

Henderson City-County  
Planning Commission  
March 2, 2021

The Henderson City-County Planning Commission held a meeting March 2, 2021 at 6:00 p.m., at the Peabody Building, 1990 Barret Ct, Suite F, *via teleconference*. Members present via teleconference: Chairman David Dixon, Vice-Chairman David Williams, Bobbie Jarrett, Dickie Johnson, Gray Hodge, Kevin Richard, Gary Gibson, Mac Arnold, Stacy Denton, Doug Bell, Kevin Herron and Tommy Joe Fridy. Dickie Johnson was absent. Staff present: Director Brian Bishop, Jennifer Marks, Theresa Curtis and Chris Raymer. Heather Lauderdale was absent.

***MEETING BEGAN AT 6:00 PM***

Chairman Dixon: I would like to call this Tuesday, March 2, 2021 meeting of the Henderson City-County Planning Commission to order. I will begin by reading this statement;

***“Due to the emergency resulting from the Coronavirus (COVID19), and to help protect the community from the spread of COVID19 by limiting in person contact, this regular March 2, 2021 meeting of the Henderson City-County Planning Commission is being held by video teleconference.***

***This video teleconference meeting is being telecast live on Facebook at [www.facebook.com/HendersonPlanning/live/](http://www.facebook.com/HendersonPlanning/live/) page and elsewhere for the media and the public to view. During the public hearing segments of the meeting, the public may offer evidence, comments, positions, suggestions and questions in accordance with the meeting rules.***

Madame Secretary, Mrs. Curtis, could you please call the roll?

Theresa Curtis: Yes.

We have a quorum.

Chairman Dixon: Thank you very much. We've got several public hearing items tonight and I'd like to entertain a motion to go into public hearing.

***MOTION WAS MADE BY MAC ARNOLD, SECONDED BY GARY GIBSON TO GO INTO PUBLIC HEARING.***

Chairman Dixon: We have a motion and a second; any discussion? All in favor say aye.

***AYE: ALL***

Chairman Dixon: The first item of business is the approval of the **minutes for the January 26, 2021 teleconference**. This is the meeting concerning I-69. Do we have a motion to approve the minutes?

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY KEVIN RICHARD TO APPROVE THE MINUTES FROM JANUARY 26, 2021 AS SUBMITTED.***

Chairman Dixon: Any discussion? All in favor say aye.

***AYE: ALL***

Chairman Dixon: Any opposed?

***NAY: NONE***

Chairman Dixon: The minutes are approved.

The next item is the approval from the February 2, 2021 regular meeting, do we have a motion to approve?

***MOTION WAS MADE BY MAC ARNOLD, SECONDED BY X.R. ROYSTER TO APPROVE THE MINUTES FROM FEBRUARY 2, 2021 REGULAR MEETING.***

Chairman Dixon: All in favor say aye.

***AYE: ALL***

Chairman Dixon: Any opposed?

***NAY: NONE***

Chairman Dixon: Very good, those minutes are approved.

The next item is **Tract 1A of the Jack Tillman Agricultural Division**;  
I think Ms. Marks will lead that discussion?

Jennifer Marks: Yes, thank you.

This Agricultural Division was submitted by Carolyn Whitmore Estate, Laveta Daniel Executrix for the property located in Henderson County at 9260 Hwy 416 West. Applicants request a 1-A Tract Division for approximately 10.115 acres, leaving roughly 43 acres left in the Estate.

Again, just to remind you all we do currently bring AG Divisions before you all for approval.

The plat does include the Agricultural Exemption Certification which is signed off by the owners that they will continue to use that property as an Agricultural use.

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

Do we have anyone who would like to speak to this matter? Anyone in favor of this that is joining us remotely or otherwise? Would anyone like to speak in opposition to this?

I'm hearing no questions, we are live on ZOOM, right?

I'll entertain a motion in regard to this.

***MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY  
MAC ARNOLD TO APPROVE TRACT 1-A OF JACK TILLMAN  
AGRICULTURAL DIVISION SUBMITTED BY CAROL  
WHITMORE ESTATE, LAVETA DANIEL EXECUTRIX FOR THE***

***PROPERTY LOCATED IN HENDERSON COUNTY AT 9260 HWY 416 WEST.***

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

Madame Secretary, please call the roll.

I'll remind everyone, we need to see your face when you vote.

(Kevin Herron joined at 6:11p.m. via ZOOM)

***AYE: ALL***

***NAY: NONE***

Brian Bishop: Theresa, hang on one second there is a question on Facebook from Hayley Dawn. Ms. Dawn can you ask your question please?

I'm not seeing a response.

Are you referring to the property out in the county or the property on Lover's Lane? (Answering Hayley Dawn's questions from Facebook Live)

The property we're talking about now is on Hwy 416 W. (Answering Hayley Dawn's questions from Facebook Live)

We're not talking about that one yet, we're still a few items away from that one. So, if you would hang tight and save your question until then please, or hang on to your question until then please. (Answering Hayley Dawn's questions from Facebook Live)

Chairman Dixon: Ok, I believe we have a motion and a second...

Theresa Curtis: No, I need a second, please.

Chairman Dixon: Ok, we have called the roll. Did we not call the roll on this?

Theresa Curtis: We already did, we're good.

Chairman Dixon: We have a motion, we have a second, we have called the roll, and the motion passes unanimously.

The next item of business has to do with the **City of Henderson's Sign Ordinance**. We have a special guest star with us this evening to present.

Can I have your name, sir?

Ray Nix: Ray Nix.

Chairman Dixon: Your address?

Ray Nix: 2319 Sunset Lane in Henderson, Kentucky.

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

Ray Nix: Yes I do.

Chairman Dixon: Very good, thank you. Please proceed.

Ray Nix: The City of Henderson, Board of Commissioners are requesting that the Planning Commission consider amendments to Article X- Signs and Outdoor Advertising Displays of the Code of Ordinances of the City of Henderson, Kentucky.

