

City of Henderson, Kentucky
Board of Commissioners Meeting
Tuesday, April 26, 2016
(Revision #1)

Municipal Center
Third Floor Assembly Room
222 First Street
5:30 P.M.

AGENDA

1. Invocation: Ms. Becky Durham, Youth Director, Presbyterian Church
2. Roll Call:
3. Recognition of Visitors:
4. Appearance of Citizens:
5. Proclamations: “Arbor Day”
6. Presentations: Service Award, Michael Polley – 20 years
Ken Christopher, Henderson War Memorial Foundation
Brian Bishop, Planning Commission
7. Public Hearings: Outside Agency Funding Appeals
8. Consent Agenda:
Minutes: April 12, 2016 Regular Meeting
Resolutions:
9. Ordinances & Resolutions:
Second Readings: Ordinance Relating to Special Events
Ordinance Relating to Zoning Regulations Amendments
First Readings: Ordinance Accepting Public Improvements for Property Located at
Rivers Edge Subdivision, Section I
Resolutions: Resolution Approving Municipal Aid Cooperative Agreement for
Emergencies and Disasters between the City of Owensboro,
Daviness County and the City of Henderson

Please mute or turn off all cell phones for the duration of this meeting.

10. Municipal Orders:

11. Bids & Contracts

Municipal Order Awarding Bid for Purchase of a Trencher for the Gas Department to Ditch Witch of Shepherdsville, KY

12. Unfinished Business:

13. Report: City Attorney, Zoning Ordinance for Indoor Shooting/Firing Range

14. City Manager's Report:

15. Commissioner's Reports:

16. Appointments:

17. Executive Session:

18. Miscellaneous:

19. Adjournment

Please mute or turn off all cell phones for the duration of this meeting.

City of Henderson, Kentucky
Board of Commissioners Meeting
Tuesday, April 26, 2016

Municipal Center
Third Floor Assembly Room
222 First Street
5:30 P.M.

AGENDA

1. Invocation: Ms. Becky Durham, Youth Director, Presbyterian Church
2. Roll Call:
3. Recognition of Visitors:
4. Appearance of Citizens:
5. Proclamations: “Arbor Day”
6. Presentations: Service Award, Michael Polley – 20 years
Ken Christopher, Henderson War Memorial Foundation
Brian Bishop, Planning Commission
7. Public Hearings: Outside Agency Funding Appeals
8. Consent Agenda:
Minutes: April 12, 2016 Regular Meeting
Resolutions:
9. Ordinances & Resolutions:
Second Readings: Ordinance Relating to Special Events
Ordinance Relating to Zoning Regulations Amendments
First Readings: Ordinance Accepting Public Improvements for Property Located at Rivers Edge Subdivision, Section I
Resolutions: Resolution Approving Municipal Aid Cooperative Agreement for Emergencies and Disasters between the City of Owensboro, Daviess County and the City of Henderson

Please mute or turn off all cell phones for the duration of this meeting.

10. Municipal Orders:

11. Bids & Contracts

Purchase, Trencher with Backhoe Attachment

12. Unfinished Business:

13. Report:

City Attorney, Zoning Ordinance for Indoor Shooting/Firing Range

14. City Manager's Report:

15. Commissioner's Reports:

16. Appointments:

17. Executive Session:

18. Miscellaneous:

19. Adjournment

Please mute or turn off all cell phones for the duration of this meeting.

**City Commission Memorandum
16-82**

April 21, 2016

TO: Mayor Steve Austin and the Board of Commissioners
FROM: Russell R. Sights, City Manager 
SUBJECT: Proclamation

A proclamation will be presented at the April 26, 2016 meeting designating Friday, April 29, 2016 as "Arbor Day."

Mr. Trace Stevens, Parks and Recreation Director, will be in attendance to receive the Arbor Day proclamation.

CITY OF  HENDERSON

Proclamation

"ARBOR DAY"

Whereas J. Sterling Morton, in 1872, proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

Whereas This holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

Whereas Arbor Day is now observed throughout the nation and the world; and

Whereas Trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen, and provide habitat for wildlife; and

Whereas Trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other wood products; and

Whereas Trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

Whereas Trees, wherever they are planted, are a source of joy and spiritual renewal.

NOW, THEREFORE, I Steve Austin by virtue of the authority vested in me as Mayor of the City of Henderson, Kentucky, do hereby proclaim April 29, 2016, as "ARBOR DAY" in the City of Henderson, and urge all citizens to support efforts to protect our trees and woodlands and to support our city's urban forestry program, and

FURTHER, urge all citizens to plant trees to gladden the hearts and promote the well-being of present and future generations.

IN WITNESS WHEREOF, I have hereunto spread these letters upon this page and caused the seal of the City of Henderson to be affixed this 29th day of April 2016.




Steve Austin, Mayor

IN WITNESS WHEREOF,

Marnie Collins, City Clerk

City Commission Memorandum
16-83

April 21, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager *RS*

SUBJECT: Presentations

Items scheduled under the Presentations section of the agenda are as follows:

1. Presentation of an Employee Service Award. Lt. Mike Polley, Henderson Fire Department, will be in attendance to receive his 20-year service award from Mayor Austin.
2. Mr. Ken Christopher, Vice President of the Henderson War Memorial Foundation and Kimmel Project Chairman, will request a renewal of City funding for the purpose of erecting a bronze statue honoring Admiral Husband E. Kimmel. The requested amount of \$20,000 had been previously allocated for the Kimmel Statue Project but the funds were not accessed at the time because planning had not been completed.
3. Mr. Brian Bishop, Henderson City-County Planning Commission, will present an update.



**Henderson War Memorial Foundation, Inc.
300 First Street
Henderson, Kentucky 42420**

April 14, 2016

Mayor Steve Austin
Henderson City Board of Commissioners
222 First Street
Henderson KY 42420

Dear Mayor Austin and Commissioners:

This is to request a renewal of City funding to the Henderson War Memorial Foundation, Inc. for the purpose of erecting of a bronze statue honoring Admiral Husband E. Kimmel (February 26, 1882 – May 14, 1968), Henderson's native son who was Commander-in-Chief of the United States Navy Pacific Fleet at the time of the surprise attack on Pearl Harbor in December, 1941.

The requested amount of twenty-thousand dollars (\$20,000) had been previously allocated for the Kimmel Statue Project but the funds were not accessed at the time because planning had not been completed.

The War Memorial Foundation is now prepared to move forward with the design, sculpting, and placement of the Kimmel statue with dedication on December 7, 2016 which marks the 75th anniversary of the Pearl Harbor bombing and the advent of United States involvement in World War II.

The Foundation has secured the services of artist Raymond Graf of Louisville, the same artist responsible for Henderson's Audubon sculptor in Audubon Mill Park and the bird sculptors around the City. The total cost of the project is anticipated to be around \$100,000. Funding from Henderson County Government and several other sources will supplement the City's contribution to cover the full cost of the project.

We will also be seeking Commission approval for a site for the statue at a later date.

Your support in this worthwhile and historical endeavor is greatly appreciated.

Sincerely,

A handwritten signature in blue ink that reads "Ken Christopher".

Ken Christopher
Kimmel Project Chairman

c: Mr. Russell Sights, City Manager

City Commission Memorandum
16-87

April 21, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager 

SUBJECT: Outside Agency Funding Requests

An item under the Public Hearing section of the agenda is a public hearing for the purpose of receiving comments regarding possible funding of outside organizations and agencies for the fiscal year commencing July 1, 2016. This would include the appearance of outside agencies wishing to appeal the recommendations of the Agency Funding Ad Hoc Committee.

All outside agencies submitting funding request applications reviewed by the Agency Funding Ad Hoc Committee have been notified of this appeal opportunity. One sports/recreation group submitted a funding request for capital projects for the upcoming budget process. A recommendation of partial funding is being made. The other groups have consented to the regular funding amount.

The recommendation memorandum from the Committee is attached. Copies of individual applications, along with supporting documentation, are available for review in my office or will be provided upon request. Applications of organizations appearing for appeal will be distributed at the meeting. Agencies have until noon on Tuesday to appeal.

Agency Funding Ad Hoc Committee Memorandum

April 21, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Agency Funding Ad-Hoc Committee

RE: 2017 Funding Recommendations

The Agency Funding Ad-Hoc Committee, consisting of City Commissioner Robby Mills, Finance Director Robert Gunter and City Manager Russell Sights met to review and discuss funding requests from the City of Henderson. Citizen Representative Wayne Jenkins was out of town and unable to attend.

The Committee reviewed requests examining the financial need of the organization, the public service the agency provides and the cost to the City should it have to provide similar services should this agency not exist. The Committee met and deliberated and determined that the following would be the Committee's recommendations to the Commission.

Audubon Area Senior Companion Program

Received 2016 -	\$ -0-
Requested 2017 -	\$ 2,500
Recommendation 2017 -	\$ -0-

Audubon Area Foster Grandparent Program

Received 2016 -	\$ -0-
Requested 2017 -	\$ 1,000
Recommendation 2017 -	\$ -0-

Audubon Area RSVP Program

Received 2016 -	\$ -0-
Requested 2017 -	\$ 3,000
Recommendation 2017 -	\$ -0-

Comment: The committee considered all three of these agency requests as one application. The Committee felt that although these organizations provide worthwhile

services and that while the amount requested was not a large dollar amount it is such a small portion of their annual revenue that the City should not begin funding these agencies at this time. The committee also felt that the local government cannot be relied upon to supplement federal funding.

Oasis, Inc.

Received 2016 -	\$ 2,500
Requested 2017 -	\$ 4,500
Recommendation 2017 -	\$ 2,500

Comment: Last year's funding was done on a trial basis. The Committee would like to continue the funding but maintain the \$2,500 for another year.

Henderson City/County Rescue Squad

Received 2016 -	\$ 4,500
Requested 2017 -	\$10,000
Recommendation 2017 -	\$ 4,500

Comment: The Committee felt \$4,500 was sufficient funding for this operation. It believes that since Henderson is already providing fire and police emergency responders that this would only be a duplication of efforts. Any additional funding should come from Henderson County.

Henderson County Senior Citizens Center

Received 2016 -	\$10,500
Requested 2017 -	\$10,500 + \$30,000 Capital Improvements
Recommendation 2017 -	\$10,500 + \$20,000 Capital Improvements

Comment: As a one-time exception, the Committee agreed to fund \$20,000 toward the replacement of the flooring at the Center. As a contingent of the funding, bidding for the flooring will be required. The City will also fund the \$10,500 for operations that it has provided in the past.

Henderson County Tourist Commission

Received 2016 -	\$33,700
Requested 2017 -	\$37,756 + \$6,000 Capital Improvements & One Time Requests
Recommendation 2017 -	\$33,700

Comment: The City will provide \$33,700 in funding as it has done in the past. The Committee felt that the painting, printing, and train display were the responsibility of the Tourism Commission.

Kyndle

Received 2016 -	\$ 60,000
Requested 2017 -	\$100,000
Recommendation 2017 -	\$ 60,000

Comment: The Committee will continue to provide \$60,000 as it has done in the past. The Committee felt it could not commit funding another additional \$200,000 over the next five years.

Community One

Received 2016 -	\$25,000 + \$26,690 Carryover from Previous Year
Requested 2017 -	\$50,000
Recommendation 2017 -	\$25,000 + \$15,000 Carryover from Previous Year

Comment: The City will provide \$25,000 new money plus any unspent from the fiscal 2016 funding, which is projected to be approximately \$15,000.

Henderson County Humane Society Animal Control

Received 2016 -	\$110,000
Requested 2017 -	\$110,000
Recommendation 2017 -	\$110,000

Comment: The City will provide \$110,000 in funding as it has done in the past.

Henderson Pee-Wee PCMA

Received 2016 -	\$ 4,000
Requested 2017 -	\$ 4,000 + \$15,000 Capital Improvements
Recommendation 2017 -	\$ 4,000 + \$7,000 Capital Improvements

Comment: The City will provide \$4,000 in funding as it has done in the past. In addition, the City will provide \$5,000 in-kind gravel from its contract for the parking lots and another \$2,000 in-kind dirt for the fields. The Committee felt that the PCMA could do the repairs to the concession stand and worn equipment.

**City Commission Memorandum
16-84**

April 21, 2016

TO: Mayor Steve Austin and the Board of Commissioners
FROM: Russell R. Sights, City Manager 
SUBJECT: Consent Agenda

The Consent Agenda for the meeting of April 26, 2016, contains the following:

Minutes: April 12, 2016 Regular Meeting

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on April 12, 2016

A regular meeting of the Board of Commissioners of the City of Henderson, Kentucky, was held on Tuesday, April 12, 2016, at 5:30 p.m., prevailing time, in the third floor Assembly Room located in the Municipal Center Building at 222 First Street, Henderson, Kentucky.

INVOCATION:

Reverend James Wofford, First United Methodist Church, mentioned that he is also a member of the group, Impact Henderson, that will sponsor a *Feed My Starving Children* event this September. The goal is to pack more than 270,000 meals to be distributed to areas where children are in danger of starvation. The Mayor will be participating in a fund raiser scheduled at Tri-Fest by being arrested and raising 'bail.'

Reverend Wofford gave the invocation followed by Master Kanin Bryant leading the assemblage in recitation of the Pledge of Allegiance to our American Flag.

There were present Mayor Steve Austin presiding:

PRESENT:

Commissioner X R. Royster, III
Commissioner Robert M. (Robby) Mills
Commissioner Jesse Johnston, IV

ABSENT:

Commissioner Jan Hite

ALSO PRESENT:

Mr. Russell R. Sights, City Manager
Mrs. Dawn Kelsey, City Attorney
Ms. Maree Collins, City Clerk
Mr. William L. (Buzzy) Newman, Jr., Assistant City Manager
Mr. Charles Stauffer, Police Chief
Mr. Robert Gunter, Finance Director
Mrs. Connie Galloway, Human Resources Director
Mr. Benji Marrs, Benefit Insurance Marketing
Ms. Brittany Ross, SurfKy News Group
Mr. Brian Bishop, City-County Planning Director
Mr. Tom Williams, HWU General Manager
Mr. Trace Stevens, Parks and Recreation Director
Mr. Dylan Ward, Engineering Assistant
Mrs. Donna Stinnett, Public Information Officer
Mr. Terry Stone, Municipal Facilities Superintendent
Mr. Jason Hargitt, President, Henderson Fraternal Order of Police
Mr. Dewayne Reneer, Treasurer, Henderson Fraternal Order of Police
Mr. & Mrs. John Boucherie, Boucherie Vineyards & Winery
Mrs. Theresa Johnston
Kanin Bryant
Ms. Laura Peck, Downtown Henderson Partnership Executive Director
Ms. Sarah Stewart, Downtown Henderson Partnership Assistant Director
Mr. Mike Richardson, Police Reserve Officer
Ms. Laura Acchiardo, *the Gleaner*

PROCLAMATION: "National Public Safety Telecommunications Week"

MAYOR AUSTIN presented the proclamation for National Public Safety Telecommunications Week. Police Chief Charles Stauffer was in attendance to receive the "National Public Safety Telecommunications Week" proclamation.

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on April 12, 2016

PRESENTATION: “SurfKy News Group Candidate Debates”

MS. BRITTANY ROSS reported that the SurfKy News Group, an online Kentucky newspaper, will host a series of candidate debates in the coming weeks. Ms. Ross announced that the debate for City of Henderson Commissioner candidates would be on Wednesday, May 11, 2016 at the Henderson Fine Arts Center from 6:30 p.m. to 8:00 p.m. with a ‘meet and greet’ at 6:00 p.m. There will be two moderators and the debate will be live streamed on the internet.

APPROVAL OF CONSENT AGENDA:

MAYOR AUSTIN asked the City Clerk to read the items on the Consent Agenda.

Minutes: March 22, 2016, Regular Meeting

RESOLUTION 14-16:

RESOLUTION AUTHORIZING SUBMITTAL OF GRANT APPLICATION TO THE U. S. DEPARTMENT OF HOMELAND SECURITY, UNDER THE PORT AUTHORITY GRANT PROGRAM, IN THE AMOUNT OF \$168,500.00 TO PROVIDE THREE YEARS OF NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS (NASBLA) TRAINING FOR SAFE VESSEL OPERATIONS FOR THE FIRE DEPARTMENT, AND ACCEPTING GRANT IF AWARDED

Motion by Commissioner Jesse Johnston, seconded by Commissioner X R. Royster, to approve the items on the Consent Agenda.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Aye:
 Commissioner Mills ----- Aye:
 Commissioner Johnston --- Aye:
 Commissioner Hite ----- Absent:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the minutes approved and the resolution adopted, affixed his signature and the date thereto and ordered that the same be recorded.

/s/ Steve Austin
 Steve Austin, Mayor
 April 12, 2016

ATTEST:
 Maree Collins, City Clerk

MUNICIPAL ORDER 18-16:

MR. BENJI MARRS, Senior Vice-President, Benefit Insurance Marketing, reported on the United Medical Resources (UMR)/UnitedHealth Care, fixed costs renewal which are the administration fees for the self-funded employee health plan, the reinsurance (stop/loss) policy and transplant coverage policy. It is recommended to transition from the Options Network to the Choice Plus Network, which has lower facilities and hospital fees due to deeper discounts. Even with the \$5.00 per month/per employee fee increase there will be a positive impact to the overall net claims result of an approximate \$17,000 savings. New logoed ID cards will be issued to employees. There is no plan design change and should be no change of access to services. When the transition to the Choice Plus Network was reported to the stop/loss carrier, they came back with a 2% premium decrease. The Patient Protection and Affordable Care Act (PPACA) taxes are going down approximately 36% from \$45,797.00 to \$29,113.00. Further it is recommended to renew with SunLife with only a 14% increase, which is very good for the

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular *Meeting on* April 12, 2016

reinsurance market; and a 10% reduction in the transplant policy rate was leveraged with UMR. Overall the administration and fixed costs are approximately 9% of total costs of the program. The SunLife policy also includes a return-of-premium contract when the loss ratio reaches a certain amount. The City's plan is at that point now and this calculation will happen after the claims period has ended.

MUNICIPAL ORDER 18-16: MUNICIPAL ORDER AWARDING CONTRACT FOR RENEWAL OF CITY OF HENDERSON'S STOP/LOSS COVERAGE (REINSURANCE) AND ORGAN TRANSPLANT POLICY AND UMR (THIRD PARTY ADMINISTRATOR)

MOTION by Commissioner X R. Royster, seconded by Commissioner Jesse Johnston, to adopt this municipal order awarding a contract for renewal of the City's stop/loss insurance coverage; organ transplant insurance policy; and UMR as the City's Employee Health Insurance Plan Third Party Administrator.

MAYOR AUSTIN thanked Mr. Marrs and his staff for continuing to have the City's best interest in mind for all of this coverage and the overall employee health insurance plan.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Aye:
Commissioner Mills ----- Aye:
Commissioner Johnston --- Aye:
Commissioner Hite ----- Absent:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the municipal order adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
April 12, 2016

ATTEST:
Maree Collins, City Clerk

ORDINANCE 11-16: SECOND READ

ORDINANCE AMENDING ORDINANCE NO. 16-15 AUTHORIZING AND DIRECTING THE REBATE OF ONE PERCENT (1.0%) OF THE WAGES, SALARIES OR OTHER COMPENSATION PAID BY DANA COMMERCIAL VEHICLE MANUFACTURING, LLC IMPOSED AND LEVIED AS OCCUPATIONAL LICENSE FEES DUE AND PAYABLE TO THE CITY OF HENDERSON, KENTUCKY, BY ORDINANCE, FROM THE SALARIES, WAGES AND OTHER COMPENSATION TO BE PAID TO NEW EMPLOYEES HIRED OVER THE BASELINE BY DANA COMMERCIAL VEHICLE MANUFACTURING, LLC, PROVIDED SAID COMPANY MEETS THE CRITERIA SET FORTH IN ITS APPLICATION FOR INCENTIVES UNDER THE KENTUCKY BUSINESS INVESTMENT PROGRAM.

MOTION by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills, that the ordinance be adopted.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Aye:
Commissioner Mills ----- Aye:
Commissioner Johnston --- Aye:
Commissioner Hite ----- Absent:
Mayor Austin ----- Aye:

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on April 12, 2016

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date thereto and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
April 12, 2016

ATTEST:
Maree Collins, City Clerk

ORDINANCE NO. 12-16: SECOND READ
ORDINANCE ACCEPTING PUBLIC IMPROVEMENTS

AN ORDINANCE ACCEPTING PUBLIC IMPROVEMENTS FOR PROPERTY
LOCATED AT MERRILL PLACE COMMERCIAL SUBDIVISION, SECTION 1 AND 2

MOTION by Commissioner Jesse Johnston, seconded by Commissioner Robert M. Mills, that the ordinance be adopted.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Aye:
Commissioner Mills ----- Aye:
Commissioner Johnston --- Aye:
Commissioner Hite ----- Absent:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date thereto and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
April 12, 2016

ATTEST:
Maree Collins, City Clerk

ORDINANCE NO. 13-16: SECOND READ
ORDINANCE ACCEPTING PUBLIC IMPROVEMENTS

AN ORDINANCE ACCEPTING PUBLIC IMPROVEMENTS FOR PROPERTY
LOCATED AT ADAMS LANE KNOWN AS COLONIAL SENIOR LIVING

MOTION by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills, that the ordinance be adopted.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Aye:
Commissioner Mills ----- Aye:
Commissioner Johnston --- Aye:
Commissioner Hite ----- Absent:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date thereto and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
April 12, 2016

ATTEST:
Maree Collins, City Clerk

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on April 12, 2016

ORDINANCE No. 10-16: SECOND READ
ORDINANCE AMENDING JOB CLASSIFICATIONS AND PAY PLAN AND
BUDGETED POSITIONS

ORDINANCE AMENDING JOB CLASSIFICATIONS AND PAY PLAN BY ADDING
ONE PUBLIC WORKS ENGINEER POSITION IN THE ADMINISTRATION DIVISION OF
THE PUBLIC WORKS DEPARTMENT, AND AMENDING THE AMENDED FISCAL 2016
BUDGET TO CHANGE THE NUMBER AND CLASSIFICATIONS OF CITY EMPLOYEES
AS RECITED IN THE ANNUAL AMENDED BUDGET

MOTION by Commissioner Robert M. Mills, seconded by Commissioner Jesse Johnston,
that the ordinance be adopted.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Nay:
Commissioner Mills ----- Aye:
Commissioner Johnston --- Aye:
Commissioner Hite ----- Absent:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and
the date thereto and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
April 12, 2016

ATTEST:
Maree Collins, City Clerk

ORDINANCE 14-16: SECOND READ
ORDINANCE RELATING TO PERSONNEL

ORDINANCE AMENDING SECTION 2-49., *ASSISTANT CITY MANAGER*, OF
ARTICLE III, *CITY MANAGER*, DIVISION I, *GENERALLY*, OF CHAPTER 2,
ADMINISTRATION, OF THE CITY'S CODE OF ORDINANCES

MOTION by Commissioner Jesse Johnston, seconded by Commissioner Robert M. Mills,
that the ordinance be adopted.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Aye:
Commissioner Mills ----- Aye:
Commissioner Johnston --- Aye:
Commissioner Hite ----- Absent:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and
the date thereto and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
April 12, 2016

ATTEST:
Maree Collins, City Clerk

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on April 12, 2016

ORDINANCE NO. 15-16: FIRST READ

MRS. DAWN KELSEY, City Attorney, indicated that previous discussions of the changes to the special events ordinance to allow alcohol in the park were related to alcohol being served and consumed in the park. As you know, Downtown Henderson Partnership and the Henderson Tourist Commission are working together to have a farmers market in Audubon Mill Park this summer. As part of this farmers market, they are hopeful to have a local winery participate with package sales. Under the current Special Events ordinance, if the winery came to sell package, they would be required to rope off the area where the alcohol would be sold, and have security monitoring that only those 21 and over are allowed in that area. Revisions are necessary to allow package sales without having to follow the same rules for service and consumption. The requirements relating to securing the roped off area and age restrictions have been removed for package sales with no consumption. The other major change is a recommendation from the City's insurance carrier that would require the event sponsor ensure that servers have Server Training in Alcohol Regulations (STAR) training for special events where alcohol will be served and consumed.

