kind of a pond or lagoon or septic system there at all that Corydon could take care of that for us.

Dickie Johnson: You have to be regulated by the State Health Department on your septic system?

Bill Adelman: Absolutely.

David, I don't know if you want to add anything to that.

David Lamb: As Bill said, sewage lagoon sounds awful but it really is the final finishing system. These systems, and I've designed a bunch of them all over...well I've done them in Henderson County and the surrounding counties but it's a series of septic tanks, just like the septic tank you have in your house in the country. There is a series of septic tanks that ultimately discharge to this lagoon and the reason it does that is just like if you have your washing machine and your septic tank and you run soap suds in there all the time, it makes the septic tank not work well. So, two (2) series of septic tanks so that the sewage from the bath house is treated in the septic tanks. The lagoon is constructed as a final finishing and it actually has a field bed on the other side of the lagoon just like a septic tank does; it's just a buffer and those are permitted by the State of Kentucky. They are reviewed and sized based on the number of people there using the facilities. It's just a way of managing that but he's right, we're also looking at opportunities with the City of Corydon but these are done safely and they function well and there are a lot of facilities out in somewhat rural areas.

Dickie Johnson: Thank you.

Chairman Dixon: Okay, is there anyone else who would like to speak in opposition to this proposal? Is there anyone who would like to speak in opposition again to this proposal? We want to make sure we hear everybody's thoughts as completely as possible.

Anyone else who would like to speak in favor? Yes, Mr. Thomason?

Anyone want to speak? You can proceed sir.

John Thomason: John Thomason, 7933 Waterfront Court, Newburgh, Indiana, Attorney for Riverview Coal.

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

John Thomason: Yes sir.

Chairman Dixon: Thank you.

John Thomason: Mr. Chairman, as we have shown, what Riverview plans to construct is a workforce distribution facility. It will simply act as a doorway for four-hundred sixty-six (466) employees to go to work. Riverview Coal's proposed use of the property and the proposed zoning change/map amendment are consistent with the following provisions of the Henderson County Comprehensive Plan;

Growing the Economy (Objective A); Promote the continued operation and expansion of commercial activities.

Objective F; Plan for and enable readily available economic and industrial development land to meet the needs for jobs and enable infill and re-development that creates jobs where people live.

Section II, Protecting natural resources (Objective G); Promote awareness of un-mined coal resources.

Objective H; Allow coal resources of Henderson County to be removed with the least adverse impact to the environment, citizens and the resources of the county.

And finally, Balancing Land Use, Objective A; Identify areas for infill, re-development and adaptive re-use that respect the areas context and design features.

Mr. Chairman, for these reasons we ask the commission to approve Rezoning #1140 for the zoning change/map amendment from Agricultural District to Heavy Industrial District (M-2).

Thank you for your time.

Chairman Dixon: Thank you.

Does the commission have any questions for Mr. Thomason?

Anyone in the audience have anything further to say on this matter, one way or the other?

Hearing none. Does the commission have any questions? Any further questions or comments?

I'll remind everyone that our task is to make a recommendation to this rezoning that will go to Fiscal Court. At that point, Fiscal Court can accept and do what we've recommended or they can do the opposite. They can pretty much do whatever they want with it. They can hold another public hearing, if they wish.

Brian Bishop: Mr. Chairman, can I elaborate on that a little bit?

Chairman Dixon: Yes.

Brian Bishop: The County of Henderson has adopted what's called the expedited rezoning process. So, there are a few options or a few routes that can happen.

One, no one can object to the rezoning and after twenty-one (21) days the rezoning becomes, essentially approved. T.J. and Steve probably don't like that simply explanation because there is more caveat there.

The second option is that an aggrieved party can request that the Fiscal Court review the rezoning application. At that time, the Fiscal Court can either accept or go to route three (3) and hold their own public hearing.

So, there are there still avenues.

Chairman Dixon: If someone wanted to explore one of those avenues, what would they do?

Brian Bishop: They can contact the Planning Commission staff and we will do our best to help them through the process.