The review is as follows; actually, I'll itemize each area:

- Sec. 10.03. - Definitions and interpretation.
- Sec. 10.06. - Design, construction, and maintenance.
- Sec. 10.08. - Signs in the public right-of-way.
- Sec. 10.09. - Signs exempt from regulation under this article.
- Sec. 10.11. - Billboards. (See Exhibit "A.")
- Sec. 10.12. - Temporary signs.
- Sec. 10.21. - Penalties for violation.

- Delete Appendix #3

Ray Nix: This, unfortunately had been delayed coming to the Planning Commission. We had hoped to get this to you just before the first of the year but with holiday's and staff sicknesses, it's taken a while to circle back around.

This was our major look as far as the sign ordinance, so based on recommendations from Kentucky League of Cities, the City staff has completed a comprehensive review of the current sign ordinance to bring it into compliance with Supreme Court ruling #13-502, which is Reed (v) Town of Gilbert, Arizona which held sign code provisions that are content based, constitute regulations of speech and do not survive strict scrutiny.

So, briefly this means we must not need to read the content of a sign to regulate how it applies to the sign ordinance.

So, for example we have many, many different types of enumerated, temporary signs in our old ordinance; signs that are regarding advertising of political campaigns, temporary signs about sales, leases, re-development of property, temporary signs regarding construction and related services, temporary signs regarding business and events, general events, and etc.

So, the vast majority of the proposed changes to the sign ordinance were made to make all sign regulations content neutral.

Proposed regulations are based on sign type and zone in which it is located.

Other requested revisions that we are requesting are as follows:

Definitions were revised to simplify language for different types of electronic signs combining them into two (2) categories; 1.) On premise electronic message signs, and 2.) Electronic message billboard signs.

As you drive down through different parts of town and down the highway and everything, I'm sure you've seen the signage is changing to the electronic era and we have a number of new electronic message signs within the city and we've also had some recommendations now currently for some electronic billboard signs. So, that will soon be coming, hopefully.

The definition of projecting signs was expanded to include regulations on placement and mounting of such signs in permitted zones and uniformly applied the requirement for a whole harmless agreement and applicable insurance coverage in order to obtain a sign permit.

Another item was we added an exemption from the regulation of temporary signs that were placed on or after April 15, and removed by May 31 of each year. Also, temporary signs placed on or after October 1 and removed by November 15 of each year, providing that all said signs shall not be located on public right of ways or in the vision-site triangle. Although this exemption will be regulated uniformly, without regard to content during this time period it is, hypothetically, that it will allow for placement of election signs without regulation as long as they are properly located and removed in a timely manner.

Also, all temporary signs will be regulated throughout the remainder of the year based on zone and limited in square footage as follows:

Maximum of six (6) square feet are in the following zones; R-1, R-2, R-3, R-4, R-5, R-PUD, R-MH, RONB, CBD, and the Riverfront Zones 1, 2, 3, and 4, Audubon Residential, Audubon Commercial, Gateway Zone and Henderson Innovative Planning Districts.

Maximum of thirty-two (32) square feet will be allowed in the following zones; General Business, Highway Commercial, M-1, M-2 which are light and heavy industrial, and also AG districts.

Another item was related to Section 10.21 Penalties for Violation; this was added to allow for stronger enforcement of sign violations and that will now become a misdemeanor.

Appendix III was removed entirely. It was unnecessary and a duplication of information that we had also already included in our Home Occupation section of the Zoning Ordinance.

So, that is a recap of these various adjustments and changes, and we request your approval.

Chairman Dixon: Very good, I think everybody has their packet where these are detailed, these amendments.

Any questions for Mr. Nix?

David Williams: Mr. Chairman... Ray, I just have a question and it's about enforcement. Who actually enforces the code and how is the enforcement brought to the attention of the person who enforces it? I assume that you enforce the code and do you have to see it yourself or does someone have to tell you about it, or either way, or how does enforcement actually occur on a sign?

Ray Nix: All the above and including everything that you mentioned. It is our offices authority to enforce the sign codes and ordinances, and we get indicators from telephone calls to our office indicating that someone may question the validity of the particular sign or location or size, so we will respond to that. We'll also respond if we happen to see some things as we're driving around through town as well.

I will say this, we've been quite lenient through this COVID time, and with the relaxation and vaccinations and everything, and hopefully the opening up of businesses, you'll see more enforcement regarding that.

Chairman Dixon: Very good.

David Williams: I was just curious about that. Thank you Ray, I appreciate that.

Ray Nix: You're welcome.

Chairman Dixon: Any other questions for Mr. Nix? Do we have any questions from the public concerning these amendments?

Very good, I guess I'll entertain a motion considering amendments to Articles X, Signs and Outdoor Advertising Displays of the Code of Ordinance of the City of Henderson as they have been described.

David Williams: This is a recommendation to the Commission, correct?

Theresa Curtis: Yes.

David Williams: For acceptance?

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY DOUG BELL TO RECOMMEND THE CITY OF HENDERSON BOARD OF COMMISSIONERS ADOPT THESE ORDINANCES AS REVISED AND PRESENTED.***

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

Madame Secretary, please call the roll.

***AYE: ALL (Kevin Herron did not vote with facial recognition or voice)***

***NAY: NONE***

Theresa Curtis: I thought I saw Kevin Herron trying to connect, but I don't see his face.

Chairman Dixon: He's working on it.

Theresa Curtis: We have a quorum.

Chairman Dixon: Once again, the motion passes. Thank you.

We'll move on to **Rezoning #1114**, Mr. Bishop?

Brian Bishop: Yes sir.

If you folks would give me one second, I'm going to share a screen to make sure everyone can see it.

Can everyone see the map that shows the property on 425 and Old Corydon Rd?

Kevin Richard: Yes.

Gary Gibson: Yes.

Brian Bishop: This is Rezoning #1114 submitted by Tommy Tapp for the property located in Henderson County (PID #39-2-66), adjacent to 6402 Old Corydon Road containing 77.284 acres. The applicant is requesting a zoning change/map amendment from Single Family Residential District to Agricultural District for a solar farm.

As everyone can see, this is Hwy 425, this is Old Corydon Road, and this is the Kenergy Corporate office here.