ORDINANCE NO. 15-16: ORDINANCE RELATING TO SPECIAL EVENTS

AN ORDINANCE AMENDING CHAPTER 17-PARKS AND RECREATION, ARTICLE III, SPECIAL EVENTS, SECTION 17-45., DEFINITIONS, AND SECTION 17-50., APPLICATION FOR PERMIT OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON

MOTION by Commissioner X R. Royster, seconded by Commissioner Jesse Johnston, that the ordinance be adopted.

COMMISSIONER MILLS asked for clarification on how package sales with non-consumption would be enforced. Mrs. Kelsey responded that the sponsoring organization would be responsible under their Permit for enforcing all the regulations or would lose their Permit.

COMMISSIONER MILLS requested that the Permit include such verbiage. Mrs. Kelsey indicated that the regulations would be included in the permitting process.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Aye:
 Commissioner Mills ----- Aye:
 Commissioner Johnston --- Aye:
 Commissioner Hite ----- Absent:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the ordinance adopted on its first reading and ordered that it be presented for a second reading at a meeting of the Board of Commissioners.

ORDINANCE NO. 16-16: FIRST READ

MR. BRIAN BISHOP, Planning Director, indicated that the Planning Commission had reviewed and discussed the request to allow more than one business per structure and recommended to allow multiple uses (businesses), but no more than three, in the same structure (building) with a conditional use permit. There was also discussion on whether or not to require that the businesses be of the same general character or accessory to one another. It was determined not to recommend that requirement.

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular *Meeting on* April 12, 2016

ORDINANCE NO. 16-16: ORDINANCE AMENDING ZONING ORDINANCE

AN ORDINANCE AMENDING ARTICLE XVII, *R-O, RESIDENTIAL/OFFICE DISTRICT*, SECTION 17-03. *CONDITIONAL USES*, ARTICLE XVIII, *NB, NEIGHBORHOOD BUSINESS DISTRICT*, SECTION 18.03. *CONDITIONAL USES*, ARTICLE XIX, *GB, GENERAL BUSINESS DISTRICT*, SECTION 19.03. *CONDITIONAL USES*, ARTICLE XX, *CBD, CENTRAL BUSINESS DISTRICT*, SECTION 20.03. *CONDITIONAL USES*, ARTICLE XXI, *H-C, HIGHWAY COMMERCIAL DISTRICT*, SECTION 21.03. *CONDITIONAL USES*, ARTICLE XXXIII-*GATEWAY ZONE DISTRICT*, SECTION 33.06. *PERMITTED USES*, (3. *CONDITIONAL USES*), ARTICLE XXXIV-*HENDERSON INNOVATIVE PLANNING DISTRICT*, SECTION 34.02. *PERMITTED USES* (2. *CONDITIONAL USES*), OF APPENDIX A OF THE ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON

MOTION by Commissioner Jesse Johnston, seconded by Commissioner X R. Royster, that the ordinance be adopted.

Commissioner Johnston requested that Mr. Bishop explain which zoning districts this would affect as it is not just for the Gateway Zone. Mr. Bishop explained that it would affect seven commercial districts.

Commissioner Johnston also thanked the Planning Commission for completing this so quickly and thanked Mr. Alan Taylor for bringing this item to the City's attention.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Aye:
 Commissioner Mills ----- Aye:
 Commissioner Johnston --- Aye:
 Commissioner Hite ----- Absent:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the ordinance adopted on its first reading and ordered that it be presented for a second reading at a meeting of the Board of Commissioners.

MUNICIPAL ORDER 19-16:

MAYOR AUSTIN, explained that the hospital has provided ambulance services for the City and the County for a number of years. The contract was renegotiated this year and this seems to be a very fair and equitable position for all the concerned parties.

MUNICIPAL ORDER 19-16: MUNICIPAL ORDER APPROVING THE
 AMBULANCE SERVICE CONTRACT BETWEEN THE CITY OF HENDERSON, THE
 COUNTY OF HENDERSON AND COMMUNITY UNITED METHODIST HOSPITAL, INC.

MOTION by Commissioner Robert M. Mills, seconded by Commissioner X R. Royster, to adopt the municipal order approving a contract between the City, the County and Community United Methodist Hospital, Inc. to provide ambulance services.

RUSSELL SIGHTS, City Manager, commented that this is an update of the contract providing ambulance service that was entered into in the 1970's. The major change to the contract is the expense ratio changes from a 50-50 split between the City and the County to 37.5% each for the City and the County and 25% for the hospital. The contract has an initial term of three years with automatic one year renewal and year to year thereafter. The contract may be terminated without cause, at any time by giving the other parties ninety days written notice.

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on April 12, 2016

DAWN KELSEY, City Attorney indicated that this Contract would also need formal approval from the Henderson Fiscal Court and the Community Methodist Hospital Board of Directors before it becomes effective.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Aye:
Commissioner Mills ----- Aye:
Commissioner Johnston --- Aye:
Commissioner Hite ----- Absent:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the municipal order adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
April 12, 2016

ATTEST:
Maree Collins, City Clerk

CITY MANAGER'S REPORT:

MR. SIGHTS, City Manager, asked Mr. Jason Hargitt and Mr. Dewayne Reneer of the Fraternal Order of Police Henderson Lodge 9 to present their request for installation of roof repair at the City owned building leased by the Lodge. Mr. Hargitt explained that the building is in dire need of extensive roof repairs or replacement and that they are unable to fund those repairs. The Lodge is a charitable organization and has invested approximately \$48,000.00 in building improvements since occupying the building in 2007. Estimates to repair the roof were approximately \$23,000.00 to \$25,000.00. The FOP Lodge is asking that the City pay for this repair.

MR. SIGHTS requested that Mr. Terry Stone, Municipal Facilities Superintendent report on his findings of the condition of the roof structure. Mr. Stone indicated that the building was built in 1964, a new hot melt roof was installed in 1984 with repairs made in 1991 and 2007. Mr. Stone further reported that the roof is in very poor condition and in his opinion will need to be replaced to prevent damage to the facility. With this type of roof, where the inside finish of the ceiling is the bottom of the roof deck with a steel truss in between; and the pitch of the roof, causing very little strength, this may require the services of an engineer to determine the best option for replacement. He further indicated that the dollar amounts mentioned earlier probably won't cover the cost to correctly replace the roof.

MR. SIGHTS then requested that the Board of Commissioners authorize he and the Finance Director to start the bid process for replacement of the roof on the former fire station located on Richardson Street that is currently leased to the Henderson Lodge 9 of the Fraternal Order of Police.

MOTION by Commissioner X R. Royster, seconded by Commissioner Jesse Johnston, authorizing the City Manager and the Finance Director to obtain specifications and bids for the project.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Aye:
Commissioner Mills ----- Aye:
Commissioner Johnston --- Aye:
Commissioner Hite ----- Absent:
Mayor Austin ----- Aye:

Commissioner Hite ----- Absent:

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular *Meeting on* April 12, 2016

MR. SIGHTS, City Manager, reminded the Board of Commissioners that the Tuesday, April 19, 2016 Work Session topic would be a presentation by Sergeant Jeff Welch on the “Below 100 Program.” The presentation will last approximately one hour.

MEETING ADJOURN:

MOTION by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills, to adjourn the meeting.

The vote was called. On roll call, the vote stood:

Commissioner Royster ---- Aye:
Commissioner Mills ----- Aye:
Commissioner Johnston --- Aye:
Commissioner Hite ----- Absent:
Mayor Austin ----- Aye:

WITHOUT OBJECTION, Mayor Austin declared the Meeting adjourned at approximately 6:30 p.m.

ATTEST:

Maree Collins, City Clerk

Steve Austin, Mayor
April 26, 2016

**City Commission Memorandum
16-85**

April 21, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager 

SUBJECT: Amendment of Section 17-45 and Section 17-50 Special Events

An agenda item for the Tuesday, April 26, 2016, meeting is final reading of an ordinance amending Section 17-45, *Definitions*, and Section 17-50, *Application for Permit*, of Article III, *Special Events*, of Chapter 17, *Parks and Recreation*, of the Code of Ordinances.

This change further defines special events with alcohol in relation to package sales without consumption at the special event. It also further specifies site plan parameters that will be in effect in relation to package sales, as well as time parameters for the consumption and sale of alcohol at the special event.

Your approval of the attached ordinance is requested.

c: Trace Stevens
Charles Stauffer
Dawn Kelsey

ORDINANCE NO. 15-16

ORDINANCE RELATING TO SPECIAL EVENTS

SUMMARY: AN ORDINANCE AMENDING CHAPTER 17-PARKS AND RECREATION, ARTICLE III, SPECIAL EVENTS, SECTIONS 17-45., DEFINITIONS, AND SECTION 17-50., APPLICATION FOR PERMIT OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON

BE IT ORDAINED by the City of Henderson, Kentucky, that Chapter 17, *Parks and Recreation*, Article III, *Special Events*, Sections 17-45., *Definition*, and Section 17-50, *Application for Permit*, of the City’s Code of Ordinances, is hereby amended and a copy of which is attached hereto and made a part hereof, marked Exhibit “A”.

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

This ordinance shall become effective upon its legal adoption.

On first reading of the foregoing ordinance, it was moved by Commissioner X R. Royster, seconded by Commissioner Jesse Johnston, that the ordinance be adopted on its first reading.

On roll call the vote stood:

Commissioner Royster	<u>AYE</u>	Commissioner Hite	<u>ABSENT</u>
Commissioner Mills	<u>AYE</u>	Mayor Austin	<u>AYE</u>
Commissioner Johnston	<u>AYE</u>		

WHEREUPON, Mayor Austin declared the ordinance adopted on first reading and ordered that it be presented for second reading at a meeting of the Board of Commissioners.

On second reading of the ordinance, it was moved by Commissioner _____, seconded by Commissioner _____, that the ordinance be adopted.

WHEREUPON, the vote was called. On roll call the vote stood:

Commissioner Royster	_____	Commissioner Hite	_____
Commissioner Mills	_____	Mayor Austin	_____
Commissioner Johnston	_____		

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date and ordered that it be recorded.

PUBLICATION DATE: _____

FIRST READ: 04/12/2016
SECOND READ: _____

Steve Austin, Mayor

Date: _____

ATTEST:

Maree Collins, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 4 DAY OF
APRIL, 2016.**

By: 
Dawn S. Kelsey
City Attorney

Sec. 17-45. - Definitions.

The following words and phrases when used in this article shall have the following meanings:

- (1) Special events shall mean any festival, ceremony, show, demonstration, exhibition, pageant, transient amusement enterprise, outdoor temporary gathering or similar event, in or on or having substantial impact on any street, park, or other public place in the city.
- (2) Special events with alcohol means any festival, ceremony, show, demonstration, exhibition, pageant, transient amusement enterprise, outdoor temporary gathering or similar event which will take place in Audubon Mill Park or if the event attendance is expected to exceed five thousand (5,000), then the event can include Water Street between First Street and Second Street. The special event with alcohol must be organized and sponsored by and for the benefit of a not for profit organization. Any special event with alcohol must have the area where alcohol will be served and consumed, enclosed with security at each point of entry and exit, and the enclosed area must be restricted to individuals age twenty-one (21) or over. A special event with alcohol where alcohol will be sold by the package and not consumed does not require the area to be enclosed. All special events with alcohol must be in compliance with all state alcohol beverage control laws and regulations.
- (3) Applicant shall mean the authorized officer, employee, representative or agent of the sponsor who completes the application and acts as primary contact for the special event.
- (4) Sponsor shall mean the person, business, corporation, partnership, company, association, organization, or other entity responsible for the special event to be held. For special events with alcohol, the sponsor may only be an organization, a business, a corporation, a company or other entity which is licensed with the Secretary of State of Kentucky as a not for profit.

Sec. 17-50. - Application for permit.

- (a) Time limit and deadline. A person or entity seeking a special event permit or a special event with alcohol permit shall file an application with the city manager at least ninety (90) days prior to the date of such event. A completed application does not constitute approval of the permit. A waiver of application deadline may be granted upon a showing of good cause at the discretion of the city manager; and, if there is sufficient time to process and investigate the application, and arrange police and other city services for the event.
- (b) Special event permit application (without alcohol). The application for the special event permit shall set forth the following information:
 - (1) The name, address and telephone number of the person seeking permission to conduct a special event.
 - (2) If the special event is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the organization's authorized representatives and responsible heads of such organizations.
 - (3) The name, address and telephone number of the person who will be the event coordinator who will be responsible for its management.
 - (4) The date or dates when the special event is to take place.
 - (5) The area where the special event or route is to take place.
 - (6) The hours when the special event will start and terminate.
 - (7) The expected total attendance for the event, and the estimated maximum number of people to be assembled at any one time.
 - (8) A security and safety plan.
 - (9) Request for any special facilities or temporary structures. (A fee may be charged in advance.)

- (10) A cleanup plan including name(s) of individuals and group(s) responsible for cleaning during and after the special event.
 - (11) Whether the applicant or sponsoring organization of the proposed special event proposes to select and authorize participants as provided in section 17-60.
 - (12) Such other information as may be required by the city manager.
- (c) Special event permit application (with alcohol). The application for the special event with alcohol permit shall set forth the following information:
- (1) The sponsor's (not for profit organization) name, address and telephone number of the headquarters of the organization and of the organization's authorized representatives and responsible heads of such organizations.
 - (2) The name of the individual; corporation or organization that will be the holder of the state and local issued alcohol beverage control license for the event.
 - (3) The name, address and telephone number of the person who will be the event coordinator who will be responsible for its management.
 - (4) The date or dates when the special event is to take place.
 - (5) If alcohol will be consumed at the special event, then [A] a site plan of the proposed event, including any area where alcohol will be served and consumed and indication where the controlled entry/exit will be and where the boundaries of the enclosure will be located, and a description of the enclosure.
 - (5a) If alcohol will be sold by the package and not consumed, then a site plan of the proposed event, including any area where alcohol may be sold by the package.
 - (6) If alcohol will be consumed at the special event, then [T]the hours when the special event will start and terminate and the hours when alcohol will be served. In no circumstances can alcohol be served or sold after 11:00 p.m.
 - (7) The expected total attendance for the event, and the estimated maximum number of people to be assembled at any one (1) time.
 - (8) A security and safety plan which will include security necessary for the alcohol area.
 - (9) Request for any special facilities or temporary structures. (A fee may be charged in advance.)
 - (10) A cleanup plan including name(s) of individuals and group(s) responsible for cleaning during and after the special event.
 - (11) Whether the applicant or sponsoring organization of the proposed special event proposes to select and authorize participants as provided in section 17-60.
 - (12) A copy of all necessary state and local licenses from alcohol beverage control issued for the event (the licenses can be provided after conditional approval for the special event with alcohol permit is given). Proof that all individuals who will be serving alcohol at the event have completed S.T.A.R. (Server Training in Alcohol Regulations).
 - (13) Such other information as may be required by the city manager.

**City Commission Memorandum
16-86**

April 21, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager 

SUBJECT: Zoning Regulations Amendments – Article XVII, Article XVIII, Article XIX, Article XX, Article XXI, Article XXXIII, and Article XXXIV

Enclosed for the agenda of Tuesday, April 26, 2016, is final reading of an ordinance amending Article XVII, R-O, Residential/Office District, Section 17.03 Conditional Uses; Article XVIII, NB, Neighborhood Business District, Section 18.03 Conditional Uses; Article XIX, GB, General Business District, Section 19.03 Conditional Uses; Article XX, CBD, Central Business District, Section 20.03 Conditional Uses; Article XXI, H-C, Highway Commercial District, Section 21.03 Conditional Uses; Article XXXIII, Gateway Zone District, Section 33.06 Permitted Uses (3. Conditional Uses); and Article XXXIV, Henderson Innovative Planning District, Section 34.02 Permitted Uses (2. Conditional Uses) of Appendix A of the Zoning Ordinance of the Code of Ordinances of the City of Henderson.

As you will recall, a request for review of the zoning resolutions was forwarded to the Planning Commission in February 2016.

The proposed amendments would allow more efficient use of existing infrastructure and both existing and new structures; would allow more density; would create a more business-friendly climate; and would allow the public to allow input on a case by case basis, through the conditional use process.

The Planning Commission conducted a public hearing at its meeting of April 5, 2016, and recommended the proposed amendments.

Your approval of the attached ordinance is requested.

c: Brian Bishop
Don Summers
William L. Newman, Jr.



Planning the Future

Henderson City-County Planning Commission
1990 Barret Ct. Suite C
Henderson, KY 42420

Brian Bishop, Executive Director
bbishop@hendersonplanning.org
270-831-1289

April 7, 2016

Mayor Steve Austin
City Commissioners
Henderson Municipal Center
Henderson, KY 42420

ATTN: Russell Sights, City Manager

Please be advised on Tuesday, April 5, 2016 the Henderson City-County Planning Commission held a Public Hearing to consider the following:

AMENDMENT TO THE CITY ZONING ORDINANCE: City Commission is requesting that the Planning Commission discuss whether the zoning ordinance should be amended to allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit. Uses shall be of the same general character or accessory to one another.

Zones affected: R-O, NB, GB, CBD, HC, GZD, and HIP District

R-O, Section 17.03, Item (j); NB, Section 18.03, Item (g); GB, Section 19.03, Item (e); CBD, Section 20.03, Item (l); HC, Section 21.03, Item (c); GZD, Section 33.06, #3,(c); and HIP, Section 34.02, #2(a)

PLANNING COMMISSION RECOMMENDATION: MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY GARY GIBSON TO THE HENDERSON CITY BOARD OF COMMISSIONERS (THE "CITY") ORIGINATING A PROPOSAL TO AMEND THE TEXT OF THE CITY ZONING ORDINANCE TO PERMIT THE CITY BOARD OF ZONING ADJUSTMENTS TO GRANT A CONDITIONAL USE PERMIT FOR UP TO THREE (3) USES IN THE SAME STRUCTURE, AND THE CITY REFERRED THE PROPOSED TEXT AMENDMENTS TO THE PLANNING COMMISSION. THE PLANNING COMMISSION HELD A PUBLIC HEARING ON THE PROPOSED TEXT AMENDMENTS, AFTER NOTICE; AND, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE CITY APPROVE ALL SUCH TEXT AMENDMENTS FOR THE FOLLOWING REASONS AND WILL LEAVE THE MOTION OPEN FOR OTHER MEMBERS OF THE PLANNING COMMISSION TO ADD REASONS IN SUPPORT OF THIS MOTION: THE PROPOSED AMENDMENT; 1) WILL ALLOW MORE EFFICIENT USE OF EXISTING INFRASTRUCTURE, 2) WILL ALLOW MORE EFFICIENT USE OF BOTH EXISTING AND NEW STRUCTURES, 3) WILL ALLOW MORE DENSITY, 4) WILL CREATE A MORE BUSINESS FRIENDLY

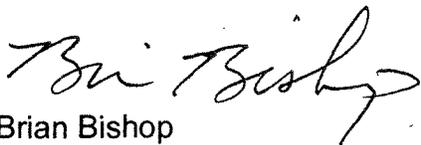
CLIMATE BY ALLOWING A BUSINESS TO CONDUCT MORE THAN ONE COMPATIBLE BUSINESS/USES OR BUSINESS/USES OF THE SAME GENERAL CHARACTER IN THE SAME STRUCTURE, 5) WILL ALLOW THE PUBLIC TO ALLOW INPUT ON A CASE BY CASE BASIS , THROUGH THE REQUIRED BOARD OF ZONING ADJUSTMENTS CONDITIONAL USE PROCESS. I RECOMMEND THIS CHANGE; THAT WE DELETE THE LAST SENTENCE IN THE PROPOSED CHANGES; {USES SHALL BE OF THE SAME GENERAL CHARACTER OR ACCESSORY TO ONE ANOTHER.}

ALL IN FAVOR: AYE

OPPOSED: NONE

Attached are the zoning ordinances amendments, along with the minutes from the public hearing approved by the Planning Commission.

Respectfully submitted,



Brian Bishop
Executive Director, AICP
Henderson City-County Planning Commission

BB/tgc

Cc: Dawn Kelsey

ARTICLE XVII. R-O, RESIDENTIAL/OFFICE DISTRICT

Sec. 17.01. Statement of purpose.

The residential/office district is established to provide for professional offices, limited personal service businesses, and for community-oriented public and private facilities. The district should be used to buffer business districts from residential neighborhoods and also to provide for a greater distribution of offices, personal and professional services within residential areas where business districts would be undesirable. The district is designed to protect the abutting and surrounding areas by requiring that certain minimum yard and area standards comparable to those called for in the residential districts be met. Retail sales are prohibited except where related directly to office functions.

Sec. 17.02. Permitted uses.

In all R-O, residential/office districts, no buildings or land, except as otherwise provided in this ordinance shall be erected or used except for one or more of the following specified uses:

- (a) Single-family dwellings.
- (b) Multifamily dwellings up to four (4) units, townhouses and condominiums.
- (c) Religious houses.
- (d) Home occupations as defined in Article II.
- (e) Accessory uses.
- (f) Pharmacy, limited to the sale of pharmaceutical and medical supplies and incidentals which are limited to twenty-five (25) percent of the floor space.
- (g) Beauty shops and barbershops.
- (h) Employment agency.
- (i) Professional Offices and Services
- (j) Charitable offices.
- (k) Business associations.
- (l) Professional organizations.
- (m) Labor organizations.
- (n) Day care.
- (o) Art galleries.
- (p) Museums.
- (q) Residential care facilities.
- (r) Medical and Dental Offices

(Ord. No. 18-91, § 1, 5-14-91)

Sec. 17.03. Conditional uses.