Chairman Dixon: Very good, thank you.

The commissioners will find proposed motions, I'll entertain a motion in regard to Rezoning #1140.

Dickie Johnson: I'm probably not going to be very well liked with the people that are sitting out there in the audience, they are dear friends of mine. Looking and hearing the evidence that has been presented;

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY GRAY HODGE THAT THE STAFF PREPARE A PROPOSED MOTION AND FINDINGS OF FACT BASED ON THE RECORD,

RECOMMENDING APPROVAL OF REZONING #1140 WITH A DEVELOPMENT PLAN FOR THE PROPERTY LOCATED IN HENDERSON COUNTY ACROSS FROM 6784 SULPHER SPRINGS ROAD, (PID#35-11) CONTAINING 8.36 ACRES AND PID# 35-10 CONTAINING 46.64 ACRES), CONTAINING APPROXIMATELY 55 ACRES IN TOTAL, SUBMITTED BY RIVERVIEW COAL, LLC; THAT THE MATTER BE TABLED UNTIL THE NEXT REGULAR METING; THAT THE PUBLIC HEARING NOT BE REOPENED AT THE NEXT MEETING (THAT NO ADDITIONAL PUBLIC COMMENTS WILL BE HEARD AT THE NEXT MEETING); THAT THE RECOMMENDATION WILL NOT BE RECONSIDERED AT THE NEXT MEETING; AND, THAT THIS VOTE NOT BE CONSIDERED FINAL ACTION. THAT THE PROPOSED MOTION AND FINDINGS WILL BE SUBJECT TO THE APPROVAL OF THE SITE PLAN THAT WILL COME BACK TO THE PLANNING COMMISSION. THIS MOTION IS IN REGARD TO APPLICANTS' REQUEST FOR A ZONING CHANGE/MAP AMENDMENT FROM AGRICULTURAL DISTRICT (AG) TO HEAVY INDUSTRIAL DISTRICT (M-2), WITH A DEVELOPMENT PLAN FOR A NEW UNDERGROUND COAL MINE PORTAL. SUBJECT TO ANY AND ALL NECESSARY STATE APPROVALS.

Chairman Dixon: We have a motion, and a second.

Brian Bishop: Mr. Chairman? Can staff request that Mr. Johnson add subject to any and all necessary state approvals, please?

Dickie Johnson: I can add that.

Chairman Dixon: Does the second approve that amendment?

Gray Hodge: Yes.

Chairman Dixon: Any discussion by the commission as to the motion to approve this that is now before us?

Madame Secretary, please call the roll.

AYE: MAC ARNOLD, X.R. ROYSTER, DICKIE JOHNSON, GARY GIBSON, GRAY HODGE, FRANK BOYETT.

NO: KEVIN RICHARD, BOBBIE JARRETT

Chairman Dixon: Is that everyone?

Heather Lauderdale: It is.

Chairman Dixon: I have six (6) to two (2), is that correct Madame Secretary?

Heather Lauderdale: Yes.

Chairman Dixon: The motion passes. This matter will move on to Fiscal Court.

Frank Boyett: Don't we have to come back for the findings of facts?

Chairman Dixon: Yes, we will do that. At the next meeting we will consider only the findings of fact.

Brian Bishop: Correct.

Dickie Johnson: Yes.

Chairman Dixon: We're not going to reconsider this approval.

Frank Boyett: Yes.

Chairman Dixon: Okay, the motion passes.

I need 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: We have a motion and a second, any discussion?

All in favor say yes.

YES: ALL

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

Before we move on to adjournment, I want to thank everybody that participated tonight in any fashion. I know it wasn't easy.

Do we have any administrative business or other business to attend to this evening?

Brian Bishop: No sir.

Chairman Dixon: 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 say yes.

YES: ALL

Chairman Dixon: Any opposed? We stand adjourned. Thank you all very much.

MEETING ADJOURNED AT 7:10 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, February 7, 2023 and continued on February 8, 2023 to the best of my ability.

Heather Lauderdale, HCCPC Clerk

X