This parcel is zoned R-1 because it was part of a rezoning done in 1978 from AG to R-1 for the purpose of a subdivision. As you can tell, the property has never developed as a subdivision and has been historically used as cropland.

The applicant is requesting a zoning change from R-1 to AG so it can be incorporated into a larger, solar farm project. That project will most likely be to us and in front of us in the next month or two.

Staff would recommend approval and I believe we have several people representing the project on if they would like to speak.

Chairman Dixon: Is Agriculture the only zone that would allow a solar farm?

Brian Bishop: Industrial allows it but only if its ten (10) acres or less. Anything large like this would be in the Agricultural zone.

Chairman Dixon: Very good.

Do any Commission members have questions for staff on this?

I believe the applicant is with us.

Brian Bishop: They were earlier. Mr. Branson, do you have your team on?

Chris Killenberg: This is Chris Killenberg from Community Energy, I know Dennis and Mr. Tapp were on earlier.

Chris Hopgood: This is Chris Hopgood, I'm on here for the Tapp's and the Francis'.

Chairman Dixon: Ok, would any member of the Commission like to address the applicant or their representative?

Would the applicant or their representatives like to speak to the Commission?

Chris Hopgood: We're certainly here to answer any questions, as Brian stated this is obviously an Agricultural plot and we've got a solar ordinance in place that would have to be complied with obviously down the road.

Chairman Dixon: Before we go on...

Brian Bishop: Give me a... this is not cooperating with me.

Chairman Dixon: I do need the name of the speaker please.

Chris Hopgood: This is Chris Hopgood, and I promise to tell the truth; 318 Second Street, Henderson, Kentucky.

Chairman Dixon: Thank you, Mr. Hopgood.

Brian Bishop: Is there a reason this is (inaudible) Chris that I'm missing?

Chris Raymer: Once you hit the.... Go ahead and do it. See, keep going.

Chairman Dixon: Sorry folks, we're working this out.

Brian Bishop: Sorry.

David Williams: While we're doing this, let me just ask a question of staff.

The proposed zoning change does fit with the overall plan for the county? Development Plan?

Brian Bishop: Give me one second, if you don't mind.

Chairman Dixon: I think we have a pretty good idea of where the property is.

Brian Bishop: Commissioner Williams, would you mind saying that again please?

David Williams: This zoning change does fit with the overall Development Plan for the county?

Brian Bishop: If you would, look at the staff report for this and at the bottom of it we have made a recommendation there. It is not in agreement with the Future Land Use map because the property along Highway 425 was shown as commercial. But staff believes there have been changes in the social economic or physical in nature that would justify this rezoning.

David Williams: Ok, let me ask a question and maybe Tommy Joe will have to step in on this but when we consider this zoning change, do we consider as knowing what the future use is going to be; which is the solar farm? Or, do we have to consider strictly on how the property is being used now?

Tommy Joe Fridy: You can consider the proposed use.

David Williams: Ok, so if the proposed use is to become a solar farm and that proposed use is more akin to a commercial use rather than an

agricultural use, it would still fit with what the, how the Comprehensive Plan is showing the area developing; is that correct, along the by-pass?

Tommy Joe Fridy: Let me counsel that a little bit differently.

Even though it feels commercial to me, it is not so defined.

It's defined in our Zoning Ordinance as an Agricultural use.

It's still permissible to consider the actual use no matter how any of us may characterize it in our mind.

It is a permitted use in the Agricultural zone and the Agricultural zone is the zone that the Zoning Ordinance has determined to be the best zone for it to be in. Thus, you can have the larger tracts of solar panels in Agricultural.

You may only have smaller square footage or square acres in other zones.

Chairman Dixon: Thank you.

Does staff have other factual testimony they would like to get into the record here?

Brian Bishop: We have a proposed motion and findings of facts that Theresa emailed out to everyone yesterday I believe. Rezoning #1114 submitted by Tommy D. Tapp for the property located in Henderson County (PID# 39-2-66), adjacent to 6402 Old Corydon Road and containing approximately 77.284 acres. The applicant is requesting a zoning change/map amendment from Single Family Residential District to Agricultural District for a solar farm.

Then, it continues to say that "I move that the Planning Commission recommend that the Henderson County Fiscal Court approve Rezoning #1114 changing the zoning classification from Single Family Residential District to Agricultural District for the subject property. I leave the

motion open for other members of the Planning Commission to add Findings of Facts in support of this motion because;

The property was included in a previous rezoning (#245 in 1978), which was for the creation of a subdivision that was never developed. This property has not developed in the manner which was anticipated in the 1978 rezoning.

The parcel is relatively large with uneven terrain.

The property has historically been used for cropland.

The property is adjacent to other parcels currently zoned Agricultural and is conducive to the construction of a solar farm.

The relatively large acreage (77.284 acres), being reasonably remote and being surrounded by other agricultural tracks, makes the property more conducive to agricultural uses, which would include a solar farm, than residential.”

Chairman Dixon: Thank you.

Tommy Joe Fridy: Mr. Bishop, do you make the factual portion of that statement part of your testimony?

Brian Bishop: Yes sir.

Guys, we're getting some feedback from someone, if you're not speaking would you mind hitting mute please?

Kevin Richard: Mr. Chairman or Mr. Bishop, I can't see the Facebook Live feed, is there any public comments or questions on this topic?

Brian Bishop: Commissioner Richard, we have one comment from someone who says they have a family member that lives near another parcel, not directly related to this parcel but the one that is going to be under Rezoning #1116.

Chairman Dixon: We have that person waiting patiently until we get to that item on the agenda. I see no indication of other questions.

Kevin Richard: So, Mr. Chairman if there is no other public comment for or against, I would like to make a motion to adopt the draft motion that Mr. Bishop just read as my final motion on this topic.

***MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY MAC ARNOLD TO ADOPT THE MOTION MR. BISHOP JUST READ INTO THE RECORD REGARDING REZONING #1114.***

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

Madame Secretary, please call the roll.

***AYE: ALL***

***NAY: NONE***

Chairman Dixon: The motion passes, thank you.

The next item is **Rezoning #1115**, Mr. Bishop?