- (a) Apartment.
- (b) Banks.
- (c) Funeral home.
- (d) Civic, social and fraternal associations.
- (e) Hospital.
- (f) Laboratory, medical and dental.
- (g) Nonprofit public or private facilities including, but not limited to schools, churches, libraries, parks, recreational facilities, institutions, governmental facilities.
- (h) Studio for professional work such as photography, drama, speech, dance, music.
- (i) Family child-care home, with the following limitations:
 - 1) There shall be a maximum of ten (10) children allowed in the home of which no more than [than] six (6) shall be unrelated to the care provider. No more than four (4) children under twelve (12) months of age nor more than six (6) children under six (6) years of age, including the provider's own or related children, shall be kept in the home.
 - 2) No person may be employed that is not a resident of the premises.
 - 3) Otherwise fully complies with the provisions of a home occupation as provided in section 2.01 of this code.

(j) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

(Ord. No. 06-03, 4-8-03)

Sec. 17.04. General regulations for all residential/office districts.

- (a) There shall be no outdoor storage of merchandise or material and no outdoor processing in any residential/office district.
- (b) All residential/office districts located on lots adjacent to a residential property shall provide a buffer or barrier within the required side or rear yard to block out the glare of lights, signs and other visual nuisances and to reduce noise and air pollutants.
- (c) All signs are subject to the following provisions:
 - (1) Signs are to be for use identification and may not be used for advertising.
 - (2) Signs shall not be illuminated.
 - (3) Signs are restricted to five (5) feet from any lot line.
 - (4) Signs shall not obstruct the view of traffic.
 - (5) Signs are limited to one per property.
 - (6) No sign shall exceed ten (10) feet in height to the top of the display.
 - (7) No sign shall exceed twenty-five (25) square feet in size.

ARTICLE XVIII. NB, NEIGHBORHOOD BUSINESS DISTRICT

Sec. 18.01. Statement of purpose.

The neighborhood business district established in this article is intended to be that permitting retail business and service uses which are needed to serve the nearby residential areas. In order to promote such business development so far as is possible and appropriate in each area, uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare, heavy truck traffic, or late hours of operation. The intent of this district is also to encourage the concentration of local business areas in locations proposed in the comprehensive plan to the mutual advantage of both the consumers and merchants and thereby promote the best use of land at certain strategic locations and avoid the continuance of encouraging marginal, strip, business development along major streets.

Sec. 18.02. Permitted uses.

In all NB districts, no building or land except as otherwise provided in this ordinance, shall be erected or used except for the following specified uses:

- (a) Self-service laundry.
- (b) Pharmacy.
- (c) Barbershop or beauty shop.
- (d) Meat, fruit market, deli, and small grocery store (5,000 sq. ft. or less).
- (e) Offices, either business, professional or governmental.
- (f) Antique shops.
- (g) Nursery or day care facilities.
- (h) Bake shops.
- (i) Any accessory or building customarily incidental to the above permitted use.
- (j) Multifamily dwellings.
- (k) Any use permitted in the R-O, residential/office district.

Sec. 18.03. Conditional uses.

- (a) Public facilities such as churches, libraries, parks, recreational facilities, hospitals and institutions.
- (b) Apartments.
- (c) Grocery store
- (d) Bicycle rental or repair shop
- (e) Repairs, electrical or other household appliances, locks, radios, TV., shoes and time pieces, etc.
- (f) Eating or Drinking Establishments

APPENDIX A – ZONING CODE
City of Henderson, Kentucky

(g) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

ARTICLE XIX. GB, GENERAL BUSINESS DISTRICT

Sec. 19.01. Statement of purpose.

The general business district is intended to permit a wider range of business and entertainment activities that are permitted in the neighborhood business district. The permitted uses would serve not only nearby residential areas, but also people further away for types of business and services usually found in major shopping centers and central business districts at the juncture of principal streets. These uses would generate larger volumes of vehicular traffic, would need more off-street parking and loading, and would require more planning to integrate such districts with adjacent residential areas.

Sec. 19.02. Permitted uses.

In all GB districts, no building or land except as otherwise provided in this ordinance, shall be erected or used except for the following specified uses:

- (a) Any use permitted in the NB, neighborhood business district.
- (b) Places of amusement and assembly, offices, hotel, motel, used car lot, public garages and other motor vehicles service.
- (c) Automobile, motorcycle, trailer or boat showrooms; new car sales room; outdoor space for the sale of new and used automobiles, house trailers, or boats provided that there may be sales for used articles only if carried on in conjunction with a regularly authorized new automobile, house trailer or boat sales and service agency which is housed in a permanent building on the same parcel of land or on contiguous parcels of land.
- (d) Car wash establishments, including self-service facilities.
- (e) Automobile service stations/convenient stores.
- (f) Banks.
- (g) Blueprinting.
- (h) Business schools, and colleges, or private schools operated for profit.
- (i) Carpet, rug, linoleum, or other floor covering stores.
- (j) Catering establishments.
- (k) Clothing or costume rental establishments.
- (l) Department stores.
- (m) Eating or drinking establishments, with entertainment, except those having the principal character of a drive-in facility wherein food is served to a customer in his vehicle.
- (n) Electrical, glazing, heating, painting, paperhanging, plumbing, roofing or ventilation contractors' establishments, excluding outside storage yards.
- (o) Exterminators.

- (p) Furniture stores.
- (q) Grocery Stores
- (r) Hotels and motels.
- (s) Interior decorating establishments.
- (t) Medical or dental laboratories for research or testing, not involving any danger of fire or explosion, nor of offensive noise, vibration, smoke, odorous matter, heat, humidity, glare, or other objectionable effects.
- (u) Monument sales establishments, with incidental processing to order, but not including the shaping of headstones.
- (v) Funeral Homes except crematoriums.
- (w) Moving or storage offices.
- (x) Musical instrument repair shops.
- (y) Office or business machine stores, sales or rental.
- (z) Photographic developing or printing establishments and studios.
- (aa) Printing establishments.
- (bb) Public auction rooms.
- (cc) Publicly owned buildings, public utility buildings and service yards but not including storage yards.
- (dd) Radio and television studios.
- (ee) Sign painting shops, limited to two thousand five hundred (2,500) square feet of floor area per establishment.
- (ff) Studios for music, dancing, or theatrical instruction.
- (gg) Taxidermist shops.
- (hh) Television, radio or household appliance repair shops.
- (ii) Theatre, dance halls or similar places of assembly.
- (jj) Small business machine repair shops.
- (kk) Automotive and equipment repair.
- (ll) Upholstering shops dealing directly with consumers.
- (mm) Venetian blind, window shades, or awning shops, custom shops, including repairs, limited to two thousand five hundred (2,500) square feet of floor area per establishment.
- (nn) Wedding chapels or banquet halls.
- (oo) Any retail business or retail service, including the making of articles to be sold at retail on the premises. Any such manufacturing, or processing shall be incidental to a retail business or service and not more than five (5) persons shall be employed in such manufacture.

- (pp) Accessory uses permitted. Any accessory use of building customarily incidental to the above permitted use.
- (qq) Consumer fireworks, retail sales, storage and related supplies, in accordance with the National Fire Protection Association (NFPA 1124).

(Ord. No. 22-11, Exh. A, 8-13-11)

Sec. 19.03. Conditional uses.

- (a) Any uses not allowed above, which are of the same general character as the above permitted uses, which will not be detrimental to the district in which they are located, and which will not be objectionable by reason of odors, dust, smoke, cinders, gas fumes, noise, vibrations and refuse matter are eligible for a conditional use permit. The procedure in Section 4.03 shall be followed
- (b) Shopping centers, in accordance with Section 4.39.
- (c) Private clubs
- (d) The owner-operator of a permitted general business district commercial use may be allowed to establish one dwelling unit for his use only as an accessory conditional use to the commercial use. Said residential use shall follow the procedure for obtaining a conditional use permit as outlined in Section 4.03 of Article IV. All provisions of Section 4.03 shall apply to this section. Additionally, the residential use shall be required to have one off-street parking space in addition to the required spaces for the commercial use. The proposal shall be submitted to the board of zoning adjustment which may alter, deny or grant any request in accordance with Section 4.03.

(e) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

Sec. 19.04. General regulations.

- (a) There shall be no outdoor storage of merchandise or materials and no outdoor processing in any commercial district unless authorized as a conditional use. All aboveground structures accessory to any outdoor use shall be located a minimum of twenty-five (25) feet from any front lot lines.
- (b) All commercial districts located on lots adjacent to a residential district shall maintain a minimum setback of twenty-five (25) feet on the side adjacent to the residential district.
- (c) All signs and outdoor advertising displays are subject to the provisions established in Article X.

Sec. 19.05. Area, height, bulk and placement regulations.

(See attached Schedule of Regulations, Article XXVII.)

ARTICLE XX. CBD, CENTRAL BUSINESS DISTRICT

Sec. 20.01. Statement of purpose.

The purpose of this district shall be to enhance and protect convenient areas for shopping in the central business district of the city.

Sec. 20.02. Permitted uses.

- (a) Any use permitted in a general business district, except consumer fireworks, and those prohibited uses listed below.
- (b) Parking garages and other similar structures.
- (c) Apartments.

Sec. 20.03. Conditional Uses

- a. Auto sales lots.
- b. Auto and body repair shops and/or any type of motor vehicle service.
- c. Car Wash establishments.
- d. Convenient stores with gas pumps
- e. First Floor Dwelling units: Residential dwelling units may be located on the ground floor of structures originally constructed as mixed use or commercial buildings, or new mixed use buildings, when the following conditions are met:
 - i. Each ground floor dwelling unit is located at the rear of the building, behind a commercial or office use.
- f. Gas Stations.
- g. Moving or Storage Offices.
- h. Pawn shops and Payday Lending Services.
- i. Public Auction Houses.
- j. Tattoo Parlors.
- k. Used car lots.
- (l). -Allow multiple uses (businesses), but no more than three (3), may be - allowed in the same structure (building) with a conditional use permit.

Sec. 20.04. General regulations.

- (a) There shall be no outdoor storage of merchandise or materials and no outdoor processing in any commercial district unless authorized as a conditional use. All aboveground structures accessory to any outdoor use shall be located a minimum of twenty-five (25) feet from any front lot lines.
- (b) All signs must meet the provisions of the sign regulations in Article X.
- (c) All uses shall exhibit performance standard characteristics equal to or greater than those which define light industry.

Sec. 20.05. Area, height, bulk and placement requirements.

(See attached Schedule of Regulations, Article XXVII.)

ARTICLE XXI. H-C, HIGHWAY COMMERCIAL DISTRICT

Sec. 21.01. Statement of purpose.

This district is established to provide areas for commercial uses which are mainly oriented to vehicular traffic.

Sec. 21.02. Permitted uses.

In all H-C districts, no building or land, except as otherwise provided in this ordinance, shall be erected or used except for the following specified uses:

- (a) Any use permitted in the general business districts.
- (b) Animal hospital or veterinary clinic, provided that any such purpose, including pens, or exercise runways shall be at least two hundred (200) feet from any residential district.
- (c) Commercial greenhouses and plant nurseries, including offices and sales yards, provided that no building for any heating plant, ventilation flue or other opening except stationary windows be located within fifty (50) feet of any residential district.
- (d) Drive-in eating and drinking establishments and branch drive-in banks.
- (e) Farm implement or contractor's equipment display, hire or sales establishment, service and repair shops.
- (f) Mobile home and trailer sales lot.
- (g) Drive-in theaters.
- (h) Truck Stop.
- (i) Ice storage and vending.
- (j) Motels/Hotels.
- (k) Automobile service stations.
- (l) Restaurants.
- (m) Building supplies.
- (n) New and used automobile and truck sales.
- (o) Drinking establishments or package liquor stores.
- (p) Accessory uses permitted. Accessory uses or buildings customarily incidental to the above permitted uses provided all general and special requirements for principal buildings are met.
- (q) Consumer fireworks, retail sales, storage, and related supplies in accordance with requirements of an ordinance relating to fireworks adopted by the city, and in accordance with the National Fire Protection Association (NFPA 1124).

(Ord. No. 18-11, 7-12-11)

Sec. 21.03. Conditional uses.

(a) Any uses not allowed above, which are of the same general character as the above permitted uses, which will not be detrimental to the district in which they are located, and which will not be objectionable by reason of odors, dust, smoke, cinders, gas fumes, noise, vibrations and refuse matter are eligible for a conditional use permit. The procedure in Section 4.03 shall be followed.

(b) Shopping centers in conformance with Section 4.39 of these regulations. Shopping centers shall be permitted as conditional uses only in central business and highway commercial districts according to the following conditions.

(c) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

(Ord. No. 26-03, 10-14-03)

Section 21.04. General requirements.

(a) A permanent landscaped buffer of evergreen plant material or a solid wall or fence or other suitable enclosure of a commercial land abutting a residential district.

(b) There shall be no outdoor storage of merchandise or materials and no outdoor processing in any commercial district unless authorized as a conditional use. All aboveground structures accessory to any outdoor use shall be located a minimum of twenty-five (25) feet from any front lot lines.

(c) All commercial districts located on lots adjacent to a residential district shall maintain a minimum setback of twenty-five (25) feet on the side adjacent to the residential district for all buildings and appurtenant facilities as a buffer.

(d) All signs and outdoor advertising displays are subject to the provisions established in Article X.

(Ord. No. 4-96, 2-13-96)

Section 21.05. Area, height, bulk and placement requirements.

(See attached Schedule of Regulations, Article XXVII.)

Article XXXIII ~ Gateway Zone District (Phase#1)

Section 33.01 Gateway Zone District Purpose:

The Gateway Zone District is intended to provide for the development of a pedestrian- friendly, mixed-use, aesthetically pleasing entry-corridor into downtown Henderson from the proposed I-69 interchange. This Gateway Zone District is to promote the sense of place, and also provide opportunities to develop projects and properties compatible with a dense urban development pattern. The intent of the Gateway Zone District is as follows:

1. Encourage and promote the public health, safety, and general welfare of the citizens of Henderson.
2. Promote sustainable urban development, to better the environment and the aesthetic quality of Henderson for the future.
3. Provide a walkable mixed-use area that is inviting to, pedestrians, and the travelling public.
4. Reduce traffic conflict points, to promote safety.
5. Reduce stormwater runoff and promote green design.
6. Encourage originality, flexibility and innovation in development along Second Street, including the architecture, signage, and placement of buildings.
7. Discourage monotonous, unsightly, and discordant development that is not in keeping with the entry-point into downtown Henderson, to provide for a harmonious mix of uses and development standards compatible with an urban corridor.
8. Minimize blight, and poorly designed and unattractive development.

Section 33.02 Applicability

1. *Boundary of Gateway Zone District.* The boundary of this Article XXXIII – Gateway Zone District (herein referred to as “this Article” or the “Gateway Zone District”) shall be the area so labeled and depicted in the official zoning map, which is incorporated herein by reference; which generally extends along Second Street from the CSX Railway Overpass to Ingram Street.
2. *Zoning Classification of property located within this Gateway Zoning District.* Upon adoption of this Article, the zoning classification of each and every parcel of property

located within this Gateway Zone District shall be and hereby is changed or amended to this Gateway Zone.

3. *Applicability.* All of the regulations and requirements of this Article shall fully apply when any of the following occur (the property must be brought into full compliance with this Article when any of the following occur):
 - 1) Construction of any new Structure.
 - 2) Parking area reconfiguration.
4. *Structural Alterations.* Any structural alteration of any Structure located on existing property not enumerated in Section 33.02 (3) above, shall only be required to apply to Gateway District regulations as follows:

Levels of Modification

Level of Modification	Percent of modification cost (cost of modification divided by existing building value, times 100) occurring during any 36 month period	Applicable sections of this district that must be adhered to.
Minor ❖	0 percent to 30 percent	Access management standards
Major ❖	31 percent or more	All sections must be adhered to

- ❖ Existing building value is derived from the current years Property Valuation Administrator’s fair market value.
- ❖ The cost of general property maintenance or repair shall not be included in such calculation.
- ❖ The cost of repairing, replacing, or upgrading any water, sewer, HVAC or electrical facilities where no new expansion will occur.

5. *Exterior Walls.* When any change is made to the façade or an exterior wall of an existing structure all of the façade visible from Second Street, shall be brought into full compliance with Section 33.07 of this Article.
6. *Sign Permits.* When a Sign Permit is required within the Gateway Zone District, the property shall be brought into full compliance with Section 33.14 of this Article.
7. *Maintenance and Utility Repairs.* Notwithstanding any other provision of any of this Section 33.02, neither:
 - a) General property maintenance and/or general property repair, or;

b) The maintenance, repair, upgrading or replacement of any water, sewer, HVAC, or electrical facilities will trigger a requirement that such property or structure be brought either fully or partially in compliance with this Article.

Section 33.03 Non-conformities

1. Except as provided in this Article to the contrary; all nonconforming uses, nonconforming structures and nonconforming lots, shall be governed by Article VIII.

Section 33.04 Review and Approval Procedures

1. Gateway Design Advisory Committee.

The Gateway Design Advisory Committee shall provide non-binding written recommendations to the Codes Administrator on each application in the Gateway Zone District. The Gateway Design Advisory Committee shall consist of the Executive Director of the Planning Commission/or designee, one (1) Staff member of the Planning Commission, the City Engineer, and the City Manager/or designee.

2. Pre-Application Conference with Gateway Design Advisory Committee.

Prior to filing for building permits or site plans, the developer, applicant, petitioner, or property owner, shall attend a Pre- Conference with the Gateway Design Advisory Committee, to discuss the Gateway Zone District review process and requirements. The meeting is informative in nature to guide the applicant through the Gateway Zone District development process. Comments, representations, or expressions of any nature made at the meeting, shall not be binding.

3. Formal Submittal. After the pre-application conference, the applicant may then submit an application to the Gateway Design Advisory Committee. The submittal shall include all information needed to fulfill the standards of the district, and will require building elevations, a signage plan, materials used, and a general site plan. The Gateway Design Advisory Committee will review the project within twenty-one days (21) of submittal, and present their findings in a written report to the Codes Administrator and the applicant.

4. Final Approval. Final approval/or disapproval shall be made by the Codes Administrator within fourteen (14) days of the receipt of the recommendation by the Gateway Design Advisory Committee. After the decision of the Codes Administrator, the applicant may

within 30 days, submit plans correcting the deficiencies to the Gateway Design Advisory Committee and the Codes Administrator, without going through the submittal process again. The Codes Administrator may grant extensions as needed.

5. Appeals. All appeals of the Codes Administrator final approval or disapproval shall be filed with the Board of Adjustments, and must be made within thirty (30) days of any such final action or decision, pursuant to KRS 100.257 and KRS 100.261.

Section 33.05 Lot and Building Standards

	Mixed Use/ Commercial	Residential
Maximum Lot Coverage	100%	70% Single Family/Townhouses 50% Multi-family
Maximum Building Height	3 stories, not exceeding 50 feet.	50 feet
Minimum Lot Width	40 feet all	
1 Family Unit		40 feet
2 Family Unit		75 feet
Multi-family Unit and Townhouse		70 feet
Setback Requirements		
Front	0 (zero lot line required) ❶❷❸	0 (zero lot line required) ❶❷❸
Side	10 feet min. abutting Res. Zone ❹	0 ❹
Rear	25 feet min. abutting Res. Zone; 0 abutting public alley.	20 feet min.
Minimum Lot Area	4,000 sq. ft. ❺❻	
1 Family Unit		4,000 sq. ft.
2 Family Unit	1,600 sq. ft. per dwelling unit	9,000 sq. ft.
Multi-family Unit		6,000 sq. ft. for the first two dwellings, 1,600 sq. ft. for each additional.
<ul style="list-style-type: none"> • ❶ Front setbacks are zero, or as provided in Contextual Front Setbacks, Section 33.05 (1). • ❷ Zero lot lines are permitted, if a maintenance agreement easement with the property owner adjoining the zero lot line is submitted to the Codes Administrator. Fire-resistive rating and opening requirements of the building code shall be complied with for exterior walls. • ❸ The commercial gross floor area of mixed-use buildings shall not exceed 15,000 sq. ft. • ❹ Pedestrian amenities as allowed per 33.05 (2), may be located within the front yard setback. • ❺ Screening for Mixed Use and Commercial buildings is not required. • ❻ All front lot setbacks refer to frontage on Second Street. 		

1. *Contextual Front Setback*.: Contextual front setbacks shall be as deep as the average front setback that exists on the nearest developed lots on the same block that front on the same side of the street as the subject lot, in accordance with the following rules:

- a) Lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average;
 - b) When the subject lot is a corner lot, the average setback will be computed on the basis of the two (2) nearest developed lots that front on the same side of the street as the subject lot;
 - c) When the subject lot abuts a corner lot fronting the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two (2) lots that front on the same street as the subject lot.
2. *Exceptions to Lot and Building Setbacks Requirements.*
- a. Outdoor Eating Areas: outdoor eating areas and patios located on the Second Street frontage, are allowed a building setback of fifteen (15) feet from the lot line;
 - b. Courtyards, Plazas and Greenspace: A courtyard, plaza, or greenspace (including a pocket park, or green infrastructure) located on the Second Street frontage are allowed a building setback of fifteen (15) feet from the lot line.
3. *Accessory Structures.*
- f. Accessory structures shall be compatible in Style, Color, and Materials with Principal Structure(s).
 - g. Structures shall be limited in size to twenty-five (25%) percent of the footprint of the Principal Structure, or four hundred (400) square feet; whichever is less.
 - h. Garages or carports shall be limited in size to twenty-five (25%) of the footprint of the Principal Structure.

Section 33.06 Permitted Uses

The following uses shall be permitted in the Gateway Zone District:

1. *Permitted Uses.*
 - a. Antique Shops.
 - b. Art Galleries.
 - c. Bakeries.
 - d. Banks.

- e. Barber or Beauty Shop.
- f. Bicycle Rental or Repair Shop.
- g. Blueprinting.
- h. Business schools, and colleges, or private schools operated for profit.
- i. Carpet, rug, linoleum, or other floor covering stores.
- j. Catering establishments.
- k. Churches.
- l. Clothing or costume rental establishments.
- m. Convention Centers.
- n. Day Cares.
- o. Department stores.
- p. Eating or drinking establishments, with or without entertainment, except those having the principal character of a drive-in facility wherein food is served to a customer in his vehicle.
- q. Furniture stores.
- r. Grocery Stores.
- s. Hotels.
- t. Home occupations as defined in Article II.
- u. Hospitals.
- v. Interior decorating establishments.
- w. Medical or dental laboratories for research or testing, not involving any danger of fire or explosion, nor of offensive noise, vibration, smoke, odorous matter, heat, humidity, glare, or other objectionable effects.
- x. Museums.

- y. Family child-care home, with the following limitations:
There shall be a maximum of ten (10) children allowed in the home of which no more than six (6) shall be unrelated to the care provider. No more than four (4) children under twelve (12) months of age nor more than six (6) children under six (6) years of age, including the provider's own or related children, shall be kept in the home. No person may be employed that is not a resident of the premises. Otherwise fully complies with the provisions of a home occupation as provided in section 2.01 of this code.
- z. Funeral Homes, except crematoriums.
- aa. Medical and Dental Offices.
- bb. Multifamily Housing.
- cc. Musical shops.
- dd. Office or business machine stores, sales or rental.
- ee. Offices; either business, professional, or government.
- ff. Pharmacy.
- gg. Photographic developing or printing establishments and studios.
- hh. Printing establishments.
- ii. Professional and Labor Organizations.
- jj. Publicly -owned -or leased buildings, and public utility buildings. Radio -and television studios.
- kk. Residential Care Facilities.
- ll. Retail business or service, including the incidental manufacture of articles to be sold at retail on premises as long as no more than five (5) persons are employed in such manufacture.
- mm. Shopping Center.
- nn. Studios for music, dancing, or theatrical instruction.