Brian Bishop: Yes sir. Rezoning #1115 submitted by Tommy D. Tapp for the property located in Henderson County (PID# 39-2-66), adjacent to 6402 Old Corydon Road containing approximately 4.428 acres. The applicant is requesting a zoning change/Map Amendment from Single Family Residential District (R-1) to Rural Residential District (RR) to create a Lot #1 Minor Subdivision.

If you will give me one second, I'm going to share the screen so you can see the map.

Can everyone please check that they are muted? We're getting a lot of feedback, please.

Can everyone see the map?

Kevin Richard: Yes.

Brian Bishop: This is a small portion that is directly adjacent to the property that we just addressed. The applicant is requesting this be changed from R-1 to Rural Residential which you may remember is the newest zone that was created with the Zoning Ordinance update.

It is a hybrid between the Residential and Agricultural zones. So, for example in this case, someone would easily be able to have a one-family resident and small farm-type uses such as horses, livestock and things of that nature.

The applicant requests this so that it can be subdivided through the minor subdivision process and with that I will read the proposed motions and findings for this.

Does anyone have any questions about the map before I switch from that?

Chairman Dixon: Very good.

Brian Bishop: Rezoning #1115 submitted by Tommy D. Tapp for the property located in Henderson County (PID# 39-2-66), adjacent to 6402 Old Corydon Road, and containing approximately 4.428 acres.

Applicant is requesting a zoning change/Map Amendment from Single Family Residential District (R-1) to Rural Residential District (RR) to create a Lot #1 Minor Subdivision.

I move that the Planning Commission recommend that the Henderson County Fiscal Court (the "County") APPROVE Rezoning Application #1115 changing the zoning classification from Single Family Residential District (R-1) to Rural Residential (RR) subject to the subdivision being finally approved and recorded and, I leave the motion open for other members of the Planning Commission to add findings of fact in support of this motion, because:

The existing Residential-1 (R-1) zoning classification is inappropriate and the proposed (RR) Rural Residential District zoning classification is appropriate, because:

- The property was included in a previous rezoning (#245 in 1978) which was for the creation of a subdivision that was never developed. This property has not developed in the manner which was anticipated in the 1978 rezoning.
- The parcel is relatively large with uneven terrain.
- The property has historically used for cropland.
- The property is adjacent to other parcels currently zoned Agricultural and is conducive to a one-family residence and small farm activities, which is consistent with the Rural Residential zoning classification.

Chairman Dixon: Very good, does the Commission have any questions for staff in regard to this?

Tommy Joe Fridy: Point of order.

Mr. Bishop, do you adopt the factual portion of the proposed motion that you read as your testimony?

Brian Bishop: I do, sir.

Tommy Joe Fridy: Thank you.

Chairman Dixon: Thank you. Any questions for staff on this issue?

Would any members of the Commission like to hear from the applicant or the representative?

If no one has any further questions, would the applicant or their representatives like to speak?

Chris Hopgood: Again, this is Chris Hopgood, 318 Second Street, and I promise to tell the truth.

Again, we're here to answer any questions you want to ask.

Chairman Dixon: Thank you Mr. Hopgood, we appreciate it.

I'm hearing no questions. I see nothing coming through ZOOM so I think it's time to entertain a motion regarding Rezoning #1115. What's the pleasure of the Commission?

***MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY MAC ARNOLD TO ADOPT THE DRAFT MOTION THAT BRIAN BISHOP READ INTO THE RECORD AS A FINAL MOTION ON THIS SUBJECT.***

Chairman Dixon: Thank you. We have a motion and a second, Madame Secretary please call the roll.

***AYE: ALL***

***NAY: NONE***

Chairman Dixon: Very good, the motion passes.

We'll move on to **Rezoning #1116**, Ms. Marks?

Jennifer Marks: Yes, thank you.

Rezoning #1116 is submitted by Jeffrey & Beth Francis for the property located in Henderson County...

Brian Bishop: Hey guys, can you hit mute for us again?

Jennifer Marks: Again, it was submitted by Jeffrey & Beth Francis for the property located in Henderson County at 893 Lover's Lane (PID# 46-19.2) and containing approximately 95.3 acres. Applicants request a zoning change/Map Amendment from Heavy Industrial District (M-2) to Agricultural District (AG) for a Solar Farm.

I won't go into too much detail on this one. Again, as Brian has already mentioned, this is another portion that will be included in that entirety of the solar farm, and if you'll pull that up there for me....you guys should see it on your screen and it is in your packet as well.

We do have the property owners on as well as Mr. Branson, Mr. Hopgood, and I believe Chris with Community Energy.

This is also the one that we do have a question for in regard to Facebook. So, we can pull the mapping up here and see if we can get an answer for her.

Brian Bishop: Give us one second, GIS is being contrary.

Can everyone see GIS now?

X.R. Royster: Yes.

Brian Bishop: It's this parcel, the one you can see the mouse on. It's 46-19.2, and then when I click this, it's the one that's highlighting.

Kevin Richard: So, Brian I have a question.

I'm not for sure how recent this photograph is in our packet compared to the GIS so, the majority of the site, it looks like it's not immediately bounded by other lots that have housing on it but I couldn't tell on the northern half because there's a big Rezoning #1116 right through the middle of the picture.

So, on the north side, are any of those plats or lots have actual houses on it?

Brian Bishop: There are houses across the road on Lover's Lane, Commissioner Richard can you see this here?

Kevin Richard: Yes.

Brian Bishop: You have houses here, and then it is separated by Canoe Creek here. Let me turn off the labels, it may be a little easier to see it.

Then you have houses along Collier Road this way.

Kevin Richard: Ok, so to the north and to the east there are some development but basically west and south is undeveloped land?

Brian Bishop: Correct. You have a CSX Railroad that runs directly to the west, this property along with the subject property, had been recently rezoned to Heavy Industrial for the purpose of industrial development which we most likely see in the near future at some point a site plan there.

But to your point, right here and right here has residential development that has been there for some time.

Kevin Richard: Thanks for clarifying that.

Brian Bishop: Yes sir.

Chairman Dixon: Do any other commissioners have any questions for staff?