- oo. Television, radio or household appliance repair shops.
- pp. Theatre, dance halls or similar places of assembly.
- qq. Townhouses.
- rr. Venetian blind, window shades, or awning shops, custom shops, including repairs, limited to two thousand five hundred (2,500) square feet of floor area per establishment.
- ss. Wedding chapels or banquet halls.
- tt. Any other substantially similar activity.

2. *Mixed-Use Buildings.*

Buildings containing both residential dwelling units and non-residential commercial uses are permitted. Residential dwelling units may be located on the ground floor of mixed-use buildings provided that a minimum of 1,500 square feet of non-residential floor areas is located on the ground floor, or when all the following criteria are met:

- (a) The building is a minimum of two (2) stories in height;
- (b) Commercial or office uses are restricted to the ground floor;
- (c) Each ground floor dwelling unit is at the rear of the building, behind a commercial or office use.

3. *Conditional Uses.*

- a. Single Family Residential.
- b. Parking Lots and Garages, where parking is the primary, not accessory use.
- (c) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

4. *Prohibited Uses.*

- a. Auto sales lots.
- b. Auto and body repair shops and/or any type of motor vehicle service.
- c. Car Wash establishments.
- d. Moving or Storage Offices.
- e. Mini-storage.

Article XXXIV ~ Henderson Innovative Planning District

Section 34.01 Henderson Innovative Planning District Purpose:

The Henderson Innovative Planning District is intended to allow a compatible mix of mixed-use, commercial, and residential uses in dense pedestrian-friendly urban areas suitable for infill redevelopment. The Henderson Innovative Planning District is intended for properties located along major streets and bus routes, with sidewalk/bike lane connectivity, located outside of existing single family neighborhoods, and infill development shall also take into consideration the existing density, built-form and uses of the surrounding neighborhood. It is the goal of this district to:

1. To promote sustainable urban development, to better the environment and the aesthetic quality of Henderson for the future.
2. To provide infill opportunities for businesses and development.
3. To complete bicycle and pedestrian connections to surrounding sites and neighborhoods.
4. To promote originality, flexibility and innovation in development including the architecture, signage, placement, and redevelopment of existing sites and buildings.
5. To encourage resource and energy efficiency.
6. To enhance property values.
7. To minimize blight, and poorly designed and unattractive development.

Section 34.02 Permitted Uses

1. Permitted Uses.
 - (a) Antique Shops.
 - (b) Art Galleries.
 - (c) Assisted Living Facilities.
 - (d) Bakeries.
 - (e) Banks.

- (v) Mixed Use Buildings, containing both residential dwelling units and non-residential commercial uses.
- (w) Multifamily housing.
- (x) Music shops.
- (y) Office or business machine stores, sales, or rental.
- (z) Offices: government, commercial, or professional.
- (aa) Pharmacy.
- (bb) Printing and related establishments.
- (cc) Professional and labor organizations.
- (dd) Publicly owned or leased buildings; public utility buildings.
- (ee) Residential care facilities.
- (ff) Retail businesses or service
- (gg) Shoe repair.
- (hh) Sidewalk Dining
- (ii) Studios for music, dancing, or theatrical instruction.
- (jj) Theatre, dance halls, or places of assembly.
- (kk) Townhouses and condominiums.
- (ll) Wedding chapels.
- (mm) Any substantially similar activity.

(2). -Conditional Uses

=

- (a) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

Henderson City-County
Planning Commission
April 5, 2016

The Henderson City-County Planning Commission held their regular meeting April 5, 2016 at 6:00 p.m., at the Henderson Municipal Center, 222 First Street, 3rd floor assembly room. Members present: Chairman Herb McKee, Vice-Chair David Williams, Bobbie Jarrett, Dickie Johnson, Gary Gibson, Rodney Thomas, David Dixon, Kevin Herron, Kevin Richard, Penny Hahn and Herb Pritchett. Mac Arnold was absent.

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

(A summary of the minutes from the meeting on April 5, 2016. A recorded audio tape is on file at the Planning Commission Office)

MEETING BEGAN AT 6:00PM

Chairman McKee: Next on the agenda is an **Amendment to the City Zoning Ordinance**, Mr. Bishop are you going to lead that discussion?

Brian Bishop: Yes sir.

Chairman McKee: Please proceed.

Brian Bishop: The proposed text amendment to the City Zoning Ordinance was originated by the City Commission and it is referred to us. The proposed text amendment would allow the applicant to apply to the city's Board of Zoning Adjustment for a Conditional Use Permit to operate up to three (3) businesses in the same structure. The public hearing regarding this proposed amendment has been advertised, it is our responsibility to hold the public hearing, to make a recommendation to the City Commission and to justify the reasons for that recommendation. The uses should be of the same general character or accessory to one another. An example of this would be a convenient store with a fast food restaurant or a chain inside that convenient store. There was previous language in the zoning ordinance that would allow for this but it was inadvertently removed or

deleted when the current zoning ordinance was re-written. The text amendment would allow the City Board of Zoning Adjustment to determine if three (3) businesses in one structure are appropriate on a case by case basis. The Board of Zoning Adjustment can require conditions when the circumstances warrant it, some examples of conditions are screening, hours of operation and lighting requirements. The proposed amendment is intended to do three (3) things: allow for more density, make efficient use of the existing infrastructure and to help promote a more business friendly climate. The zones impacted are the Central Business District, General Business District, Highway Commercial, Neighborhood Business, the HIP Zone, the Gateway District and the Residential Office District.

We have prepared a draft sample so that way you will have reasons and the basic outline of the motion if you choose to accept it and if you choose to make that recommendation and we will do our best to answer any questions you may have.

Chairman McKee: Questions for staff?

Kevin Richard: So Brian, I guess I didn't get a chance to go back and look at the original language prior to omission, was it also conditional use?

Brian Bishop: It was not prior.

Kevin Richard: Ok.

Chairman McKee: Any other questions for staff? Is there anyone here that would like to speak for or against this proposed text amendment? Judge Ershig, would you please state your name and address?

Harvey Ershig: Harvey Ershig, 502 Norris Lane.

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

Harvey Ershig: The best of my ability.

Chairman McKee: Please proceed Judge.

Harvey Ershig: I wasn't really tuned into this thing until I just read it on the board but why do you require a conditional use permit? In the Central Business District, as a kid I remember down Second Street I think Dr. Strother and a flower, what

was his name, O'Daniel they shared a building and they didn't have to go ask anybody. It's just another step, it's another piece of red tape that you've got to have a hearing, you've got to go through this stuff, you've got to apply, it's probably costly and it take time. When people want to do something, they want to do it. It's a good idea just eliminate the red tape; don't make them have a conditional use permit. Go to the codes department and get a business license and go for it.

Now, just yesterday I read in the Wall Street Journal where there has been a new company formed and their business is to make available, try to consolidate some of this retail space that bigger companies had and can't use and consolidate those and make them offices or I understand Home Foods are going to move in to part of Sears store, but they didn't have to go ask anybody. The space was available, take advantage of it. That's my two (2) cents.

Chairman McKee: Thank you Judge, would anyone like to comment?

Tommy Jo Fridy: Let me address that Harvey.

Chairman McKee: Judge, can you hear Mr. Fridy?

Harvey Ershig: Not too good, John (Stroud) told me it was time to get up and talk and that's what I did.

Tommy Joe Fridy: I can explain it to him after the meeting but what we are doing tonight is having a public hearing on the words that the City Commission gave us to hold a public hearing and to let you comment that you don't think there should have to a conditional use permit. Right now, you can't have multiple businesses uses in the same building. This will allow it but it also requires a conditional use permit from the Board of Zoning Adjustments. You're comment, as I understand it is you're for multiple uses but you think it should be without having to get a conditional use permit.

Harvey Ershig: Right, right.

Tommy Jo Fridy: And that's what we're here for, to hear your and everyone else's comments.

Harvey Ershig: Let me just give you one illustration. I have a building down on First Street, its one building and I have ten (10) tenants in it and we didn't go ask anybody. It's been grandfathered, don't send anybody (laughter) and you know, that's just the way it is. For a small business person, you know I've got some empty spots and maybe two (2) people would want to join in, you know? One guy sells clothes, Pete Bryant is dead, he had Bryant's Clothing Store on Second Street and shared that with Dr. Strother, I think. I mean there were two (2) or three (3) of those things going on and it's just another cumbersome thing. The concept is good, let them do it but just don't... if they are a legitimate business...

Chairman McKee: Your comments are noted Judge, thank you very much.

Brian Bishop: Mr. Chairman, may I address?

Chairman McKee: Please do.

Brian Bishop: John and Claudia please correct me if I'm wrong, I think the thought process and the logic behind the conditional use was two-fold. One it was to protect the property adjoiners so that way they would have some input if there was going to be a use that they considered not conducive to an adjoining property and the other was to allow for multiple uses and not be forced to require it into the shopping center requirements is probably the best two (2) arguments for the conditional use permit.

Chairman McKee: You may have to share that with Judge Ershig after the meeting, he didn't hear you. Yes Mr. Fridy.

Tommy Jo Fridy: As the Planning Commission when the City Commission originates a change to the zoning ordinance as they have done here, you have a responsibility and in that responsibility you have three (3) choices; as a majority recommend back to the City Commission either that they approve it as they proposed it or you recommend changing it and approving it or you recommend not approving it at all. Whatever you do the statute says you have to advertise it, that's been done they tell me, I believe it and you have to have a public hearing and that's what we're doing and you have to have to say you are either recommending it or you're not and you have to say why, you have to have reasons why you think they should pass it or why you think they shouldn't or why they should change it.

Herb Pritchett: Mr. Chairman?

Chairman McKee: Yes Sir Commissioner Pritchett.

Herb Pritchett: I would like to pose two (2) questions. The first question is if there are three (3) uses proposed for that building, they must all be uses that are permissive uses in that district, is that correct?

Brian Bishop: Premises' or permitted?

Herb Pritchett: Permitted.

Brian Bishop: Permitted uses, yes.

Herb Pritchett: The second question I have is more problematical, let us suppose that someone proposes three (3) permitted uses and goes to get a conditional use, upon what grounds could you preclude them from those three (3) uses?

Brian Bishop: That is a very good question that the Board of Zoning Adjustment will ultimately decide and I think they are going to base it on are the uses compatible, are they of similar nature and would they operate in unison with one another. Basically, you wouldn't want to have an attorney's office and a car lot sharing the same area because they are not conducive uses with one another. They are not compatible is probably the best word to use.

Herb Pritchett: I guess what my problem is, let's suppose we have three (3) shotgun buildings in downtown and they are each twenty (20) feet wide, you could put those three (3) permitted uses in those three (3) buildings and no one could say anything. But if you have one (1) building sixty (60) feet wide and there were no common walls to separate them, then they would have to go before the zoning board of adjustment to get a conditional use and it would be very problematical if they did not get that conditional use.

Brian Bishop: True but it is also impossible for them to do that at all the way the current zoning ordinance is written.

Chairman McKee: Mr. Fridy?

Tommy Jo Fridy: There are very specific laws and regulations about how a Board of Zoning Adjustment works. What has to be presented to them and how they go

about making their decision and because I don't represent the Board of Zoning Adjustments, I have represented them but it's been twenty (20) years or ten (10) years, a long time ago and I cannot spiel off the checklist of what you have to go through but it's more than just an arbitrary we feel good about this or we feel bad about this. There are objective standards that the Board of Zoning Adjustments must go through. I don't know if that helps you because I understand that's a little different than what you were saying.

Chairman McKee: May I offer a comment? My sense is that each of these zones have a list of permitted uses and a list of conditional uses, is that accurate? The permitted uses and the conditional uses are generally compatible with the oversight of the Board of Zoning Adjustments. So, if you read down through here it kind of gives you a road map. Now, having said that would you like add anything John Stroud? Anybody else like to ask a question? Yes Judge, please come back up to the podium, you are still under oath.

Harvey Ershig: But what he says (Herb Pritchett) is really important because you are just requiring these people to jump through some hoops that the city couldn't stop. Why not just eliminate the need for a conditional use and just go ahead and allow them to do it because they can only do what is permitted in this use anyway? That really is a key point. They can do it anyway just spread it out; just consolidate these three (3) bad tenants into one (1) building.

Chairman McKee: Thank you Judge. Would anyone else like to speak for or against this proposal? Please come to the podium Mr. Taylor. Please state your name and address?

Alan Taylor: Alan Taylor, 4001 Deepwood Drive.

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

Alan Taylor: Yes I do.

Chairman McKee: Thank you sir, please proceed.

Alan Taylor: I have absolutely no vested interest financially and I am not a member of the church but in thinking through the ramifications of how this would

affect property owners in the Gateway Zone on Second Street; there's a church building there, several thousand square feet of a building multiple levels. As I understand it, if this is in place they couldn't have a half dozen different business on those multiple floors in all of those thousands of square feet. Am I accurate?

Brian Bishop: I'm sorry, say that again.

Alan Taylor: The church building that is for sale down here on Second Street, according to this there are several thousand square feet in that building on multiple levels, how would they market that property to someone that wants to develop that?

Brian Bishop: In the current zoning ordinance they would only be able to market it as one (1) business and one (1) space. The way this is written, they could allow to market it up to at least three (3) with a conditional use and anything above that they would have to meet the shopping center requirements.

Alan Taylor: So it's a multiple level, four (4) stories I think, building they would have to go through a shopping center classification process?

Brian Bishop: If this is not passed then yes, that is my understanding. John, is that correct?

Chairman McKee: Mr. Stroud, will you please state your name and address?

John Stroud: John Stroud, City of Henderson.

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

John Stroud: Absolutely.

Chairman McKee: Please proceed.

John Stroud: I think what Alan is getting at is IBT is a three (3) story building along with the church property, the sanctuary, if they tear that down could they market that as an office building? But an office building, let's say, are you talking about having twenty-two (22) different tenants or is it all going to be under The Kunkel Group and they lease out spaces? So you're talking about...

Alan Taylor: I refer you to the Citi Center building down here on Second Street or the building that Hilliard Lyons offices in where we have multiple floors and multiple business that are totally unrelated. Are we limiting, by this language, somebody developing economically that property...?

John Stroud: I don't think so Alan. I think what we are looking at here are things like a gas station and a Wendy's. I think what you're talking about it would be common ownership of the building, you're going to own the building but you're going to lease out a spot to this person, this person, this person. I don't think that's apples to apples I think that's a different...

Alan Taylor: It was just a question.

John Stroud: It's a good question, it's a very good question but what we're trying to do as you know is work it out to where we could have two (2) uses that the same person doesn't own. Like Alan and I could both be in a building and he could have Personal Safety and I could have a dance factory. As long as they were comparable uses in the zones, so that's what this is for. It's also for places that exist today like Chuckles up here that is a gas station and it is a Wendy's. Actually if you could do three (3) you could put a Jack in the Box on the other side or something like that. So that is what this is going towards, not restricting someone that owns the Citi Center Mall from leasing property inside their building because they are a unit.

Alan Taylor: Leasing to these businesses that are permitted?

John Stroud: Yes.

Alan Taylor: Ok, it was just a question.

John Stroud: Does that make sense to everyone?

Herb Pritchett: That's not what the ordinance is saying, admitting I'm not an attorney but that's not what the ordinance is saying. I don't know the ownership of the Chuckles and the Wendy's up here but I would lay you odds one person owns it...

Kevin Herron: Right.

Herb Pritchett: And somebody else rents. There may be two (2) renters so...

John Stroud: Those are decisions that are made at the attorney's levels in conjunction with zoning administration but Chuckles is owned by the same person and they lease two (2) separate things out.

Herb Pritchett: Right, right. I am concerned that if we make this a conditional use, I mean Judge Ershig has some merit to his argument if we make this a conditional use and somebody comes and says I want three (3) uses in this building and you say well you can't have them and they say well you're doing it at the Citi Center building and you're doing it at all these other places and then we have an inconsistency of enforcement that...

John Stroud: But that's non-conforming, that's continuation of non-conforming. Like Judge Ershig, Harvey has ten (10) people staying in a building, rented out ten (10) different spaces, ten (10) different offices. We cannot, right now, we being the City cannot go in there and say you can't do that as long as he continues to do it, it's a non-conformity which exists. It's like having anything else that's non-conforming that exists today...

Herb Pritchett: Until it stays vacant for so many...

John Stroud: Until it stays for over a year. Then you go back to follow the regulations that exists today.

Herb Pritchett: Right.

John Stroud: That's what we looked at with all of these things and that's the reason we came up with three (3). We tried to look at areas that would be comparable in what we're doing. We know there are some places that may have four (4) or five (5) but a lot of those, let's say Harvey was talking about a Sears that's going to be divided up, most of those are in shopping centers anyway, they're already allowed to do that. East Gate, there a lot of different business in there. A large church took over part of a retail area; it's allowed to go in there its part of a shopping center. This is taking care of the buildings that exist today that someone, they might not be able to rent the whole building but they could rent two (2) offices to a small construction company and the rest of it to something else

that's comparable to that. That is what this ordinance does; right now it doesn't exist in our ordinance so it can't happen period.

Harvey Ershig: There is a building in town right now that they are operating a bank and there is some discussion about the use of some of their property. Its property that they don't need but it's in the home office. Now, do they have to get a conditional use permit to do that?

John Stroud: It would be on a case by case basis Harvey. We would have to look at it. Are they wanting to put a retail store in the bottom or are they wanting to keep the bank in the top or do they want to do law offices?

Harvey Ershig: They want to put an office there.

John Stroud: We would have to look at it. It's possible they would, it's possible I don't know.

Herb Pritchett: I guess where I'm coming from is one of the first meetings I attended as a Planning Commissioner we got feedback that we were not business friendly in Henderson. Now then, Judge Ershig has brought up a good point and I understand that you don't want and I serve on the County Board of Zoning Adjustments so I'm familiar with those statutory hoops that we have to jump through and I'm just concerned is this an unnecessary burden to allow permitted uses to go in a district where they would already be permitted, that's where I'm coming from.

David Williams: Herb, just a matter of words, to call these things hoops to jump through, it's not that these things are being place to obstruct, what they are trying to do is make conducive uses and to make good neighbors and ensure we have good neighbors and good relationships among them. But I am kind of curious John, when I first came to Henderson our office was over Mac's Department Store and then over the music store, that was a non-conforming use right?

John Stroud: Back then it wasn't, back then it was a conforming use. There was a caveat in the zoning ordinance that basically allowed the zoning administrator to allow more than one (1) use in there. When the zoning ordinance was re-written, it disappeared it was tightened too much.

David Williams: So all of these loft apartments that are going in now under the current zoning ordinance, are those...

John Stroud: Any new ones will fall under this ordinance.

David Williams: Yes but if they have been built in the last, how long has this particular ordinance been in effect, the non-multiple use.

Chairman McKee: Remember when we had hearings on the CBD issue and it got approved.

Brian Bishop: Is it 2014?

John Stroud: Yes, 2014 or 2015 something like that.

David Williams: The Central Business District?

John Stroud: Yes.

David Williams: Ok so it's a moot point at this point.

John Stroud: It's a relatively new thing that we discovered inadvertently while looking at the Gateway District actually.

David Williams: I would propose to you Herb that these are, the word I was looking for are checks in the system and Harvey may not like them, in fact I guess most business people do not like being obstructed in any way whether it's for a good purpose or not, it's just they do what they want to do. I can conceive of somebody having a fresh food meat market maybe and next door the owner of a building allows someone to put in a dog kennel service. That would be ... if I was a meat operator I would be a little bit worried about that. So, I'm on the fence here Harvey, I'm trying to be persuaded one way or the other as to whether we do this or not with...

Harvey Ershig: I think a dog kennel has to have certain qualifications...

David Williams: Ok, what about a pet store?

Harvey Ershig: A dog kennel can't go in next door to a food store.

John Stroud: I think what we are here for today and Tommy Jo said it so much better than I did, we're here today to try to put something back in that was taken out. Now, yes it is going to have to go through the Board of Zoning Adjustments and that is because we added a third item to it, you know you can have three (3) businesses. So right now what we're trying to do is what the City has asked us to do is put this back in the zoning ordinance and this is how we have come up with doing that. I'm like you, no one likes regulations, and I don't like them I just have to enforce them. We all have these things we have to go by but I think it is and maybe it would have brought them away from the Central Business District because it's such a unique district and go out there on the highway or something to a little place that's not a shopping center but there's a building out there that you only have two (2) uses in, right now you can't do it. Right now you can have one and without going through the shopping center regulations we would like to allow you to do more than one. A prime example Barret Boulevard and US Hwy 60, there is actually on the corner I don't know if it's a movie rental place, a vacant store and then like a Verizon store.

Penny Hahn: A Game Stop, it used to be Blockbuster.

John Stroud: Then on the far side of that where actually, I don't know if it's still a Hostess place still, that's actually been divided and that's a separate lot. So, right now there exists two (2) businesses in this building and they've got a big gap in between and they would love to rent that out. Now, they could go through the shopping center process and as long as they have rear doors and access around it and the correct number of parking places they can come to the Planning Commission or the Board of Zoning Adjustments, go through the subdivision process and probably get that done. This way, with a lot of engineer drawings, this way they go to the Board of Zoning Adjustments and say you know we'd really like to have three (3) uses in that building and not have to jump through all the hoops of having rear doors and this and that and then if the Board of Zoning Adjustments will allow it they can.

Chairman McKee: May I ask a point of clarity?

John Stroud: Yes sir.

Chairman McKee: I want to go back to Mr. Taylor's example of the Immanuel Baptist Church building on Second Street. Did I understand you to say that separate ownership is a factor of the spaces or one owner and leasing spaces out?

John Stroud: I think on that one we would have to look at it that way, like the City Center Mall. I don't know if it's going to happen that way but there are three (3) floors there and if they remodel it and let's say you bought it and you wanted to rent out offices in it, are those separate offices? No, you actually own them all you're leasing them the space. Are they businesses or it's a hard concept, I know...

David Williams: I don't see the difference between if Harvey owns this building and he's got three (3) doors to it to the street, why he can't lease those three (3) doors out to three (3) separate business people.

John Stroud: Are you talking about if there's, if it's one (1) building?

David Williams: Yes. Three (3) separate entrances and...

John Stroud: That's just a zoning thing, that's...

David Williams: What I'm saying is if Harvey owns the building, ok he opens it up and he can put three (3) offices in there right? A dentist office, a doctor's office and a lawyer's office, right? Those are all related. How's that different from the Baptist church building being leased out to three (3) different...an engineering group, a geologist group and a land development agency?

John Stroud: I think that's something that would come to the Planning Commission and probably be approved at that time.

Herb Pritchett: Mr. Chairman, I applaud that we're trying to simplify and not having to go through the shopping center deal. Where I have a problem is the word businesses in this proposed ordinance because the term of (inaudible) use is a planning term, office is a use. So, if you have an office building filled with offices you can argue that is one use under the planning definition of use but they've added the word, in parenthesis businesses in this ordinance so each office is a different business. So, I would recommend that at a minimum if we pass this we suggest or whatever we need to do legally to delete the word that's in parenthesis

businesses because I think it's confusing and adds to a potential problem rather than solving a problem.

Gary Gibson: Well I would like to ask John one question. This is what the City Commission wants us to pass, change? So they can make it easier for the City to do business with other people and this is what the City recommends us to look at and it will help them out.

Buzzy Newman: Buzzy Newman, 2110 Locust.

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

Buzzy Newman: I do.

Chairman McKee: Please proceed.

Buzzy Newman: Gary, Mr. Gibson, you are correct that the City Board of Commissioners directed this question to the Planning Commission to get you all to review it and make a recommendation back to the Board of Commissioners. One thing I do want to clearly point out to you all is that we had a business owner come to us who had a building in the Gateway Zone and under the current ordinance he could only have one business in that building. So he came and asked a simple question, why can I not have two (2)? So we spoke with that person, we went through it and we didn't see a problem with it and Brian said it used to be that way and inadvertently it got omitted when we redid the regulations. The question, I think that is before you tonight is getting a conditional use and I would want to say in a situation such as the question that I just mentioned earlier is that as an adjoining property owner if I had a building next door to me that currently housed one business and they wanted to put up to three (3) businesses in that one building, I think that as an adjoining property owner that adjoining property owner should have the right to voice his opinion as to whether that should be allowed or not. Thus, that is the reason for the conditional use to be granted to allow property owners their voice.

Chairman McKee: Thank you Mr. Newman. Any questions for Mr. Stroud?

Penny Hahn: I have a question. What if one of the businesses changes, like you have a conditional use and then one of them changes, do they have to come back and do another conditional use.

John Stroud: It depends on how it's worded by the Board of Zoning Adjustment. The Board of Zoning Adjustment can word things to where they can make anything come back. If you get a conditional use, if you move your conditional use is gone, if they don't say that then that conditional use travels with the property. So, the attorneys are going to have to work on the wording on things happening there.

Penny Hahn: Like in the gas station example there where you have the two (2) restaurants...

John Stroud: Like if Wendy's closes and Hardees went in there? I think the Board of Zoning Adjustment could word that to say if it's a similar type use restaurant, etc.; that would be all in the motion that was made through the Board of Zoning Adjustments and the attorneys would be heavily involved in it. That's a good question.

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

Rodney Thomas: How much red tape are we talking about?

John Stroud: It's one (1) meeting. You have to advertise three (3) weeks before the meeting and then you come to one (1) meeting. So it's, depending on your process it's a month maybe.

David Dixon: What is your recourse if they Board of Zoning Adjustment doesn't allow you're...?

John Stroud: Circuit Court, it's like anything that comes here if they are not allowed it will go to Circuit. Is that right Mr. Attorney, sorry I didn't mean to jump in there.

Chairman McKee: Any other questions for Mr. Stroud?

Penny Hahn: I have one (1) more. Is there a significate, what is the cost?

John Stroud: I think its fifty-six dollars (\$56). There is a forty dollar (\$40) because we have to advertise, we have to notify all of the adjoining property owners by certified mail and then there is a sixteen dollar (\$16) fee recording fee to the courthouse for the conditional use. It's a pretty good bargain really. Because most of the time you have a piece of property with six (6) or seven (7) property owners you're talking six (6) or seven (7) times, is it \$7.50 now certified mail Theresa?

Penny Hahn: I was just curious to see how cost prohibitive it was.

John Stroud: It's like fifty-six dollars (\$56) at this point in time.

Penny Hahn: Ok, thank you.

Chairman McKee: Any other questions for Mr. Stroud? Thank you sir, will you be available for more questions later? Would anyone else like to speak for or against this proposal? Please state your name and address.

Mike Richardson: Mike Richardson, 312 Ragan Ave.

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

Mike Richardson: I do sir.

Chairman McKee: Thank you please proceed.

Mike Richardson: I'm against the conditional use permit also. I think it's just another piece of legislation, expense and more time is taken to get a business started. I have a building with six (6) spaces in it and I feel that if I want to rent it out, people come to me and want to rent say a massage parlor, parts store, five (5) and ten (10) cent store, barber shop, none of those are related. But, if they want to be in that building and they want to make a business and work here in this city I think they should be able to without having to go through a conditional use permit. They are not related but yet they want to be here so that's just my feeling and I think that's just another piece of legislation. Something to make it harder for the small person to keep going or get going.

Chairman McKee: Questions for Mr. Richardson?

David Williams: Mike if you are a neighbor to your business, are we talking about the one down here off of Green Street, South Green Street?

Mike Richardson: South Green.

David Williams: Yes, the one with the Christmas Story lamp?

Mike Richardson: Yes, that's one building; the one I'm talking about is on Green Street.

David Williams: Your neighbors there, if you were to want to rent to a business that was going to have objectionable, a barbecue place or a place that's going to have a high level of noise associated with it, do you not think the neighbors should be allowed to have some say as to what you do there since it's going to impact them?

Mike Richardson: I don't think I would rent to somebody like that. Number one (1), you said a barbecue place right?

David Williams: Yes.

Mike Richardson: I can't rent to a restaurant because I don't have fire walls so that's out and somebody that has noise in it, a lot of loud music, I probably wouldn't rent to them anyway. I've already turned a few people down because of what they have, knowing that the ordinances and the zoning won't let them in anyway. There are certain things that you can't put in a building anyway.

David Williams: What if I'm a business owner, I'm the building ok? I don't care what goes in there as long as I rent the building, as long as I'm getting a check I don't care. Do you then think the neighbors should at least have a say, they may not be able to block it but have a say in what goes into that building.

Mike Richardson: The neighbors are going to have a say anyway because they're going to be asked, aren't they?

David Williams: No. Not in the case that you propose.

Mike Richardson: You've got to get a business license and if the City doesn't want it in there they aren't going to let them in there to begin with. This permit is just another...

David Williams: But if this is a permitted use, no matter what it is, it's a permitted use in the zone and it may be the zoning would take care of the questions I'm proposing. The question I'm proposing to you Mike is should your neighbors be able to have a say in what you put in that building as it may impact their lives?

Mike Richardson: I don't think anybody is going to put anything in a good neighborhood something that the neighbors don't want. A responsible landlord is going to put in something that the neighbors won't dislike.

David Williams: But is every landlord responsible? Can you guarantee that?

Mike Richardson: No, I can't guarantee that, not everyone is. We have slum landlords here, every city has. But if you have somebody that's got multiple spaces, multiple buildings and they are running it properly they are going to have to run it properly to make a go of it and they aren't going to have something that's not going to work and not be able to make a profit.

Gary Gibson: I really believe what we're doing tonight is trying to make it easier on the people that have a business with two (2) or three (3) places in it where they could open it up whereas now they can't. We are trying to make it easier for them to operate, that's the main thing, to get businesses here in town.

Mike Richardson: My understanding of this ordinance is that if I want a barbershop here and I want to put a five (5) and ten (10) cent store if somebody wants to put one on the other side of the building they're not related so you can't put them in there. Is that not correct?

Rodney Thomas: No.

Gary Gibson: You have to have some kind of guideline; we have guidelines on our zoning, page after page. We are trying to make it easier for people in town to develop their land and property.

Rodney Thomas: Aren't you allowed just one (1) right now? You're only allowed one (1) business in a building right now, this will allow up to three (3).

John Stroud: In Mike's situation he has several businesses already there, it wouldn't effect at all in that area. Now, don't you have a building around the corner on Ragan Ave that's always had one business in it? That building under

this ordinance, right now you can have one business in it, by doing this ordinance with a conditional use it would be possible you could have two (2) or three (3) in it. This isn't going to affect Mexican Village at all, so tenants can move in and out of that one with no problem they can continue to do what you're doing there. Now, this is going to allow you on that building on the backside that has one (1) tenant to put multiple tenants in it is what it would allow you to do with a conditional use.

Mike Richardson: Here we go again with the conditional use permit.

John Stroud: Right, right.

Mike Richardson: Will the people in one of the six (6) places, will they still have to get a conditional use permit?

John Stroud: No, they're existing and they are there. Like if there's a barber shop down there and a beauty shop and a tattoo place and a frame shop, they're all existing they're all going to be there. The frame shop moves out and Kevin moves his real estate office in down there, that's going to happen, in and out in and out. That's not going to change at all, all of that is going to be the same. What this is allowing is in buildings, like this that exist today with one business in it, it's going to allow you to possibly put three (3). It's not going to affect what you've got at the Mexican Village there at all. So, when those guys move out you don't have to get a conditional use permit to move somebody in.

Mike Richardson: Ok.

John Stroud: It's not going to affect that at all. I think probably under our ordinance you guys are a shopping center anyway. Though I think it was an older shopping center but I think you guys were put in as a shopping center. I hope that answers your question.

Mike Richardson: Thank you.

David Williams: John while you're up here, the question is as far as restrictions are not allowing a bad landlord to take advantage of a building or a building situation is what Mike is saying correct? The current zoning and business licenses would restrict that kind of...

John Stroud: Business license and Buzzy, Donna help me. Business license is a tax. That's correct? It's actually not a license to do business in Henderson, it's a tax somewhat.

Buzzy Newman: A business license is a license to do business within our community. There is a fee associated with that license.

Herb Pritchett: But as long as it's a legal business you can't preclude them from having that license, correct?

John Stroud: That's correct. Now what business license does, most of the time is, someone will come in to get a license to do something and they'll say have you talked to the zoning people because there's a form you fill out that's an existing building verification form. Because there for a while they were selling licenses and we would come back and say you can't sell fireworks there, it doesn't meet the zoning ordinance. So, they've started requiring them to come see us and they fill out their existing building verification form. We were being the bad guys having to come back in, second hand and tell them you can operate what you're doing but you can't do it there.

Buzzy Newman: You bring up a very good point about fireworks. It's a very specific, seasonal business but you bring up a good point whereas if you came in and you wanted to do it for two (2) months prior to July 4, there are restrictions by State Statute and also by local ordinance as to what regulates fireworks operations. So, here again as you all discuss this issue I think it goes back to the conditional use question and know that our board of zoning which is a different body but which is also, we had the city attorney oversee that board that at least they have the ability to place conditions on a business that proposes to go in a location. Where they make their basis from is if the public or an adjoining property owner has an objection then that board gives those adjoining property owners the right to voice their opinion and take that into consideration in making their decisions.

John Stroud: Things that the Board of Zoning Adjustment, I don't know if you deal with it in the county as much but the things they can require are screening and things like that but they can also require additional parking and things like that. If you've got a building that has "x" amount of parking spaces it might have been fine for the business that was there and all of a sudden you put a restaurant in a

third of it, you have to have more parking. So, the Board of Zoning Adjustment will be able to say we're going to let you do this but you have to add eight (8) parking places. That's a conditional that they have placed on you to make it fit where it is better. I don't know if that helped you.

Chairman McKee: Would you excuse me for a moment, we're going to call a five (5) minute recess.

5 MINUTE RECESS

Chairman McKee: Mr. Stroud have you concluded your comments or do you have more you would like to make?

John Stroud: Yes sir.

Chairman McKee: Are there any other questions that you would like, Judge please come to the podium you're still under oath.

Harvey Ershig: The thing about this conditional thing and it's a good concept, I mean it's really good that the city is addressing this but who it punishes is the small guy who wants to get in a place and do a little business. He's got the availability of going through the application, that's going to cost fifty something dollars and that's not a big deal. But then he says I really want to do this, well you better get a lawyer. Now he's talking about seventy-five (\$75) or a hundred dollars (\$100) per hour maybe and he says I really don't feel like I have the emotional stability to get up there before a bunch of people and tell them what I'm going to do. I'm going to operate a little two for a nickel swap shop in here along with somebody that has a motorbike place and another guy is going to sell some flowers and none of that is related but now I have to get a conditional use permit and like Herb said, all of these three (3) people can go along with your thing about the, you know, the neighbors. Well they don't have any right to come in there anyway if they want them to have an independent business, they don't have a right. I'll tell you what happened to me about thirty (30) years ago I bought a property out on First Street and in one (1) building they had a chicken hatchery and I'm serious they hatched chickens in the back of the building. The next building was a restaurant, now those two, you know I eliminated that pretty quick but the chicken hatchery today wouldn't even be permitted under the local zoning I don't think

would it Tommy Jo? In the downtown business district? Anyway what I'm saying is that it is an economic situation where the small guy is, you know, Walmart's not going to come in here and take advantage of this, it's the local yokels that want to come in and want to do something and make a little money.

Chairman McKee: Thank you Judge. Is there anyone else that would like to speak for or against?

David Dixon: I've got just one more question. The text in the amendment says that these uses shall be of the same general character or accessory to one another. Do we consider all the listed permitted and conditional uses for each zone to be of the same general character?

Brian Bishop: That is really an interpretation of the Codes Department. The Planning Commission does not interpret the zoning ordinance in that fashion that would fall on the Codes Department.

Dickie Johnson: Can you answer that John?

Chairman McKee: Mr. Stroud you're still under oath.

John Stroud: David the way I think I understand your question; most all of the uses are comparable. Now, with that being said the way our zoning ordinance works, this is Zoning 101, Highway Commercial sits here it has a specific thing listed here, General Business sits here and anything in General Business is also allowed in Highway Commercial. Highway Commercial has a big long list of things, anything allowed in Residential Office is also allowed....so there's like two hundred (200) things that are allowed so a quick answer to your question is there may be some that aren't comparable to each other.

David Dixon: But comparable is not the term that's used here, it says they shall be of the same general character or accessory and I'm just talking about the general character phrase.

John Stroud: There could be some that in all of those two hundred (200) uses that aren't, that won't fit that category.

David Dixon: That would be a decision of the zoning board then?

John Stroud: Yes. Like one of them allows body shops and garages, things like that and a daycare, those two may not fit well together and the Board of Zoning Adjustment will make that determination.

David Williams: I think between you and Brian and staff here my concern is about someone coming in with an obscene use of a property with an owner that does not care, they are going to be subject to conditional uses anyway, either permitted or conditional uses. So they won't be able to go into that building unless they meet the permitted use or conditional use?

John Stroud: Right.

David Williams: If it's a conditional use I have go before you correct?

John Stroud: If they are a conditional use they have to go in front of the Board of Zoning Adjustments.

David Williams: As our ordinance stands right now.

John Stroud: What this is allowing is more than one (1) use in that building. Obviously you may not think a convenient store and a restaurant are similar but they are accessory to each other.

David Williams: I guess what I'm getting to at this time is that to add the zoning board decision in this particular ordinance is actually extraordinary because we've already got it covered in our regular zoning ordinance.

John Stroud: On some of it I would say you're probably right, yes. If it's a conditional use is has to go in front of the Board of Zoning Adjustment but what this is allowing is the three (3) uses.

David Williams: Ok so we can allow up to three (3) uses and just let the regular zoning ordinance take care of what goes in there?

John Stroud: Yes.

Kevin Richard: So David, I struggle with the verbiage of the last sentence too if there is a need for that specific call out of that last sentence if those other things are check and balancing them anyway.

Penny Hahn: I have a question. You said in the original ordinance it was allowed but it wasn't the conditional uses, is that correct?

John Stroud: The original ordinance, it had a hole in it or whatever you want to say that you could have usually two (2) uses in a building anything above two (2) was a shopping center. So we always interpreted that, zoning people get to interpret the zoning ordinance because you can't spell out everything exact. It can't be in black and white, it's grey. So there has to be some sort of interpretation by your zoning administrator in conjunction with the City Attorney or the Planning Attorney or there is always the attorney involved there for us but you could have two (2) because that hole existed. The ordinance, when it was changed in 2014 early 2015 that verbiage was wiped out, it was gone from the book. The thing that happened in the Gateway District that Buzzy was talking about, we probably could have looked at that and said yes these two uses are similar under the old ordinance we can allow that, under the new ordinance we're going down through it and there is nothing there, it says one (1) use only and that's it. What this is doing is this trying to be more business friendly to our community, allow them to do it but still retain some control over it.

David Williams: In your opinion was the old ordinance as written previously, was it working fine?

John Stroud: It was, sometimes and I want to use this word very broadly, I always liked the boards to determine a lot of things because a person can make a decision, one (1) person can make a decision that several people should, you get more input with several and I'm not alluding to being arbitrarily capricious but it could happen. So I think it's always good to have more minds thinking of these things so it's fair across the board for everybody.

David Williams: Yes but to return to my original point, the Board of Zoning Adjustments would still get to make these decisions if we just said ok, we're going to allow up to three (3) uses in a building?

Tommy Jo Fridy: I don't think so; make sure you understand his question.

John Stroud: Is your question to be if we allow conditional use to have up to three (3) uses?

Kevin Richard: I think his question is if we moved it up to the permitted uses column, what does that do to the checks and balances? That was your question, right David?

David Williams: Yes. Let me make sure I make myself clear. What I'm saying is under our current zoning ordinances we have permitted uses and we have conditional uses and nothing will go into any of these three (3) slots that does not meet either the permitted uses or by going through the Board of Zoning Adjustments meets the conditional uses?

John Stroud: That's what this ordinance does now.

David Williams: Does that sound right to you?

Tommy Jo Fridy: Are you saying if you take out the wording in the proposed amendment so that you could put three (3) uses in the same building without getting a conditional use permit, is that your question?

David Williams: No, I would say...I'm wanting to take out the necessity of sending everything to the Board of Zoning. I guess what I would change; if I had to change the ordinance I would say allow the three (3) uses that meet correct zoning ordinance.

John Stroud: I think, to answer your question quickly like we talked about with David, the reason that you really want the boards involved is because Highway Commercial sits on top of General Business...so there is a hundred different uses that would be permitted in Highway Commercial, they might not be compatible they might not work for the neighborhood because we have a lot of Highway Commercial and we have a lot of General Business that are around neighborhoods and things like that. So, that's why we wanted the Board of Zoning Adjustment involved to make those determinations.

Kevin Richard: That was my question for clarity if the word conditional is gone, does that take the Board of Zoning Adjustment out of the equation?

John Stroud: Yes.

Kevin Richard: Ok, that's what I wanted to clarify.

John Stroud: If you take that out it's carte blanche and you can do whatever you want to and have up to three (3) businesses.

Herb Pritchett: As long as they're permitted in that zone?

John Stroud: There again you could have a donut shop next to a car repair or something because Highway Commercial sits on top of all of these other ones.

David Dixon: I guess my question is it bad to have a donut shop next to a car repair?

John Stroud: Well I was just using that...

David Dixon: A lot of the examples we've given don't seem to be...

Rodney Thomas: But you could say I want to open up a third shift bar next to a daycare, which I could do.

David Dixon: Would that fall under a conditional use anyway?

John Stroud: No not if you allow everything to go in unconditionally.

David Dixon: What if all permitted uses?

John Stroud: He could have a bar and a, if you, let's say in Highway Commercial, what Rodney is probably talking about a bar and daycare they could be in the same building, yes.

Herb Pritchett: I have a problem with, we in the business call it tenant mix when you have a multi-tenant retail center we call it tenant mix and I've got a problem with us dictating to a landlord what his or her tenant mix should be.

John Stroud: That's what we constantly do in the zoning, that's zoning.

Herb Pritchett: Well now you do uses, you don't talk about the mix of those uses. Don Ershig doesn't need your approval for an individual tenant going into one of his shopping centers, he's in a shopping center so tenant as long as the uses comply with the zoning ordinance, you've got nothing to do with his tenant mix.

John Stroud: They do have to get the existing building verification form.

Herb Pritchett: Right.

John Stroud: To be sure the uses are comparable to the zoning.

Herb Pritchett: Right, but you don't say to a Don Ershig or someone, Don you shouldn't put a donut shop next to a daycare center it's just not working, that's a tenant mix issue. I'm in favor of what we're trying to do; I mean I'm in favor of the concept because we're making things easier. I've got problems with the language and when it comes up for adoption I'm going to ask what language are we voting on? The language on this single sheet or the language in this potential ordinance here but as a real estate practitioner and one who is concerned about property rights there is a tension between property rights held by individuals and the right of the community to have some say and I understand that tension and we're just trying to figure out where along that scale we need to be in my way of thinking.

Chairman McKee: Is there anyone who does not fully understand this proposed language that is on here, do you need clarity on what it's actually saying, does anyone need clarity? Would anyone like to speak about it, Herb would you like to continue I didn't mean to interrupt you? Anybody else like to speak about it, express their opinion?

Herb Pritchett: What are we going to be voting on? Are we going to be voting on the language here that is in our packet or the language on this single sheet? I mean ultimately what will we be recommending?

Chairman McKee: If I may I'll ask Mr. Fridy if he'll comment on that.

Tommy Jo Fridy: You have basically three (3) choices. You can recommend you can make a motion to recommend the proposed language to the City Commission.

Dickie Johnson: That's what is in the packet.

Tommy Jo Fridy: That's what is in the packet. You can make a motion that the City Commission use different language or you could, as a group, pass a motion recommending that the City Commission not allow multiple uses in one (1) building. So, they have sent it here for you to have a public hearing and for you to make, you being the Planning Commission not you Herb Pritchett, for the Planning Commission to make a recommendation back and it's not....you're not limited to that proposed motion, that proposed motion is a guideline. If you were to make a

motion and it passed, if you were to make a motion that you change the wording then I happen to have another piece of paper that I've used other times that you put some different language in there but you still need that same structure. If you make a motion and get a second and it passes, you could make a motion that you recommend to the City Commission that they not do this at all that you stay with one (1) use in a building. Have I talked to much or have I not talked enough?

Herb Pritchett: Just right.

Chairman McKee: Anybody else need clarity?

Tommy Jo Fridy: We'll have to lower these screens I have trouble seeing over... I didn't know I could do that, excuse me, thank you.

Dickie Johnson: But we can, we don't have to vote either up or down we can make a recommendation for the City to change a particular sentence in a paragraph or several paragraphs...

Tommy Jo Fridy: Or you can make a motion with a concept and ask it to go back to staff and give you proposed language. So, all of that is part of you making a recommendation and it's not set in stone what you're recommendation can basically be anything that you want it to be.

Dickie Johnson: So like David and I don't disagree, in almost every one of these proposed changes the last sentence just doesn't fit when you say uses shall be the same general character or accessory to one another. As long as they are permitted uses and are comparable and the Board of Zoning Adjustments agree to allow it then I don't have a problem with it. Because say two (2) different uses may not be exactly the same the way the language is in here, uses shall be the same general character. As long as this is a permitted use I don't have a problem with it.

Rodney Thomas: I agree with that.

Chairman McKee: Did I understand you to say Commissioner that if they are among the permitted uses in the zoning ordinance and the Board of Zoning Adjustments approves it as a conditional use?