David Williams: Yes Mr. Chairman. How are they going to achieve access to this property?

Brian Bishop: I will leave that up to Mr. Branson and his team.

Chairman Dixon: Would one of the applicants or one of the representatives like to address that please?

Chris Killenberg: So, this is Chris Killenberg from Community Energy. My address is 15 Albert Lane, Evansville, Rhode Island and I promise to tell the truth.

I'm the lead developer for this project. This particular portion of the project would be accessed through Collier Road and Lover's Lane.

David Williams: How much of an increase in traffic for Lover's Lane do you foresee for this job; for the use of this property in such a manner?

Chris Killenberg: So, during construction it will be busy but once constructed the total employees over the entire site, this and the land south of the by-pass would be two (2) to three (3) employees.

So, it will be relatively light traffic.

David Williams: Do you plan any upgrades or anything like that to the road?

Chris Killenberg: We will as necessary, certainly. In addition, we will be installing a vegetative screen along the periphery of the solar farm between the solar farm and portions of Lover's Lane and portions of Collier Road as well.

Brian Bishop: Commissioner Williams, everyone may not remember but the site plan for this project will also come back to the Planning Commission in which we will see greater detail as far as the entrance, screening and things of that nature.

Kevin Richard: One follow up question to Commissioner Williams' question; is there a rough, I know all projects the timeline is almost never concrete but is there a rough estimate of construction time that Lover's Lane would see heightened traffic?

Chris Killenberg: So the total construction of the project will be about a six (6) to nine (9) month period. Different sections will be more active than others in different types of activity but in general, about a six (6) to nine (9) month period.

Kevin Richard: Thank you.

Chairman Dixon: While we have this witness sworn in, I would like to address some of the questions coming in from Facebook, from a Ms. Hayley Dawn.

She said, "My grandmother lives there and they use that field to exit if the water is over the bridge. Will they be able to continue?"

Apparently, they access to Carter Drive. Where is Carter Drive on this map?

Brian Bishop: I'm not exactly sure.

Chairman Dixon: She has other questions, that's the first one.

Chris Killenberg: So, I'm not familiar with what direction they exit but if you're looking at that lot now, there is a dirt lane that goes right down the middle of it and crosses the railroad tracks, that will remain open. So, if that is the route they take to exit when the water is high, then that would remain open.

David Williams: Could you put the flood-prone map up please?

Brian Bishop: Yes Ms. Dawn, it would be definitely easier if you could call in, that would probably expedite this process.

If you would, it may be easier to call one of our cell phones and we can put you on speaker so everyone can hear you.

The number you should call is 270-860-1288.

Chairman Dixon: Again, please?

Brian Bishop: 270-860-1288.

Chairman Dixon: She's calling with no answer.

Brian Bishop: One more try; 270-860-1288.

David Williams: Well I can see from the flood-prone map I can certainly see her predicament. The lane gets cut off completely down there.

Lover's Lane does not go all the way down to the south, does it terminate just off the map, what we're showing here?

Brian Bishop: Just one second.

Guys, we have the lady who was asking questions on, I'm going to put her on speaker.

Ma'am can you hear us?

Chairman Dixon: Before we proceed, I need your name.

Hayley Sandefur: Hayley Sandefur.

Chairman Dixon: And your address?

Hayley Sandefur: My current address or the address I'm calling in regards to?

Chairman Dixon: Your current address.

Hayley Sandefur: 708 Arbor Drive, Apartment 212, Henderson, KY.

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

Hayley Sandefur: Yes.

Chairman Dixon: Thank you very much, proceed with your question. Thanks for your patience.

Hayley Sandefur: The road that you guys were conversing about, they said that they would be able to keep that open but then having screening between the residences and the solar farm. Would they be able to have open access to that or would it be depending on the flood and would it be up kept?

Chairman Dixon: Are you talking about the lane running through the property?

Hayley Sandefur: Hang on a second, I have it streaming on my T.V. and it's a little delayed. There we go.

The road that comes off right there across there, it's a gravel road currently that they use to get out if it floods.

Now, they're talking about screening. I don't know what extent they're talking about to keep like the residents away from it. So, what is that extent?

Brian Bishop: Can I address one thing real fast? The road, the gravel road that she's referring to is not a County road. That is on the property owned by the applicant.

So, the Planning Commission cannot give permission for that. That would be up to the applicant and the property owner.

Chairman Dixon: I think we have the applicant's representative...

Brian Bishop: Right, I just didn't want the Planning Commission to answer that question.

Chairman Dixon: Sir, if you could address their questions regarding this road through the property?

Jeff Francis: Yes, this is Jeff Francis.

Chairman Dixon: Mr. Francis, good. Your address?

Jeff Francis: It's 9592 Corydon Geneva Road, Henderson, Kentucky.

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

Jeff Francis: Yes sir.

Chairman Dixon: Thank you very much, sir. Can you help the lady with her question?

Jeff Francis: Yes.

My father in law has owned the land since the 50's, and every time that Lover's Lane floods, he gave permission to all of those homeowners down there to cross his property and go over to Old Corydon Road.

We'll stand by that on our side.

Hayley Sandefur: Will that continue with this new change and will it be something that they will block off until the use is needed or will that be screened in as well so that it stays divided there?

Chris Killenberg: This is Chris Killenberg, I'm the developer of the project.

That dirt lane will remain open. Our solar farm on that particular parcel will be broken into two (2) parts; north and south of that dirt lane. Each of those parts will be fenced in. But in between, that dirt lane will remain open.

So, subject to Mr. Francis' approval, anybody will be able to cross that, there will be no physical obstruction.

Hayley Sandefur: Ok, that is great to hear.

Now, my other question was with the increase in traffic there to be able to get this whole project started, do they believe the bridge that is there will be able to handle that amount of traffic?

Chris Killenberg: At the moment we do believe that, we will study that prior to construction, and take into consideration the size vehicles and trucks that we would need to bring in the equipment, etc. But we believe it's sufficient and if it's not or if any parts of Lover's Lane itself

need to be improved, we intend to approve that as part of the construction project.