Dickie Johnson: Yes.

Chairman McKee: Ok, so the last sentence is unnecessary as long as it meets those other two (2) criteria.

Dickie Johnson: That is my opinion.

Chairman McKee: That is what you just said?

Dickie Johnson: Yes.

Rodney Thomas: I'll agree with that.

Chairman McKee: Mr. Taylor would you like to address the commission? Let me remind you you're still under oath, please continue.

Alan Taylor: If you're writing language yes I would like to address one sentence there. It's really hard to look out in the future when you are creating a law basically it's going to affect people, what could possibly happen? I'm going to be the devil's advocate here and just throw this scenario out with the current wording that's in front of me. Where it says but no more than three (3). Let's say I had Herb McKee's money and I walk down there and just pull it out of my wallet and paid IBT for the property and because I'm such a good guy being Herb McKee, I'm going to donate the use of that building for an incubator, business incubator. Then I would have to go and there might be twelve (120 there might be twenty (20) businesses incubating in that three-story, several thousand feet facility. Each one of them would have to go get a permit to do their business and this ordinance would shut that down because it says only three (3). My question simply is this; why do you even have but no more than three (3) in the language? What's wrong with four (4)? Who decided three (3)? Did God intervene here or who came up with three (3)? What about four (4), what about five (5), what about six (6)? Why any number as long as they are permitted business that won't create a safety, parking, traffic hazard? That's my question.

Chairman McKee: Just out of clarity, there is another group that sits around this table that sent that language to us. We are here to review and do one of those three (3) things.

Alan Taylor: I understand I know the process.

Chairman McKee: Thank you sir, any questions for Mr. Taylor before he sits down? Thank you Mr. Taylor.

Claudia Wayne: Buzzy said the City is good with taking that last sentence out because it's leaving it up to the Board of Zoning Adjustment to make those calls.

Chairman McKee: Did everybody hear that? The City is good with taking out that last sentence. Any other comments, Mr. Newman would you still like to address us? You're still under oath.

Buzzy Newman: I clearly understand your dilemma, the Board of Zoning as I said earlier can place conditions on any request based upon the facts that are presented. We understand that maybe trying to look at what's in general, the same characteristics. At least the person petitioning that board has a group of peers that will make that decision and it's won't be a decision based upon one (1) individual as to what is general in character. Do you all agree? John, are you ok.

John Stroud: Yes.

Chairman McKee: Any questions for Mr. Newman on that or any other point? Thank you sir.

Buzzy Newman: Thank you all.

Chairman McKee: Is there anyone else that would like to speak? Are there additional questions of staff or anyone who has testified?

David Dixon: So the Board of Zoning Adjustment can still perform its function and place conditions, right? Even by striking this, we're just eliminating the kind of nebulous terminology?

Claudia Wayne: Yes.

Chairman McKee: I think it's appropriate to thank everybody who gave their views and their testimony this evening, it's very helpful to the Board of Commissioners as they approach this decision. Thank you very much. If there are no other comments or questions, take a deep breath and the Chair will entertain a motion.

David Williams: Mr. Fridy I have a question as to how this would be presented. We have before us a recommended motion I believe...

Tommy Jo Fridy: Should you choose to make a motion to recommend it with the change being to delete the last sentence in each of the zoning categories, that's what I'm trying to pencil in. I'm not trying to structure a motion; I'm not trying to take sides.

David Williams: The clarification is appreciated.

MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY GARY GIBSON TO THE HENDERSON CITY BOARD OF COMMISSIONERS (THE "CITY") ORIGINATING A PROPOSAL TO AMEND THE TEXT OF THE CITY ZONING ORDINANCE TO PERMIT THE CITY BOARD OF ZONING ADJUSTMENTS TO GRANT A CONDITIONAL USE PERMIT FOR UP TO THREE (3) USES IN THE SAME STRUCTURE, AND THE CITY REFERRED THE PROPOSED TEXT AMENDMENTS TO THE PLANNING COMMISSION. THE PLANNING COMMISSION HELD A PUBLIC HEARING ON THE PROPOSED TEXT AMENDMENTS, AFTER NOTICE; AND, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE CITY APPROVE ALL SUCH TEXT AMENDMENTS FOR THE FOLLOWING REASONS AND WILL LEAVE THE MOTION OPEN FOR OTHER MEMBERS OF THE PLANNING COMMISSION TO ADD REASONS IN SUPPORT OF THIS MOTION:

THE PROPOSED AMENDMENT; 1) WILL ALLOW MORE EFFICIENT USE OF EXISTING INFRASTRUCTURE, 2) WILL ALLOW MORE EFFICIENT USE OF BOTH EXISTING AND NEW STRUCTURES, 3) WILL ALLOW MORE DENSITY, 4) WILL CREATE A MORE BUSINESS FRIENDLY CLIMATE BY ALLOWING A BUSINESS TO CONDUCT MORE THAN ONE COMPATIBLE BUSINESS/USES OR BUSINESS/USES OF THE SAME GENERAL CHARACTER IN THE SAME STRUCTURE, 5) WILL ALLOW THE PUBLIC TO ALLOW INPUT ON A CASE BY CASE BASIS, THROUGH THE REQUIRED BOARD OF ZONING ADJUSTMENTS CONDITIONAL USE PROCESS.

I RECOMMEND THIS CHANGE; THAT WE DELETE THE LAST SENTENCE IN THE PROPOSED CHANGES; ~~{USES SHALL BE OF THE SAME GENERAL CHARACTER OR ACCESSORY TO ONE ANOTHER.}~~

Chairman McKee: Before we go further to a second, is that motion clear to everyone on the commission, are there any questions? Let's get a second then. We have a motion and a second. You said you will entertain additional supporting statements to go with the motion?

David Williams: I have.

Chairman McKee: Would anyone like to add supporting statements to that motion?

Herb Pritchett: The motion does not go as far as some would like but I think it is a change for the better and I think it makes development easier now than it would have been but for the passage of this and I therefore think it is a good motion and is worthy of our support and affirmative consideration.

Chairman McKee: Any other discussion, any other discussion? Hearing none, Madame Clerk will you please call the roll?

ALL IN FAVOR: AYE

OPPOSED: NONE

ORDINANCE NO. 16-16

ORDINANCE AMENDING ZONING ORDINANCE

SUMMARY: ORDINANCE AMENDING ARTICLE XVII, *R-O, RESIDENTIAL/OFFICE DISTRICT, SECTION 17-03. CONDITIONAL USES*, ARTICLE XVIII, *NB, NEIGHBORHOOD BUSINESS DISTRICT, SECTION 18.03. CONDITIONAL USES*, ARTICLE XIX. *GB, GENERAL BUSINESS DISTRICT, SECTION 19.03 CONDITIONAL USES*, ARTICLE XX. *CBD, CENTRAL BUSINESS DISTRICT, SECTION 20.03. CONDITIONAL USES*, ARTICLE XXI. *H-C, HIGHWAY COMMERCIAL DISTRICT, SECTION 21.03. CONDITIONAL USES*, ARTICLE XXXIII-*GATEWAY ZONE DISTRICT, SECTION 33.06. PERMITTED USES, (3. CONDITIONAL USES)*, ARTICLE XXXIV-*HENDERSON INNOVATIVE PLANNING DISTRICT, SECTION 34.02. PERMITTED USES (2. CONDITIONAL USES)*, OF APPENDIX A OF THE ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON

BE IT ORDAINED by the City of Henderson, Kentucky, that Article XVII *R-O, Residential/Office District, Section 17-03. Conditional Uses*, Article XVIII, *NB, Neighborhood Business District, Section 18.03. Conditional Uses*, Article XIX *GB, General Business District, Section 19.03 Conditional Uses*, Article XX *CBD, Central Business District, Section 20.03. Conditional Uses*, Article XXI. *H-C, Highway Commercial District, Section 21.03. Conditional Uses*, Article XXXIII-*Gateway Zone District, Section 33.06. Permitted uses, (3. Conditional Uses)*, Article XXXIV-*Henderson Innovative Planning District, Section 34.02. Permitted Uses, (2. Conditional Uses)*, of Appendix A of the Zoning Ordinance of the Code of Ordinances of the City of Henderson, is amended as recommended at a meeting of the Henderson City-County Planning Commission held on April 6, 2016. A copy of which is attached hereto and made a part hereof, marked Exhibit "A".

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

This ordinance shall become effective upon its legal adoption.

On first reading of the foregoing ordinance, it was moved by Commissioner Jesse Johnston, seconded by Commissioner X R. Royster, that the ordinance be adopted on its first reading.

On roll call the vote stood:

Commissioner Royster	<u>AYE</u>	Commissioner Hite	<u>ABSENT</u>
Commissioner Mills	<u>AYE</u>	Mayor Austin	<u>AYE</u>
Commissioner Johnston	<u>AYE</u>		

PUBLICATION DATE:

FIRST READ: 04/12/2016
SECOND READ:

ordered that it be presented for a second reading at a meeting of the Board of Commissioners.

On second reading of the ordinance, it was moved by Commissioner _____, seconded by Commissioner _____, that the ordinance be adopted.

WHEREUPON, the vote was called. On roll call the vote stood:

Commissioner Royster _____	Commissioner Hite _____
Commissioner Mills _____	Mayor Austin _____
Commissioner Johnston _____	

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date and ordered that it be recorded.

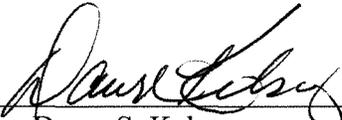
Steve Austin, Mayor

Date: _____

ATTEST:

Maree Collins, City Clerk

APPROVED AS TO FORM AND LEGALITY THIS 8 DAY OF APRIL, 2016.

By: 
Dawn S. Kelsey
City Attorney

ARTICLE XVII. R-O, RESIDENTIAL/OFFICE DISTRICT

Sec. 17.01. Statement of purpose.

The residential/office district is established to provide for professional offices, limited personal service businesses, and for community-oriented public and private facilities. The district should be used to buffer business districts from residential neighborhoods and also to provide for a greater distribution of offices, personal and professional services within residential areas where business districts would be undesirable. The district is designed to protect the abutting and surrounding areas by requiring that certain minimum yard and area standards comparable to those called for in the residential districts be met. Retail sales are prohibited except where related directly to office functions.

Sec. 17.02. Permitted uses.

In all R-O, residential/office districts, no buildings or land, except as otherwise provided in this ordinance shall be erected or used except for one or more of the following specified uses:

- (a) Single-family dwellings.
- (b) Multifamily dwellings up to four (4) units, townhouses and condominiums.
- (c) Religious houses.
- (d) Home occupations as defined in Article II.
- (e) Accessory uses.
- (f) Pharmacy, limited to the sale of pharmaceutical and medical supplies and incidentals which are limited to twenty-five (25) percent of the floor space.
- (g) Beauty shops and barbershops.
- (h) Employment agency.
- (i) Professional Offices and Services
- (j) Charitable offices.
- (k) Business associations.
- (l) Professional organizations.
- (m) Labor organizations.
- (n) Day care.
- (o) Art galleries.
- (p) Museums.
- (q) Residential care facilities.
- (r) Medical and Dental Offices

(Ord. No. 18-91, § 1, 5-14-91)

Sec. 17.03. Conditional uses.

- (a) Apartment.
- (b) Banks.
- (c) Funeral home.
- (d) Civic, social and fraternal associations.
- (e) Hospital.
- (f) Laboratory, medical and dental.
- (g) Nonprofit public or private facilities including, but not limited to schools, churches, libraries, parks, recreational facilities, institutions, governmental facilities.
- (h) Studio for professional work such as photography, drama, speech, dance, music.
- (i) Family child-care home, with the following limitations:
 - 1) There shall be a maximum of ten (10) children allowed in the home of which no more than [than] six (6) shall be unrelated to the care provider. No more than four (4) children under twelve (12) months of age nor more than six (6) children under six (6) years of age, including the provider's own or related children, shall be kept in the home.
 - 2) No person may be employed that is not a resident of the premises.
 - 3) Otherwise fully complies with the provisions of a home occupation as provided in section 2.01 of this code.

(j) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

(Ord. No. 06-03, 4-8-03)

Sec. 17.04. General regulations for all residential/office districts.

- (a) There shall be no outdoor storage of merchandise or material and no outdoor processing in any residential/office district.
- (b) All residential/office districts located on lots adjacent to a residential property shall provide a buffer or barrier within the required side or rear yard to block out the glare of lights, signs and other visual nuisances and to reduce noise and air pollutants.
- (c) All signs are subject to the following provisions:
 - (1) Signs are to be for use identification and may not be used for advertising.
 - (2) Signs shall not be illuminated.
 - (3) Signs are restricted to five (5) feet from any lot line.
 - (4) Signs shall not obstruct the view of traffic.
 - (5) Signs are limited to one per property.
 - (6) No sign shall exceed ten (10) feet in height to the top of the display.
 - (7) No sign shall exceed twenty-five (25) square feet in size.

ARTICLE XVIII. NB, NEIGHBORHOOD BUSINESS DISTRICT

Sec. 18.01. Statement of purpose.

The neighborhood business district established in this article is intended to be that permitting retail business and service uses which are needed to serve the nearby residential areas. In order to promote such business development so far as is possible and appropriate in each area, uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare, heavy truck traffic, or late hours of operation. The intent of this district is also to encourage the concentration of local business areas in locations proposed in the comprehensive plan to the mutual advantage of both the consumers and merchants and thereby promote the best use of land at certain strategic locations and avoid the continuance of encouraging marginal, strip, business development along major streets.

Sec. 18.02. Permitted uses.

In all NB districts, no building or land except as otherwise provided in this ordinance, shall be erected or used except for the following specified uses:

- (a) Self-service laundry.
- (b) Pharmacy.
- (c) Barbershop or beauty shop.
- (d) Meat, fruit market, deli, and small grocery store (5,000 sq. ft. or less).
- (e) Offices, either business, professional or governmental.
- (f) Antique shops.
- (g) Nursery or day care facilities.
- (h) Bake shops.
- (i) Any accessory or building customarily incidental to the above permitted use.
- (j) Multifamily dwellings.
- (k) Any use permitted in the R-O, residential/office district.

Sec. 18.03. Conditional uses.

- (a) Public facilities such as churches, libraries, parks, recreational facilities, hospitals and institutions.
- (b) Apartments.
- (c) Grocery store
- (d) Bicycle rental or repair shop
- (e) Repairs, electrical or other household appliances, locks, radios, TV., shoes and time pieces, etc.
- (f) Eating or Drinking Establishments

(g) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

ARTICLE XIX. **GB, GENERAL BUSINESS DISTRICT**

Sec. 19.01. Statement of purpose.

The general business district is intended to permit a wider range of business and entertainment activities that are permitted in the neighborhood business district. The permitted uses would serve not only nearby residential areas, but also people further away for types of business and services usually found in major shopping centers and central business districts at the juncture of principal streets. These uses would generate larger volumes of vehicular traffic, would need more off-street parking and loading, and would require more planning to integrate such districts with adjacent residential areas.

Sec. 19.02. Permitted uses.

In all GB districts, no building or land except as otherwise provided in this ordinance, shall be erected or used except for the following specified uses:

- (a) Any use permitted in the NB, neighborhood business district.
- (b) Places of amusement and assembly, offices, hotel, motel, used car lot, public garages and other motor vehicles service.
- (c) Automobile, motorcycle, trailer or boat showrooms; new car sales room; outdoor space for the sale of new and used automobiles, house trailers, or boats provided that there may be sales for used articles only if carried on in conjunction with a regularly authorized new automobile, house trailer or boat sales and service agency which is housed in a permanent building on the same parcel of land or on contiguous parcels of land.
- (d) Car wash establishments, including self-service facilities.
- (e) Automobile service stations/convenient stores.
- (f) Banks.
- (g) Blueprinting.
- (h) Business schools, and colleges, or private schools operated for profit.
- (i) Carpet, rug, linoleum, or other floor covering stores.
- (j) Catering establishments.
- (k) Clothing or costume rental establishments.
- (l) Department stores.
- (m) Eating or drinking establishments, with entertainment, except those having the principal character of a drive-in facility wherein food is served to a customer in his vehicle.
- (n) Electrical, glazing, heating, painting, paperhanging, plumbing, roofing or ventilation contractors' establishments, excluding outside storage yards.
- (o) Exterminators.

- (p) Furniture stores.
- (q) Grocery Stores
- (r) Hotels and motels.
- (s) Interior decorating establishments.
- (t) Medical or dental laboratories for research or testing, not involving any danger of fire or explosion, nor of offensive noise, vibration, smoke, odorous matter, heat, humidity, glare, or other objectionable effects.
- (u) Monument sales establishments, with incidental processing to order, but not including the shaping of headstones.
- (v) Funeral Homes except crematoriums.
- (w) Moving or storage offices.
- (x) Musical instrument repair shops.
- (y) Office or business machine stores, sales or rental.
- (z) Photographic developing or printing establishments and studios.
- (aa) Printing establishments.
- (bb) Public auction rooms.
- (cc) Publicly owned buildings, public utility buildings and service yards but not including storage yards.
- (dd) Radio and television studios.
- (ee) Sign painting shops, limited to two thousand five hundred (2,500) square feet of floor area per establishment.
- (ff) Studios for music, dancing, or theatrical instruction.
- (gg) Taxidermist shops.
- (hh) Television, radio or household appliance repair shops.
- (ii) Theatre, dance halls or similar places of assembly.
- (jj) Small business machine repair shops.
- (kk) Automotive and equipment repair.
- (ll) Upholstering shops dealing directly with consumers.
- (mm) Venetian blind, window shades, or awning shops, custom shops, including repairs, limited to two thousand five hundred (2,500) square feet of floor area per establishment.
- (nn) Wedding chapels or banquet halls.
- (oo) Any retail business or retail service, including the making of articles to be sold at retail on the premises. Any such manufacturing, or processing shall be incidental to a retail business or service and not more than five (5) persons shall be employed in such manufacture.

- (pp) Accessory uses permitted. Any accessory use of building customarily incidental to the above permitted use.
- (qq) Consumer fireworks, retail sales, storage and related supplies, in accordance with the National Fire Protection Association (NFPA 1124).

(Ord. No. 22-11, Exh. A, 8-13-11)

Sec. 19.03. Conditional uses.

- (a) Any uses not allowed above, which are of the same general character as the above permitted uses, which will not be detrimental to the district in which they are located, and which will not be objectionable by reason of odors, dust, smoke, cinders, gas fumes, noise, vibrations and refuse matter are eligible for a conditional use permit. The procedure in Section 4.03 shall be followed
- (b) Shopping centers, in accordance with Section 4.39.
- (c) Private clubs
- (d) The owner-operator of a permitted general business district commercial use may be allowed to establish one dwelling unit for his use only as an accessory conditional use to the commercial use. Said residential use shall follow the procedure for obtaining a conditional use permit as outlined in Section 4.03 of Article IV. All provisions of Section 4.03 shall apply to this section. Additionally, the residential use shall be required to have one off-street parking space in addition to the required spaces for the commercial use. The proposal shall be submitted to the board of zoning adjustment which may alter, deny or grant any request in accordance with Section 4.03.

(e) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

Sec. 19.04. General regulations.

- (a) There shall be no outdoor storage of merchandise or materials and no outdoor processing in any commercial district unless authorized as a conditional use. All aboveground structures accessory to any outdoor use shall be located a minimum of twenty-five (25) feet from any front lot lines.
- (b) All commercial districts located on lots adjacent to a residential district shall maintain a minimum setback of twenty-five (25) feet on the side adjacent to the residential district.
- (c) All signs and outdoor advertising displays are subject to the provisions established in Article X.

Sec. 19.05. Area, height, bulk and placement regulations.

(See attached Schedule of Regulations, Article XXVII.)

ARTICLE XX. **CBD, CENTRAL BUSINESS DISTRICT**

Sec. 20.01. Statement of purpose.

The purpose of this district shall be to enhance and protect convenient areas for shopping in the central business district of the city.

Sec. 20.02. Permitted uses.

- (a) Any use permitted in a general business district, except consumer fireworks, and those prohibited uses listed below.
- (b) Parking garages and other similar structures.
- (c) Apartments.

Sec. 20.03. Conditional Uses

- a. Auto sales lots.
- b. Auto and body repair shops and/or any type of motor vehicle service.
- c. Car Wash establishments.
- d. Convenient stores with gas pumps
- e. First Floor Dwelling units: Residential dwelling units may be located on the ground floor of structures originally constructed as mixed use or commercial buildings, or new mixed use buildings, when the following conditions are met:
 - i. Each ground floor dwelling unit is located at the rear of the building, behind a commercial or office use.
- f. Gas Stations.
- g. Moving or Storage Offices.
- h. Pawn shops and Payday Lending Services.
- i. Public Auction Houses.
- j. Tattoo Parlors.
- k. Used car lots.

(l). -Allow multiple uses (businesses), but no more than three (3), may be - allowed in the same structure (building) with a conditional use permit.

Sec. 20.04. General regulations.

- (a) There shall be no outdoor storage of merchandise or materials and no outdoor processing in any commercial district unless authorized as a conditional use. All aboveground structures accessory to any outdoor use shall be located a minimum of twenty-five (25) feet from any front lot lines.
- (b) All signs must meet the provisions of the sign regulations in Article X.
- (c) All uses shall exhibit performance standard characteristics equal to or greater than those which define light industry.

Sec. 20.05. Area, height, bulk and placement requirements.

(See attached Schedule of Regulations, Article XXVII.)

ARTICLE XXI. H-C, HIGHWAY COMMERCIAL DISTRICT

Sec. 21.01. Statement of purpose.

This district is established to provide areas for commercial uses which are mainly oriented to vehicular traffic.

Sec. 21.02. Permitted uses.

In all H-C districts, no building or land, except as otherwise provided in this ordinance, shall be erected or used except for the following specified uses:

- (a) Any use permitted in the general business districts.
- (b) Animal hospital or veterinary clinic, provided that any such purpose, including pens, or exercise runways shall be at least two hundred (200) feet from any residential district.
- (c) Commercial greenhouses and plant nurseries, including offices and sales yards, provided that no building for any heating plant, ventilation flue or other opening except stationary windows be located within fifty (50) feet of any residential district.
- (d) Drive-in eating and drinking establishments and branch drive-in banks.
- (e) Farm implement or contractor's equipment display, hire or sales establishment, service and repair shops.
- (f) Mobile home and trailer sales lot.
- (g) Drive-in theaters.
- (h) Truck Stop.
- (i) Ice storage and vending.
- (j) Motels/Hotels.
- (k) Automobile service stations.
- (l) Restaurants.
- (m) Building supplies.
- (n) New and used automobile and truck sales.
- (o) Drinking establishments or package liquor stores.
- (p) Accessory uses permitted. Accessory uses or buildings customarily incidental to the above permitted uses provided all general and special requirements for principal buildings are met.
- (q) Consumer fireworks, retail sales, storage, and related supplies in accordance with requirements of an ordinance relating to fireworks adopted by the city, and in accordance with the National Fire Protection Association (NFPA 1124).