Hayley Sandefur: Ok, and as far as the residents there the...all the way down at the end of Lover's Lane is where she lives, so the screening that you're going to provide there, what kind of screening will be provided for the safety of the children that live there?

Chris Killenberg: So in terms of safety, the solar farm will be surrounded by a chain-link fence, which I believe is seven foot (7') tall according to this Solar Ordinance, the County Ordinance.

You should know that even with the fence, what's inside of it is safe to the touch. So, even if a kid climbed a fence what's inside will not shock them. Nevertheless, we will have a fence around the entire solar farm. When I say screen, I'm talking about evergreen bushes that we'll plant between the solar farm and Lover's Lane to obscure the view; that's what I mean by screening.

Brian Bishop: Ma'am, just so you know, the ordinance Mr. Killenberg referred to requires that a seven foot (7') fence be installed and the screening plan that he's referring to will be shown on the site plan that the Planning Commission will approve in the future.

We will also send out notices to the property adjoiners for that as well so, you will know when that happens. But just in case there is not a screening plan on there, the ordinance also requires a double row, staggered evergreen trees which will be planted fifteen feet (15') on center from adjacent, non-participating residential dwellings, including the outdoor living space immediately near the residential dwellings.

Hayley Sandefur: So will it be on the field side or the residential side?

Brian Bishop: Field side.

Hayley Sandefur: Field side, ok and the only other question that I have; during the production of this, will they stop at a normal hour to prevent too much noise like during sleep time, and after this is all done will it make any noise while they're working?

Chris Killenberg: So, this is Chris Killenberg again. We will be, as part of our both county and state permitting process, be proposing certain hours of construction. But to answer your question simply, our intent is not to work at night and not to work at hours that are going to be objectionable to neighbors, number one.

I'm sorry what was the second question? I apologize.

Hayley Sandefur: When installed and running, will they be making any noise while they're running?

Chris Killenberg: Right. There are a couple of pieces in the solar farm that make noise when you're standing right next to them at about the level of like a window air conditioner. We've positioned them purposefully, seven-hundred fifty feet (750') away, at minimum, from any residential dwelling on Lover's Lane so that by the time the sound gets to those houses, it will diminish to a level that is not noticeable.

We've had a study done by an engineer and that's how we came up with that distance.

Hayley Sandefur: Ok, that sounds good to me. That should be all my questions.

Chairman Dixon: Thank you for joining us. I know this is an inconvenient way to have to do things but you did a great job. We appreciate your help on this.

Hayley Sandefur: I appreciate you guys giving us a chance to ask questions. We tried to get onto a meeting last time you guys did it and whenever we called in it said that the pin's that we were trying to use were already in use. So, we were unable to communicate our wants and needs but now that it's on Facebook we can actually get to it and I appreciate that.

Chairman Dixon: Thank you for being persistent and keeping on trying.

Any other questions on this matter? Do we have any questions... we have Mr. Mattingly there.

Brian Bishop: Mr. Joe Mattingly has 831-1228? I think he's referring to the phone number that I said, which was 1288.

Chairman Dixon: 831-1288.

Does the Commission have any other questions that might have come up?

Brian Bishop: A reminder to everyone that the site plan that addresses the screening and things like that still have to come to the Planning Commission.

Kevin Richard: We didn't talk about it at the time but just for the general populous that's on Facebook, the same thing applies to #1114 as well, right? As far as site plan and...

Brian Bishop: Correct.

But to Commissioner Richard's point, I don't believe there are any residences near that one so we probably will not have those questions there that we've had here. That's the reason why we did not have the questions there that we do here.

Chairman Dixon: Anything else from the Commission, one way or another here? I think we're still expecting a phone call here.

Brian Bishop: I think it was more informative in nature. I hope.

Chairman Dixon: Mr. Mattingly, do you have any questions?

Well, I'm seeing no indication of further... Thank you Mr. Mattingly, thanks for being helpful.

Does the Commission have anything else for the applicants or their representative?

I think it's time to consider a motion in regard to Rezoning #1116.

Jennifer Marks: Mr. Chairman?

Chairman Dixon: Yes?

Jennifer Marks: I think I have a little more information...

Chairman Dixon: Yes, yes. We've got some findings of facts and proposed motions to add to the record.

Jennifer Marks: I'll read this into the record as my testimony for facts on this property.

Again, it is Rezoning #1116 submitted by Jeffrey & Beth Francis for the property located in Henderson County at 893 Lover's Lane (PID# 46-19.2), and containing approximately 95.3 acres. Applicants are requesting a zoning change/Map Amendment from Heavy Industrial District (M-2) to Agricultural District (AG) for a Solar Farm.

I move that the Planning Commission recommend that the Henderson County Fiscal Court (the "County") APPROVE Rezoning Application #1116 changing the zoning classification from Heavy Industrial District (M-2) to Agricultural (AG) for the subject property and, I leave the motion open for other members of the Planning Commission to add findings of fact in support of this motion, because;

The proposed zoning classification is in agreement with the Future Land Use Map of the Comprehensive Plan, which shows the area developing Agricultural.

The existing Heavy Industrial District (M-2) zoning classification is inappropriate and the proposed Agricultural District zoning classification is appropriate, because:

The property was included in a previous rezoning (#1057 in 2016) which was intended for an industrial use. This property has not developed in the manner which was anticipated in the 2016 rezoning.

The parcel is relatively large and is adjacent to a railroad track.

The property has historically been used for cropland.

The relatively large 95.3 acres makes the property conducive to agricultural uses, which would include a solar farm. Adjoining parcels will be developed and used as solar farms.

This proposed Agricultural zoning classification of the subject Parcel will not adversely affect the other properties in the area; and will be less burdensome and intense than a heavy industrial use.

Chairman Dixon: Very good. Does the Commission have any further questions of staff or otherwise?

David Williams: Yes, just in case Tommy Joe's not on; Ms. Marks, you entered that as part of your testimony please?

Jennifer Marks: I do.

David Williams: Thank you.

Tommy Joe Fridy: She said that was part of her testimony.

David Williams: Ok, thank you.

Chairman Dixon: I guess now it's time to consider a motion in regard to Rezoning #1116.

***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY MAC ARNOLD FOR THE PLANNING COMMISSION RECOMMEND THAT THE HENDERSON COUNTY FISCAL COURT APPROVE REZONING APPLICATION #1116 CHANGING THE ZONING CLASSIFICATION FROM HEAVY INDUSTRIAL DISTRICT M-2 TO AGRICULTURAL AG FOR THE SUBJECT PROPERTY AND LEAVE THE MOTION OPEN FOR OTHER MEMBERS OF THE PLANNING COMMISSION TO ADD FINDINGS OF FACTS IN SUPPORT OF THIS MOTION. I SUBMIT THIS MOTION IN REGARD TO THE TESTIMONY MS. JENNIFER MARKS HAS ENTERED INTO THE RECORD.***

Chairman Dixon: We have a motion and a second. Madame Secretary, please call the roll.

***AYE: ALL***

***NAY: NONE***

Chairman Dixon: Very good, the motion passes. Thank you all, I've got no other items under the public hearing portion of the meeting so I'll entertain a motion to go out of public hearing.

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

Chairman Dixon: All in favor?

***AYE: ALL***

Chairman Dixon: Any opposed?

***NAY: NONE***

Chairman Dixon: Very good, we are out of public hearing.

The next item will be the **February Finance Report**, Ms. Curtis?

Theresa Curtis: We have four (4) months left in the budget and right now we're at 69% of budget, and I just need approval for the Finance Report.

***MOTION WAS MADE BY DOUG BELL, SECONDED BY BOBBIE JARRETT TO ACCEPT THE FEBRURARY FINANCE REPORT AS SUBMITTED.***

Chairman Dixon: We have a motion and a second, any discussion? All those in favor say aye.

***AYE: ALL***

Chairman Dixon: Any opposed?

***NAY: NONE***

Chairman Dixon: The motion passes.

The next item on the agenda is the **Bond Report**, Ms. Marks?

Jennifer Marks: Thank you. We do have a two projects up for a bond update. The first one is the Audubon School Apartments for which we

currently have a bond of \$24,180. I have consulted with the City Engineer and he has suggested that we lower the sidewalk and street bonding down to 35%, and we are holding the water, sewer and screening at the original amount. I do believe, and Ray can correct me if I'm wrong here but weather has kind of halted the finishing up of that project so they have requested an extension for six (6) months so they will be able to wrap everything up there. The new bonding amount will be \$21,065.

The second project is the Canoe Creek, Section I; the streets and sidewalks we have been notified that we can lower those to the 35% amount so their new total bonding amount will be \$16,868. They do have twelve (12) of those fourteen (14) lots developed and one is currently under construction.

If you guys have any questions, I can answer those for you.

Chairman Dixon: Any questions in regards to the Bond Report? I will entertain a motion to approve.

***MOTION WAS MADE BY MAC ARNOLD, SECONDED BY GARY GIBSON TO ACCEPT THE BOND REPORT AS SUBMITTED.***

Chairman Dixon: We have a motion and a second, any discussion? All those in favor say aye.

***AYE: ALL***

Chairman Dixon: Any opposed?

***NAY: NONE***

Chairman Dixon: Very good, the Bond Report is approved.

The next item is the **J-Ron Site Plan**, Mr. Bishop?

Brian Bishop: Yes sir.

The J-Ron Site Plan is submitted by Ronald and Judith Bugg for the property located in the City of Henderson at 635 Bob Posey Street (PID# 3-8-2-20). The applicants are requesting a site plan approval for a solar site.

The applicant is requesting site plan for a Level II Solar Energy System. You may remember the City's Zoning Ordinance, we classified three (3) separate solar energy systems.

Level I would be something that would be roof mounted; say on a building or a house.

Level II is something small in nature like this.

Level III is similar with what we just did with the rezoning. Those would be large, agricultural or somewhat large industrial sites but this one is very small.

So, if you would bear with me one second, I'm going to share the screen.

Can everyone see the site?

Chairman Dixon: What are all the yellow lines?

Brian Bishop: Those are topo lines. These are ground elevations and the reason why the ground elevations are shown is that this parcel is actually in the floodplain. The solar panels themselves are treated as a commercial building which means that the bottom of the solar panel itself, the part here will be one foot (1') above the base flood elevation of the area which is just like a commercial building.

So, if this area was to flood to the hundred-year flood event level, these solar panels would still be above that flood elevation.

The site plan has received all necessary approvals from the technical advisors such as Codes, Water and Gas. It meets all the requirements as far as height restrictions and setbacks.

Staff recommends approval and I believe Mr. Nix is still back there so Ray can answer any questions from a Codes standpoint if you have those as well.

Chairman Dixon: It appears the maximum length of this installation is fifty feet (50')?

Brian Bishop: That is correct. Can everyone see?

Chairman Dixon: Does the Commission have any questions for staff or Mr. Nix regarding this?

Are the applicants with us?

Brian Bishop: I did not see any applicants on with us.

Chairman Dixon: Ok. I'm not seeing any activity via ZOOM. Commissioners have any questions? Comments?

Anyone else want to testify from any angle or platform?

Very good, I think we'll entertain a motion in regard to the J-Ron Site Plan that's been presented.

***MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY MAC ARNOLD TO APPROVE THE J-RON SITE PLAN SUBMITTED BY RONALD AND JUDITH BUGG FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON AT 635 BOB POSEY STREET (PID# 3-8-2-20), REQUESTING A SITE PLAN APPROVAL FOR A SOLAR SITE, LEVEL II.***

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

Madame Secretary, please call the roll.

***AYE: ALL***

***NAY: NONE***

Chairman Dixon: Very good, the motion passes.

We do have a couple of Administrative Business items. Brian, would you like to discuss that?

Brian Bishop: Yes, the first thing that I would like to discuss with the Planning Commission is that the City has announced that the City Building will reopen March 15, which opens the door for in-person meetings for the Planning Commission.