(Ord. No. 18-11, 7-12-11)

Sec. 21.03. Conditional uses.

(a) Any uses not allowed above, which are of the same general character as the above permitted uses, which will not be detrimental to the district in which they are located, and which will not be objectionable by reason of odors, dust, smoke, cinders, gas fumes, noise, vibrations and refuse matter are eligible for a conditional use permit. The procedure in Section 4.03 shall be followed.

(b) Shopping centers in conformance with Section 4.39 of these regulations. Shopping centers shall be permitted as conditional uses only in central business and highway commercial districts according to the following conditions.

(c) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

(Ord. No. 26-03, 10-14-03)

Section 21.04. General requirements.

(a) A permanent landscaped buffer of evergreen plant material or a solid wall or fence or other suitable enclosure of a commercial land abutting a residential district.

(b) There shall be no outdoor storage of merchandise or materials and no outdoor processing in any commercial district unless authorized as a conditional use. All aboveground structures accessory to any outdoor use shall be located a minimum of twenty-five (25) feet from any front lot lines.

(c) All commercial districts located on lots adjacent to a residential district shall maintain a minimum setback of twenty-five (25) feet on the side adjacent to the residential district for all buildings and appurtenant facilities as a buffer.

(d) All signs and outdoor advertising displays are subject to the provisions established in Article X.

(Ord. No. 4-96, 2-13-96)

Section 21.05. Area, height, bulk and placement requirements.

(See attached Schedule of Regulations, Article XXVII.)

Article XXXIII ~ Gateway Zone District (Phase#1)

Section 33.01 Gateway Zone District Purpose:

The Gateway Zone District is intended to provide for the development of a pedestrian- friendly, mixed-use, aesthetically pleasing entry-corridor into downtown Henderson from the proposed I-69 interchange. This Gateway Zone District is to promote the sense of place, and also provide opportunities to develop projects and properties compatible with a dense urban development pattern. The intent of the Gateway Zone District is as follows:

1. Encourage and promote the public health, safety, and general welfare of the citizens of Henderson.
2. Promote sustainable urban development, to better the environment and the aesthetic quality of Henderson for the future.
3. Provide a walkable mixed-use area that is inviting to, pedestrians, and the travelling public.
4. Reduce traffic conflict points, to promote safety.
5. Reduce stormwater runoff and promote green design.
6. Encourage originality, flexibility and innovation in development along Second Street, including the architecture, signage, and placement of buildings.
7. Discourage monotonous, unsightly, and discordant development that is not in keeping with the entry-point into downtown Henderson, to provide for a harmonious mix of uses and development standards compatible with an urban corridor.
8. Minimize blight, and poorly designed and unattractive development.

Section 33.02 Applicability

1. *Boundary of Gateway Zone District.* The boundary of this Article XXXIII – Gateway Zone District (herein referred to as “this Article” or the “Gateway Zone District”) shall be the area so labeled and depicted in the official zoning map, which is incorporated herein by reference; which generally extends along Second Street from the CSX Railway Overpass to Ingram Street.
2. *Zoning Classification of property located within this Gateway Zoning District.* Upon adoption of this Article, the zoning classification of each and every parcel of property

located within this Gateway Zone District shall be and hereby is changed or amended to this Gateway Zone.

3. *Applicability.* All of the regulations and requirements of this Article shall fully apply when any of the following occur (the property must be brought into full compliance with this Article when any of the following occur):
 - 1) Construction of any new Structure.
 - 2) Parking area reconfiguration.
4. *Structural Alterations.* Any structural alteration of any Structure located on existing property not enumerated in Section 33.02 (3) above, shall only be required to apply to Gateway District regulations as follows:

Levels of Modification

Level of Modification	Percent of modification cost (cost of modification divided by existing building value, times 100) occurring during any 36 month period	Applicable sections of this district that must be adhered to.
Minor ❖	0 percent to 30 percent	Access management standards
Major ❖	31 percent or more	All sections must be adhered to

- ❖ Existing building value is derived from the current years Property Valuation Administrator’s fair market value.
- ❖ The cost of general property maintenance or repair shall not be included in such calculation.
- ❖ The cost of repairing, replacing, or upgrading any water, sewer, HVAC or electrical facilities where no new expansion will occur.

5. *Exterior Walls.* When any change is made to the façade or an exterior wall of an existing structure all of the façade visible from Second Street, shall be brought into full compliance with Section 33.07 of this Article.
6. *Sign Permits.* When a Sign Permit is required within the Gateway Zone District, the property shall be brought into full compliance with Section 33.14 of this Article.
7. *Maintenance and Utility Repairs.* Notwithstanding any other provision of any of this Section 33.02, neither:
 - a) General property maintenance and/or general property repair, or;

b) The maintenance, repair, upgrading or replacement of any water, sewer, HVAC, or electrical facilities will trigger a requirement that such property or structure be brought either fully or partially in compliance with this Article.

Section 33.03 Non-conformities

1. Except as provided in this Article to the contrary; all nonconforming uses, nonconforming structures and nonconforming lots, shall be governed by Article VIII.

Section 33.04 Review and Approval Procedures

1. Gateway Design Advisory Committee.

The Gateway Design Advisory Committee shall provide non-binding written recommendations to the Codes Administrator on each application in the Gateway Zone District. The Gateway Design Advisory Committee shall consist of the Executive Director of the Planning Commission/or designee, one (1) Staff member of the Planning Commission, the City Engineer, and the City Manager/or designee.

2. Pre-Application Conference with Gateway Design Advisory Committee.

Prior to filing for building permits or site plans, the developer, applicant, petitioner, or property owner, shall attend a Pre- Conference with the Gateway Design Advisory Committee, to discuss the Gateway Zone District review process and requirements. The meeting is informative in nature to guide the applicant through the Gateway Zone District development process. Comments, representations, or expressions of any nature made at the meeting, shall not be binding.

3. Formal Submittal. After the pre-application conference, the applicant may then submit an application to the Gateway Design Advisory Committee. The submittal shall include all information needed to fulfill the standards of the district, and will require building elevations, a signage plan, materials used, and a general site plan. The Gateway Design Advisory Committee will review the project within twenty-one days (21) of submittal, and present their findings in a written report to the Codes Administrator and the applicant.

4. Final Approval. Final approval/or disapproval shall be made by the Codes Administrator within fourteen (14) days of the receipt of the recommendation by the Gateway Design Advisory Committee. After the decision of the Codes Administrator, the applicant may

within 30 days, submit plans correcting the deficiencies to the Gateway Design Advisory Committee and the Codes Administrator, without going through the submittal process again. The Codes Administrator may grant extensions as needed.

5. Appeals. All appeals of the Codes Administrator final approval or disapproval shall be filed with the Board of Adjustments, and must be made within thirty (30) days of any such final action or decision, pursuant to KRS 100.257 and KRS 100.261.

Section 33.05 Lot and Building Standards

	Mixed Use/ Commercial	Residential
Maximum Lot Coverage	100%	70% Single Family/Townhouses 50% Multi-family
Maximum Building Height	3 stories, not exceeding 50 feet.	50 feet
Minimum Lot Width	40 feet all	
1 Family Unit		40 feet
2 Family Unit		75 feet
Multi-family Unit and Townhouse		70 feet
Setback Requirements		
Front	0 (zero lot line required) ①④⑥	0 (zero lot line required) ①④⑥
Side	10 feet min. abutting Res. Zone ②	0 ②
Rear	25 feet min. abutting Res. Zone; 0 abutting public alley.	20 feet min.
Minimum Lot Area	4,000 sq. ft. ③⑤	
1 Family Unit		4,000 sq. ft.
2 Family Unit	1,600 sq. ft. per dwelling unit	9,000 sq. ft.
Multi-family Unit		6,000 sq. ft. for the first two dwellings, 1,600 sq. ft. for each additional.
<ul style="list-style-type: none"> • ① Front setbacks are zero, or as provided in Contextual Front Setbacks, Section 33.05 (1). • ② Zero lot lines are permitted, if a maintenance agreement easement with the property owner adjoining the zero lot line is submitted to the Codes Administrator. Fire-resistive rating and opening requirements of the building code shall be complied with for exterior walls. • ③ The commercial gross floor area of mixed-use buildings shall not exceed 15,000 sq. ft. • ④ Pedestrian amenities as allowed per 33.05 (2), may be located within the front yard setback. • ⑤ Screening for Mixed Use and Commercial buildings is not required. • ⑥ All front lot setbacks refer to frontage on Second Street. 		

1. *Contextual Front Setback*.: Contextual front setbacks shall be as deep as the average front setback that exists on the nearest developed lots on the same block that front on the same side of the street as the subject lot, in accordance with the following rules:

- a) Lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average;
 - b) When the subject lot is a corner lot, the average setback will be computed on the basis of the two (2) nearest developed lots that front on the same side of the street as the subject lot;
 - c) When the subject lot abuts a corner lot fronting the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two (2) lots that front on the same street as the subject lot.
2. *Exceptions to Lot and Building Setbacks Requirements.*
- a. Outdoor Eating Areas: outdoor eating areas and patios located on the Second Street frontage, are allowed a building setback of fifteen (15) feet from the lot line;
 - b. Courtyards, Plazas and Greenspace: A courtyard, plaza, or greenspace (including a pocket park, or green infrastructure) located on the Second Street frontage are allowed a building setback of fifteen (15) feet from the lot line.
3. *Accessory Structures.*
- f. Accessory structures shall be compatible in Style, Color, and Materials with Principal Structure(s).
 - g. Structures shall be limited in size to twenty-five (25%) percent of the footprint of the Principal Structure, or four hundred (400) square feet; whichever is less.
 - h. Garages or carports shall be limited in size to twenty-five (25%) of the footprint of the Principal Structure.

Section 33.06 Permitted Uses

The following uses shall be permitted in the Gateway Zone District:

1. *Permitted Uses.*
 - a. Antique Shops.
 - b. Art Galleries.
 - c. Bakeries.
 - d. Banks.

- e. Barber or Beauty Shop.
- f. Bicycle Rental or Repair Shop.
- g. Blueprinting.
- h. Business schools, and colleges, or private schools operated for profit.
- i. Carpet, rug, linoleum, or other floor covering stores.
- j. Catering establishments.
- k. Churches.
- l. Clothing or costume rental establishments.
- m. Convention Centers.
- n. Day Cares.
- o. Department stores.
- p. Eating or drinking establishments, with or without entertainment, except those having the principal character of a drive-in facility wherein food is served to a customer in his vehicle.
- q. Furniture stores.
- r. Grocery Stores.
- s. Hotels.
- t. Home occupations as defined in Article II.
- u. Hospitals.
- v. Interior decorating establishments.
- w. Medical or dental laboratories for research or testing, not involving any danger of fire or explosion, nor of offensive noise, vibration, smoke, odorous matter, heat, humidity, glare, or other objectionable effects.
- x. Museums.

- y. Family child-care home, with the following limitations:
There shall be a maximum of ten (10) children allowed in the home of which no more than six (6) shall be unrelated to the care provider. No more than four (4) children under twelve (12) months of age nor more than six (6) children under six (6) years of age, including the provider's own or related children, shall be kept in the home. No person may be employed that is not a resident of the premises. Otherwise fully complies with the provisions of a home occupation as provided in section 2.01 of this code.
- z. Funeral Homes, except crematoriums.
- aa. Medical and Dental Offices.
- bb. Multifamily Housing.
- cc. Musical shops.
- dd. Office or business machine stores, sales or rental.
- ee. Offices; either business, professional, or government.
- ff. Pharmacy.
- gg. Photographic developing or printing establishments and studios.
- hh. Printing establishments.
- ii. Professional and Labor Organizations.
- jj. Publicly -owned -or leased buildings, and public utility buildings. Radio -and television studios.
- kk. Residential Care Facilities.
- ll. Retail business or service, including the incidental manufacture of articles to be sold at retail on premises as long as no more than five (5) persons are employed in such manufacture.
- mm. Shopping Center.
- nn. Studios for music, dancing, or theatrical instruction.

- oo. Television, radio or household appliance repair shops.
- pp. Theatre, dance halls or similar places of assembly.
- qq. Townhouses.
- rr. Venetian blind, window shades, or awning shops, custom shops, including repairs, limited to two thousand five hundred (2,500) square feet of floor area per establishment.
- ss. Wedding chapels or banquet halls.
- tt. Any other substantially similar activity.

2. *Mixed-Use Buildings.*

Buildings containing both residential dwelling units and non-residential commercial uses are permitted. Residential dwelling units may be located on the ground floor of mixed-use buildings provided that a minimum of 1,500 square feet of non-residential floor areas is located on the ground floor, or when all the following criteria are met:

- (a) The building is a minimum of two (2) stories in height;
- (b) Commercial or office uses are restricted to the ground floor;
- (c) Each ground floor dwelling unit is at the rear of the building, behind a commercial or office use.

3. *Conditional Uses.*

- a. Single Family Residential.
- b. Parking Lots and Garages, where parking is the primary, not accessory use.
- (c) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

4. *Prohibited Uses.*

- a. Auto sales lots.
- b. Auto and body repair shops and/or any type of motor vehicle service.
- c. Car Wash establishments.
- d. Moving or Storage Offices.
- e. Mini-storage.

Article XXXIV ~ Henderson Innovative Planning District

Section 34.01 Henderson Innovative Planning District Purpose:

The Henderson Innovative Planning District is intended to allow a compatible mix of mixed-use, commercial, and residential uses in dense pedestrian-friendly urban areas suitable for infill redevelopment. The Henderson Innovative Planning District is intended for properties located along major streets and bus routes, with sidewalk/bike lane connectivity, located outside of existing single family neighborhoods, and infill development shall also take into consideration the existing density, built-form and uses of the surrounding neighborhood. It is the goal of this district to:

1. To promote sustainable urban development, to better the environment and the aesthetic quality of Henderson for the future.
2. To provide infill opportunities for businesses and development.
3. To complete bicycle and pedestrian connections to surrounding sites and neighborhoods.
4. To promote originality, flexibility and innovation in development including the architecture, signage, placement, and redevelopment of existing sites and buildings.
5. To encourage resource and energy efficiency.
6. To enhance property values.
7. To minimize blight, and poorly designed and unattractive development.

Section 34.02 Permitted Uses

1. Permitted Uses.
 - (a) Antique Shops.
 - (b) Art Galleries.
 - (c) Assisted Living Facilities.
 - (d) Bakeries.
 - (e) Banks.

- (v) Mixed Use Buildings, containing both residential dwelling units and non-residential commercial uses.
- (w) Multifamily housing.
- (x) Music shops.
- (y) Office or business machine stores, sales, or rental.
- (z) Offices: government, commercial, or professional.
- (aa) Pharmacy.
- (bb) Printing and related establishments.
- (cc) Professional and labor organizations.
- (dd) Publicly owned or leased buildings; public utility buildings.
- (ee) Residential care facilities.
- (ff) Retail businesses or service
- (gg) Shoe repair.
- (hh) Sidewalk Dining
- (ii) Studios for music, dancing, or theatrical instruction.
- (jj) Theatre, dance halls, or places of assembly.
- (kk) Townhouses and condominiums.
- (ll) Wedding chapels.
- (mm) Any substantially similar activity.

(2). - Conditional Uses

=

(a) Allow multiple uses (businesses), but no more than three (3), may be allowed in the same structure (building) with a conditional use permit.

City Commission Memorandum
16-88

April 21, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager 

SUBJECT: Public Improvements Acceptance—Rivers Edge Subdivision I

An item for the agenda of Tuesday, April 26, 2016, is first reading of an ordinance accepting public improvements for Rivers Edge Subdivision I.

Included in this acceptance is water and sanitary sewer improvements including one fire hydrant, two gate valves, 260 lineal feet of 6-inch water main, 210 lineal feet of gravity sewer and two manholes.

The improvements have been built to city subdivision standards; have been inspected and approved by Engineering and HWU; the Water and Sewer Commission approved recommendation for acceptance at its Monday, April 18, 2016 meeting; and was recommended for acceptance by the Henderson-Henderson County Planning Commission at its meeting of April 5, 2016.

Your approval of the attached ordinance is requested.

c: Brian Bishop, Planning Director
Tom Williams, HWU General Manager
Doug Boom



Planning the Future

Henderson City-County Planning Commission
1990 Barret Ct. Suite C
Henderson, KY 42420

Brian Bishop
Executive Director

April 6, 2016

Mayor Steve Austin
City Commissioners
Municipal Center
Henderson, Ky. 42420

RE: Acceptance of Water & Sewer for River Edge Subdivision, Section # 1 Hackberry
Development located in Henderson, Ky.

Dear Mayor and Commissioners:

Please be advised Tuesday, April 5, 2016 the Henderson City-County Planning Commission took official action to recommend acceptance of the following:

River Edge Subdivision, Section #1

Water

6" Water Main 260 Lineal Feet
Gate Valve 2 Each
Fire Hydrant 1 Each
Dual Meter Services 3 Each

Sewer

8" Gravity Sewer 210 Lineal Feet
Manholes 2 Each
Service Laterals 6 Each

These improvements were constructed in accordance with the public improvement specifications and final inspection was performed by the Henderson Water Utilities Engineering Department staff. The Henderson City-County Planning Commission at this time request your consideration.

Respectfully submitted,

Brian Bishop
Executive Director

HENDERSON CITY-COUNTY
PLANNING COMMISSION

Attachment

C: Dawn Kelsey, City Attorney
Russell Sights, City Manager

**HENDERSON WATER AND SEWER COMMISSION
RESOLUTION OF THE BOARD OF COMMISSIONERS**

**Resolution No. 2016-11
Acceptance of Water & Wastewater Improvements
Rivers Edge Subdivision, Section 1**

The following Resolution was duly adopted by the Board of Commissioners of the Henderson Water & Sewer Commission at a regular meeting held on Monday, 18 April 2016, at which meeting a quorum was present.

BE IT RESOLVED, that the Henderson Water and Sewer Commission by and through its Board of Commissioners under the authority granted to the Board of Commissioners under Chapter 23 Article II Division 3 Sections 23-36 through 23-45.1 of the City Code of Ordinances hereby recommends to the Board of Commissioners of the City of Henderson, Kentucky, that the City of Henderson accept certain public improvements on Rivers Edge Drive, as recommended by the staff of the Water and Sewer Commission, and herewith transmitted to the City, to wit:

Rivers Edge Subdivision, Section 1

Water

6" PVC Main:	260 Linear Feet
Gate Valves:	2 Each
Fire Hydrants:	1 Each
Dual Meter Services:	3 Each

Wastewater

8" Gravity Sewer:	210 Linear Feet
Manholes:	2 Each
Service Laterals:	6 Each

The General Manager is hereby authorized to deliver this Resolution to the City of Henderson.

IN WITNESS WHEREOF, having come before the Board of Commissioners on Monday, 18 April 2016, and upon Motion made by Commissioner John Henderson, and seconded by Commissioner Julie Wischer, the Board of Commissioners voted as follows:

	<u>AYE</u>	<u>NAY</u>
Commissioner, Paul Bird, Jr.	<u>✓</u>	_____
Commissioner, George Jones, III	<u>✓</u>	_____
Commissioner, John Henderson	<u>✓</u>	_____
Commissioner, Gary Jennings	<u>✓</u>	_____
Commissioner, Julie Wischer	<u>✓</u>	_____



Tom Williams, P.E.
General Manager
Henderson Water Utility

ORDINANCE NO. _____

ORDINANCE ACCEPTING PUBLIC IMPROVEMENTS

SUMMARY: AN ORDINANCE ACCEPTING PUBLIC IMPROVEMENTS FOR PROPERTY LOCATED AT RIVER EDGE SUBDIVISION, SECTION 1

WHEREAS, at a meeting of the Henderson City-County Planning Commission held on April 5, 2016 it was recommended that certain public improvements for property located at River Edge Subdivision, Section 1 in the City of Henderson be accepted; and

WHEREAS, at a meeting of the Henderson Water Utility Commission held on April 18, 2016, the public improvements were approved; and

WHEREAS, said improvements have been made in accordance with public improvements specifications and regulations.

NOW, THEREFORE, BE IT ORDAINED by the City of Henderson, Kentucky, that the City hereby accepts certain public improvements for property located at River Edge 1 Subdivision, Section 1, which is generally depicted on the attached plat marked Exhibit "A", and consists of the following:

River Edge Subdivision Section 1

Water

6" Water Main – 260 Lineal Feet
Gate Valve- 2 Each
Fire Hydrant - 1 Each
Dual Meter Services 3 Each

Sewer

8"Gravity Sewer 210 Lineal Feet
Manholes – 2 Each
Service Laterals 6 Each

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

This ordinance shall become effective upon its legal adoption.

On first reading of the foregoing ordinance, it was moved by Commissioner _____, seconded by Commissioner _____, that the ordinance be adopted on its first reading.

On roll call the vote stood:

Commissioner Royster _____
Commissioner Mills _____
Commissioner Johnston _____

Commissioner Hite _____
Mayor Austin _____

WHEREUPON, Mayor Austin declared the ordinance adopted on first reading and ordered that it be presented for a second reading at a meeting of the Board of Commissioners.

On second reading of the ordinance, it was moved by Commissioner _____, seconded by Commissioner _____, that the ordinance be adopted.

WHEREUPON, the vote was called. On roll call the vote stood:

Commissioner Royster _____	Commissioner Hite _____
Commissioner Mills _____	Mayor Austin _____
Commissioner Johnston _____	

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date and ordered that it be recorded.