Staff has talked to City personnel, I'm not sure if we can fit the entire Planning Commission in there, we would have to look at the layout of the room and measure everything off but there is a chance of hybrid meetings which means a portion of the Planning Commission could be there and the other part would be on ZOOM. That would possibly allow some of the applicants to be in the room as well which would probably help I this scenario when we have testimony or if there are people adjacent to the properties that would ask questions; that would probably be beneficial there so we could kind of avoid kind of the situation like we had tonight.

So, my question to the Planning Commission is, is this something you would like staff to explore to see what option are available?

Chairman Dixon: Any thoughts? Does anyone have any thoughts?

Gray Hodge: Where are we planning on meeting?

Brian Bishop: Gray, the City Building where we used to meet, on the third floor.

Gray Hodge: Are you worried about the space because of social distancing then?

Brian Bishop: Correct.

Gray Hodge: Okay.

Brian Bishop: I believe we could get some of us in there but not all of us but until we have the exact measurements and kind of lay everything

out, I'm not sure 100%. I know the City Commission has had some hybrid meetings in there but we wanted to make sure you guys were comfortable with it and want us to explore that option before we committed the resources to it.

Kevin Richard: Brian, you already threw it out I would say if the City Commission has already done something, they've kind of done some math so that may give you a head start to do it all from scratch. I would say if the City Commission has approved a method to have a hybrid meeting, you definitely should benchmark off them and then any other suggestions you have and definitely I think it's something we talk about again before we just jump in.

Brian Bishop: Absolutely.

Chairman Dixon: Good point.

Any other thoughts on this?

Is everybody in agreement that we should at least investigate the possibility?

David Williams: Yes.

Gray Hodge: Yes.

Mac Arnold: Yes.

Chairman Dixon: Let's do that. Our next meeting is scheduled for...

Brian Bishop: April 6, I believe.

Chairman Dixon: April 6. Are we going to be in a position or do we need to discuss it one more time?

Brian Bishop: I would like to discuss it at the April 6 meeting, perhaps give you guys a little bit of a layout and show kind of what to expect. You know, prepare a drawing for you so that way you guys have more information to make a decision.

Chairman Dixon: Sounds good. So, that would mean that the first time we might try this would be the May meeting. Perhaps the dust will have settled a little bit more by then. Good.

Other Administrative Business Mr. Bishop?

Brian Bishop: Yes, one more.

Henderson City and County will be in the process of getting updated flood maps in the near future. Jennifer and I met with the Division of Water folks and the contractor working for them that are working on the maps yesterday. We were really impressed and we would like to have them present the Planning Commission in a workshop format. These maps are going to be different than what we're kind of used to seeing. The modeling is much more advanced. Instead of just seeing kind of a flat map, these maps are way more dynamic in that they'll show the water flowing in different directions.

So what I would like to do is have Mr. Carey Johnson from the Division of Water present to us in a workshop format so that way we get continuing education. I think it would be beneficial to the Planning Commission and the Board of Zoning Adjustments to understand how the maps work better and it would also give us a chance to let some of the technical folks look at them for the first time as well.

We would like to make a suggestion of April 7, which is the day after the regular April meeting as a starting point for discussion. Chairman Dixon informed me yesterday that I like to see you guys a lot and is why I keep having so many workshops. (Laughter)

Kevin Richard: We like workshops Brian, it's how you grow.

Brian Bishop: Seriously to Kevin's point, a lot of times we have classes that are not relevant to Henderson. This is a direct correlation to Henderson and what we do and plus when we have the expertise

available from the Division of Water and these large engineering firms I really would like to take advantage of it.

Kevin Richard: Brian, one request...could you make dog mushing into the topics?

(Laughter)

Brian Bishop: No, I will never do that. I will have to decline that suggestion. But I appreciate you asking.

Chairman Dixon: So, Wednesday April 7, is that reasonable for most folks? Anyone have a big problem that would like to be there but can't that day?

Brian Bishop: That's a starting point so feel free to offer other dates.

David Williams: There is a possibility that I could be out of town that week.

Bobbie Jarrett: Will that workshop count toward our education hours?

Brian Bishop: Yes ma'am.

Chairman Dixon: Yes.

Mac Arnold: What time would we anticipate that being?

Brian Bishop: Our normal time of 6 p.m., I think that's what everyone is kind of used to so we would want to be consistent with that.

Chairman Dixon: T.J., do we need a motion and a vote to set up this workshop?

Tommy Joe Fridy: It would be helpful.

Chairman Dixon: I would assume so, yes.

Tommy Joe Fridy: But another thing we can do is we could continue our regular meeting from the 6<sup>th</sup> but that would make it full, fledged

meeting. But if we had no agenda, we wouldn't take any action or we can make it a special meeting.

We can discuss that among ourselves between now and then and make a recommendation.

But to answer your question, I think it's good to have a motion.

Chairman Dixon: So this motion would describe it as a workshop or a special meeting.

***MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY GARY GIBSON FOR THE MEETING TO BE HELD ON WEDNESDAY, APRIL 7, 2021 TO BE CONSIDERED A WORKSHOP WITH THE SCHEDULE AND DETAILS OF THE WORKSHOP BE DEVELOPED BY MR. BISHOP.***

Chairman Dixon: We have a motion and a second, all in favor?

***AYE: ALL***

Chairman Dixon: Any opposed?

***NAY: NONE***

Chairman Dixon: Very good.

Any other business staff?

Brian Bishop: No sir.

Chairman Dixon: Does the Commission have any other business, anything they would like to bring forward?

Very good. Good work tonight, I'll entertain a motion to adjourn.

***MOTION WAS MADE BY GRAY HODGE, SECONDED BY KEVIN RICHARD TO ADJOURN.***

Chairman Dixon: We have a motion and a second, all in favor?

***AYE: ALL***

Chairman Dixon: Any opposed?

***NAY: NONE***

Chairman Dixon: We're adjourned. Thank you all.

***MEETING WAS ADJOURNED AT 7:19 P.M.***

**I, HEATHER LAUDERDALE, hereby certify that the foregoing is a true and accurate transcription of the Henderson City-County Planning Commission Meeting of, March 2, 2021 to the best of my ability.**

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**Heather Lauderdale, HCCPC Clerk**

X