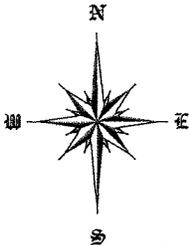
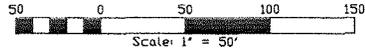
Steve Austin, Mayor
Date: _____

ATTEST:

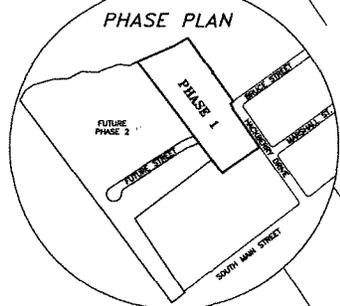
Maree Collins, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 20 DAY OF
APRIL, 2016.**

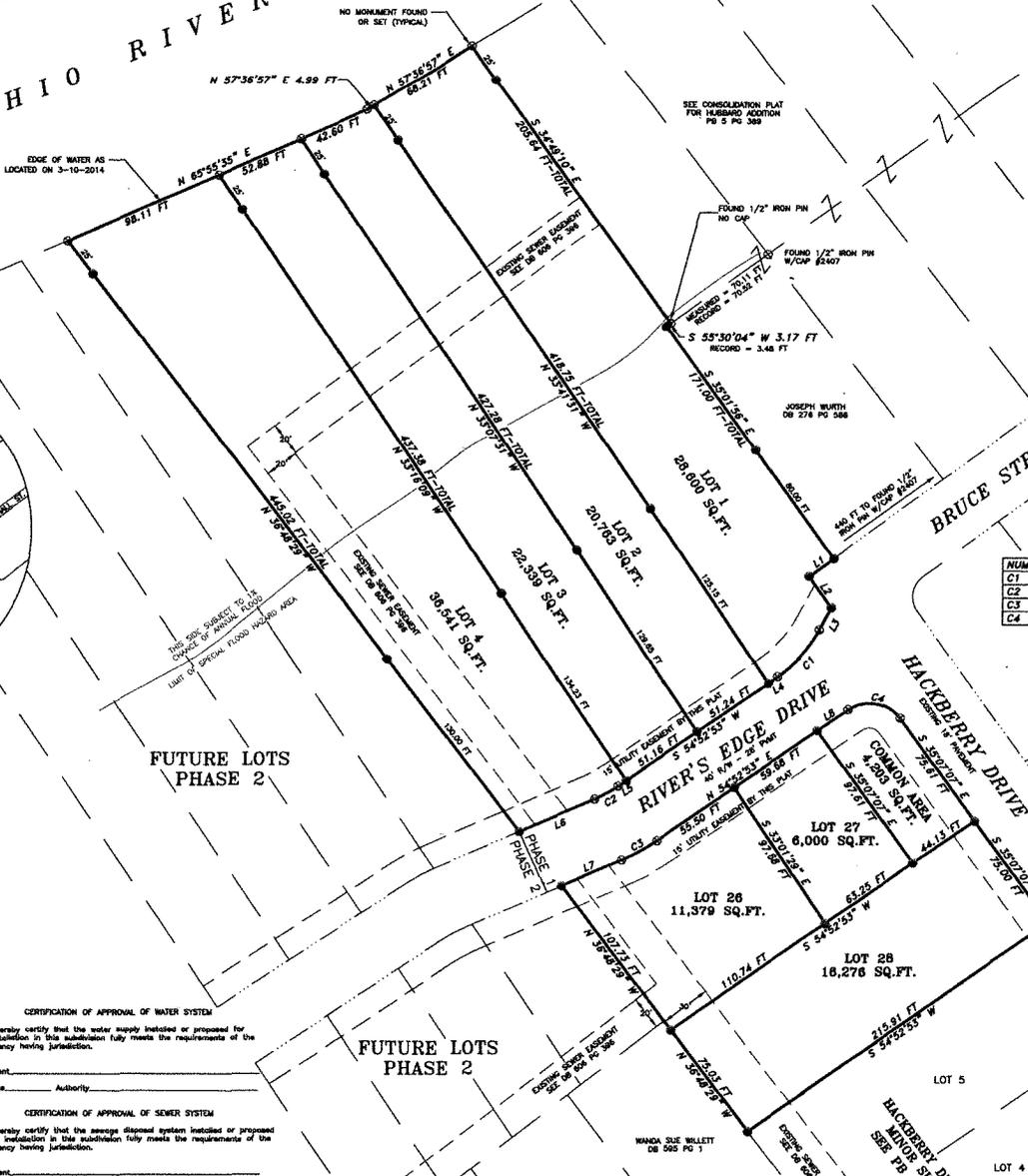
By: 
Dawn S. Kelsey
City Attorney



OHIO RIVER



VICINITY MAP
1" = 500 FT



NUMBER	DEGREE OF CURVE	RADIUS	ARC LENGTH	CHORD DIRECTION	CHORD LENGTH
C1	71°37'11"	80.00	37.70	S 41°22'55" W	37.35
C2	71°37'11"	80.00	15.89	S 60°34'19" W	15.86
C3	47°44'42"	120.00	23.84	N 60°34'19" E	23.80
C4	280°28'07"	22.00	34.56	S 80°07'07" E	31.11

NUMBER	DIRECTION	DISTANCE
L1	S 53°24'04" W	18.00 FT
L2	S 39°07'07" E	22.76 FT
L3	S 27°52'53" W	15.02 FT
L4	S 54°52'53" W	6.36 FT
L5	S 54°52'53" W	5.86 FT
L6	S 66°15'44" W	48.36 FT
L7	N 66°15'44" E	39.07 FT
L8	N 54°52'53" E	22.13 FT

COMMISSIONER'S CERTIFICATION
I hereby certify that this record plat was approved by the Henderson City-County Planning Commission on _____ and is now eligible for recording.

Planning Commission Director _____ Date _____

SURVEYOR'S CERTIFICATION
I hereby certify that the survey depicted by this plat was prepared under my direct supervision by utilizing a Topcon GRS-1 Dual Frequency, 72 Channel GPS + GLASS RTK receiver with a PDA1 external database unit, having a relative horizontal positional accuracy of ± 1 cm. The bearings and distances shown herein have not been adjusted for closure and the base of the bearings shown herein is the 1983 NAD Kentucky State Zone coordinate system. The speed read used was the Quad90. All monuments shown herein actually exist; the information shown herein is correct to the best of my knowledge and belief; and all requirements of the Subdivision Regulations have been fully complied with. This survey meets the specifications of an Urban survey and complies with 201 KAR 18:150.

Bruce K. Bailey, PLS #2939 _____ Date _____

OWNER'S CERTIFICATION
I (We) do hereby certify that I (we) are the owner(s) of record of the property depicted herein which is recorded in Deed Book 850 Page 225 in the Henderson County Clerk's Office, do hereby adopt this plan for lots for this property, do hereby declare any other spaces as indicated to public use, if applicable, I (We) do retain and reserve the indicated easements for public utilities and drainage purposes.

Owner _____ Date _____
Owner _____ Date _____
Owner _____ Date _____

CERTIFICATION OF APPROVAL OF WATER SYSTEM
I hereby certify that the water supply installed or proposed for installation in this subdivision fully meets the requirements of the agency having jurisdiction.

Agent _____ Authority _____

CERTIFICATION OF APPROVAL OF SEWER SYSTEM
I hereby certify that the sewage disposal system installed or proposed for installation in this subdivision fully meets the requirements of the agency having jurisdiction.

Agent _____ Authority _____

IMPROVEMENT CERTIFICATION
I hereby certify that the improvement plans for this subdivision have been reviewed by me, are in accordance with the Subdivision Regulations, and the estimated costs for such improvements have been prepared by my office and contributed to the Planning Commission for purposes of establishing the amount of the Survey Performance Bond.

Date _____ Local Overt. Engineer _____

- NOTES:
- 1) THE LINEAL FEET OF NEW STREET IS 243.53 FT.
 - 2) LOTS 1-4 ARE ZONED R-4.
 - 3) LOTS 26-28 ARE ZONED R-2.
 - 4) THE SETBACK REQUIREMENTS FOR R-4 LOTS ARE 0 FT FRONT, 25 FT REAR AND 10 FT SIDE YARD.
 - 5) THE SETBACK REQUIREMENTS FOR R-2 LOTS ARE 25 FT FRONT/REAR AND 8 FT SIDE YARD.

OWNER & DEVELOPER: HACKBERRY DEVELOPMENT, LLC 1800 MADISON STREET HENDERSON, KY 42420		PROPERTY LOCATION: HACKBERRY DRIVE HENDERSON, KY 42420	
STATE OF KENTUCKY BRUCE K. BAILEY 2939 LICENSED LAND SURVEYOR		SOURCE OF TITLE: DE 805 PG 225	
PROFESSIONAL LAND SURVEYOR		FIELD DATE: NOVEMBER 8, 2015	
CURRENT ZONING: RF-4 & R-2		SCALE: 1" = 50'	
		PVA #46-54.1	
		OWG NAME-HACKFINAL1	

FINAL PLAT
LOTS 1-4 & 26-28
PHASE 1
RIVER'S EDGE SUBDIVISION
HENDERSON, KENTUCKY

City Commission Memorandum
16-91

April 21, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager 

SUBJECT: Municipal Aid Cooperative Agreement

The accompanying resolution approves a Municipal Aid Cooperative Agreement for Emergencies and Disasters between the City of Owensboro, Daviess County and the City of Henderson.

The agreement provides for the coordination of, communications for, training for, response to and standby for planned events and emergency responses within the Commonwealth of Kentucky.

As a party to this agreement, we will provide mutual aid and assistance to other parties in time of emergency or disaster.

Your approval of the attached resolution is requested.

c: Chief Scott Foreman

RESOLUTION NO. _____

RESOLUTION APPROVING MUNICIPAL AID COOPERATIVE AGREEMENT
FOR EMERGENCIES AND DISASTERS BETWEEN THE CITY OF OWENSBORO,
DAVIESS COUNTY AND THE CITY OF HENDERSON

WHEREAS, the City of Henderson, the City of Owensboro, and the County of Daviess Kentucky are geographically vulnerable to a variety of emergencies and disasters; and

WHEREAS, the parties to this agreement recognize the importance of having each local entity which is a signatory of this agreement respond in a coordinated and efficient manner to restore the public safety, health, and welfare of a community stricken by an emergency or disaster regardless of location of that community; and

WHEREAS, the Board of Commissioners of the City of Owensboro approved the Agreement on February 16, 2016 and the Daviess County and the Fiscal Court approved the Agreement on April 7, 2016; and

WHEREAS, Kentucky Revised Statutes authorizes Kentucky political subdivisions to enter into mutual aid agreements to provide for the coordination of, communications for, training for, response to and standby for planned events and emergency responses within the Commonwealth of Kentucky; and

WHEREAS, the parties to this agreement have chosen to become a party to this agreement and wish to provide mutual aid and assistance to other parties in time of emergency or disaster.

WHEREAS, the City Manager recommends approval of the attached contract.

NOW, THEREFORE, BE IT RESOLVED by the City of Henderson, Kentucky, that the recommendation of the City Manager is hereby accepted, and the attached Mutual Aid Assistance Agreement for the purpose of Fire/Rescue Services and Related Special Operations in emergencies and disasters between the City of Owensboro, Daviess County and the City of Henderson, is hereby approved, and the Mayor is authorized to execute the contract on behalf of the City.

On motion of Commissioner _____, seconded by Commissioner _____, that the foregoing Resolution be adopted, the vote was called. On roll call the vote stood:

Commissioner Royster _____
Commissioner Mills _____
Commissioner Johnston _____

Commissioner Hite _____
Mayor Austin _____

WHEREUPON, Mayor Austin declared the Resolution adopted, affixed his signature and the date thereto and ordered that the same be recorded.

ATTEST:

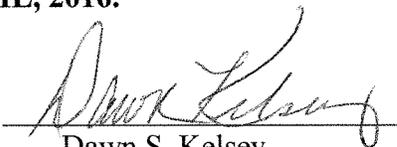
Steve Austin, Mayor

Date: _____

Maree Collins, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 20 DAY OF
APRIL, 2016.**

By:



Dawn S. Kelsey
City Attorney

**MUTUAL AID ASSISTANCE AGREEMENT
FOR THE PURPOSE OF FIRE/RESCUE SERVICES AND RELATED SPECIAL OPERATIONS**

This agreement is between the City of Henderson, the City of Owensboro and the Fiscal Court of the County of Daviess. Each party agrees to provide mutual aid and assistance to other parties under the terms and conditions contained herein.

WHEREAS, the City of Henderson, the City of Owensboro, and the County of Daviess Kentucky are geographically vulnerable to a variety of emergencies and disasters; and

WHEREAS, the parties to this agreement recognize the importance of having each local entity which is a signatory of this agreement respond in a coordinated and efficient manner to restore the public safety, health, and welfare of a community stricken by an emergency or disaster regardless of location of that community ; and

WHEREAS, Kentucky Revised Statues authorizes Kentucky political subdivisions to enter into mutual aid agreements to provide for the coordination of, communications for, training for, response to and standby for planned events and emergency responses within the Commonwealth of Kentucky; and

WHEREAS, the parties to this agreement have chosen to become a party to this agreement and wish to provide mutual aid and assistance to other parties in time of emergency or disaster.

NOW, THEREFORE, ALL PARTIES TO THIS AGREEMENT AGREE AS FOLLOWS:

SECTION I. DEFINITIONS

As used in this agreement "Agreement" means this mutual aid agreement.

As used in this agreement "Aid and Assistance" means personnel, equipment, facilities, services, supplies and other resources.

As used in this agreement "Authorized Representative" means the employee of a party, who has been authorized in writing by that party, to request, to offer, or to otherwise provide aid and assistance under the terms of this agreement.

As used in this agreement "Disaster" means any incident or situation declared as such by executive order of the Governor of Kentucky, or the President of the United States pursuant to federal law, as a result of an occurrence or imminent threat of widespread or severe damage, injury or loss of life or property, resulting from any natural, technological, or man-made emergency situation, including incidents caused by accident, military or paramilitary cause.

As used in this agreement "Emergency" means any incident or situation which poses a major threat to public safety so as to cause, or threaten to cause, loss of life, serious injury, significant damage to property, or major harm to public health or the environment and which a local emergency response agency determines is beyond its capabilities.

As used in this agreement "Local Emergency Declaration" means the written document signed by the chief executive officer of a local entity that specifies and attests that a disaster or emergency has occurred and the resulting emergency situation is beyond the capability of the local entity to manage using all local resources within its geographical limits.

As used in this agreement "Local Emergency Management Agency", as that term applies within the state of Kentucky, means the organizational unit of a city, county, urban-county, or charter county government, created pursuant to Kentucky Revised Statutes Chapter 39B, with primary jurisdiction, responsibility, and authority for all emergency management program activities within the geographical boundaries of a party.

As used in this agreement "Local Entity," as the term is used within the Commonwealth of Kentucky, means a county, urban-county, charter-county, city, or other general or special purpose unit of government created pursuant to the Kentucky Revised Statutes with the express power and authority to enter into and execute a contract.

As used in this agreement "Party" means a local entity that has officially approved and adopted this agreement by resolution of its governing body. The term may also include a private organization such as an Emergency Medical Service organization that may enter into the Agreement in order to participate in the mutual aid Agreement as a provider of mutual aid. Such a private organization must be incorporated or otherwise possess the express power and authority to enter into and execute a contract.

As used in this agreement "Provider" means a party that furnishes, or is requested to furnish, aid and assistance to a recipient pursuant to this agreement.

As used in this agreement "Recipient" means a party that requests or receives aid and assistance from a provider pursuant to this agreement.

As used in this agreement, "Emergency Responder" means a person who is required to possess a license, certificate, permit, or other official recognition for the person's expertise in a particular field or area of knowledge; and whose assistance is desirable during an emergency. The term includes, but is not limited to, the following:

- A. Firefighters, hazardous materials personnel, specialized rescue personnel, extrication personnel, water rescue personnel, and other specialized personnel; and
- B. Emergency medical services personnel.

SECTION II. INITIAL RECOGNITION OF PRINCIPLES BY ALL PARTIES; AGREEMENT PROVIDES NO RIGHT OF ACTION FOR THIRD PARTIES

As this Agreement is a reciprocal contract, it is recognized that any Party to this Agreement may be requested by another Party to be a Provider. It is mutually understood that each Party's foremost responsibility is to its own citizens. The provisions of this Agreement shall not be construed to impose an unconditional obligation on any Party to this Agreement to provide Aid and Assistance pursuant to a request from another Party. Accordingly, when a Party is requested to provide Aid and Assistance, it may in good faith deem itself unavailable to be a Provider when the resources being requested are necessary to provide reasonable and adequate protection for its own citizens. A Party unable to honor a request for Aid and Assistance will so inform the Party initiating a request.

Given the finite resources of any Party and the potential for each Party to be unavailable for Aid and Assistance at a given point in time, the Parties mutually encourage each other to enlist other local entities in mutual Aid and Assistance efforts and to enter into such Agreements accordingly. Likewise, the Parties fully recognize that there is ample public purpose for entering into this Agreement, and accordingly shall attempt to render assistance in accordance with the terms of the Agreement to the fullest extent possible.

All functions and activities performed under this Agreement are hereby declared to be governmental functions. Functions and activities performed under this Agreement are carried out for the benefit of the general public and not for the benefit of any specific individual or individuals. Accordingly, this Agreement shall not be construed as or deemed to be an Agreement for the benefit of any third Parties or persons and no third Parties or persons shall have any right of action under this Agreement for any cause whatsoever. All immunities provided by Kentucky law shall be fully applicable.

SECTION III. PROCEDURES FOR REQUESTING ASSISTANCE

Mutual Aid and Assistance shall not be requested unless the resources available within a Recipient's Disaster or Emergency-stricken area are deemed inadequate by a Recipient. In these instances, a Recipient may request mutual Aid and Assistance by communicating a request to a Provider, indicating the request is made pursuant to this mutual aid Agreement. All requests for mutual Aid and Assistance shall be transmitted by a Recipient's Authorized Representative or Local Emergency Management Agency as set forth below. A list of Authorized Representatives for each Party shall be attached to the officially-approved and adopted copy of this Agreement. In the event of a change in personnel, unless otherwise notified, the presumption will be that the successor to that position will be the Authorized Representative.

- A. **METHOD OF REQUEST FOR MUTUAL AID AND ASSISTANCE:** A Recipient shall initiate a request as follows:
 - 1. **REQUESTS ROUTED THROUGH A RECIPIENT'S LOCAL EMERGENCY MANAGEMENT AGENCY:** A Recipient may directly contact the Local Emergency Management Agency that serves the Recipient's geographical area of operation and provide the information referenced in paragraph B of Section III. The Local Emergency Management Agency shall then contact Provider Parties on behalf of a Recipient to coordinate the provision of mutual Aid and Assistance.
 - 2. **REQUESTS MADE DIRECTLY TO A PROVIDER:** A Recipient may directly contact a Provider's Authorized Representative, setting forth the information referenced in paragraph B of Section III. All communications shall be conducted directly between a Recipient and Provider. A Provider and a Recipient using this option shall be responsible for keeping their respective Local Emergency Management Agencies advised of the status of response activities, in a timely manner.
- B. **REQUIRED INFORMATION:** Each request for Aid and Assistance shall be accompanied by the following information, in writing or by other available means, to the extent known:
 - 1. **AID AND ASSISTANCE:** The amount and type of personnel, equipment, materials and supplies needed and a reasonable estimate of the length of time they will be needed.
 - 2. **PROVIDER'S TRAVELING EMPLOYEE NEEDS:** Unless otherwise specified by a Recipient, it is mutually understood that a Recipient will provide for the basic needs of Provider's traveling employees, including but not limited to food, water and sanitary facilities. Further, if an overnight stay is required, a Recipient shall house in addition to feeding the Provider's personnel at the Recipient's sole cost and expense.
 - 3. **MEETING TIME AND PLACE:** An estimated time and a specific place for a representative of a Recipient to meet the personnel and resources of any Provider.
- C. **STATE AND FEDERAL ASSISTANCE:** A Recipient shall be responsible for coordinating all requests for state or federal assistance with the Local Emergency Management Agency with jurisdiction.
- D. **LIST OF AUTHORIZED REPRESENTATIVES:** The list of Authorized Representatives for each Party executing this Agreement shall be attached to the executed copy of this Agreement. In the event of a change in personnel, unless otherwise notified, the presumption will be that the successor to that position will be Authorized Representative.

SECTION IV. PROVIDER'S ASSESSMENT OF AVAILABILITY OF RESOURCES AND ABILITY TO RENDER ASSISTANCE IN THE EVENT OF A DISASTER

When contacted by a Recipient or a Local Emergency Management Agency regarding a request for Aid and Assistance, a Provider's Authorized Representative shall assess the Provider's own local situation in order to determine the availability of personnel, equipment and other resources. If a Provider's Authorized Representative determines that the Provider has available resources, a Provider's Authorized Representative shall so notify the Recipient or the Local Emergency Management Agency (whichever communicated the request). A Provider shall submit a written acknowledgment of a request for Aid and Assistance received from a Recipient or a Local Emergency Management Agency. The written acknowledgment must indicate a Provider's decision to either render Aid and Assistance or to reject a request and shall be transmitted by the most efficient and practical means to a Recipient or a Local Emergency Management Agency. A Provider's acknowledgment shall contain the following information:

- A. In response to the items contained in the request, a description of the personnel, equipment and other resources available;
- B. The projected length of time such personnel, equipment and other resources will be available to serve a Recipient particularly if the period is projected to be shorter than one week (as provided in the "Length of Time for Aid and Assistance" section (Section VI) of this Agreement);
- C. The estimated time when the assistance provided will arrive at the location designated by the Authorized Representative of the Recipient; and
- D. The name of the person(s) to be designated as the Provider's supervisory personnel (pursuant to the "Supervision and Control" section (Section V) of this Agreement).

When a Provider's submits a written acknowledgement to a Local Emergency Management Agency, the Local Emergency Management Agency shall notify a Recipient's Authorized Representative and forward the information received from a Provider. A Recipient or a Local Emergency Management Agency shall respond to a Provider's written acknowledgment by executing and returning a copy of the request form to a Provider by the most efficient practical means, maintaining a copy for its file.

SECTION V. SUPERVISION AND CONTROL

A Provider shall designate supervisory personnel among its employees sent to render Aid and Assistance to a Recipient. As soon as practical, a Recipient shall assign work tasks to a Provider's supervisory personnel and, unless specifically instructed otherwise, a Recipient shall have the responsibility for coordinating communications between a Provider's supervisory personnel and a Recipient. A Recipient shall provide necessary credentials to a Provider's personnel authorizing them to operate on behalf of a Recipient.

Based upon the assignments set forth by a Recipient, a Provider's supervisory personnel shall:

- A. Have the authority to assign work and establish work schedules for a Provider's personnel. Further, have direct supervision and control of a Provider's personnel, equipment and other resources which shall, at all times, remain with a Provider's supervisory personnel. A Provider should be prepared to furnish communications equipment sufficient to maintain communications among its respective operating units, and if this is not possible, a Provider shall notify a Recipient accordingly. It is expressly understood that this may involve a Recipient providing radio frequencies to a Provider while a Provider is assisting a Recipient;
- B. Maintain daily personnel time records, material records and a log of equipment hours; and;
- C. Report work progress to a Recipient at mutually agreed upon intervals.

SECTION VI. LENGTH OF TIME FOR AID AND ASSISTANCE; REVIEWABILITY; RECALL

The duration of a Provider's assistance shall be for the period agreed upon by the Authorized Representatives of a Provider and a Recipient.

As noted in Section II of this Agreement, a Provider's personnel, equipment and other resources shall remain subject to recall by a Provider to provide for its own citizens if circumstances so warrant.

SECTION VII. REIMBURSEMENTS

Except as otherwise provided below, it is understood that the authority having jurisdiction will be responsible for paying the Provider reasonable and documented expenses incurred by the Provider as a result of extending assistance to a Recipient. The terms and conditions governing reimbursement for any assistance provided under this Agreement shall be in accordance with the following provisions, unless otherwise agreed in writing by a Recipient and a Provider.

- A. **RECORD KEEPING:** A Recipient or its representative Local Emergency Management Agency shall provide information, directions and assistance for record keeping to Provider's personnel. A Provider shall maintain records and submit invoices for reimbursement by a Recipient in accordance with the procedures and format used or required by FEMA publications, including 44 C.F.R. Part 13 and applicable Office of Management and Budget (OMB) Circulars.
- B. **PAYMENT:** Other Miscellaneous Matters as to Reimbursement - The reimbursement costs and expenses with an itemized notice shall be forwarded as soon as practicable after the costs and expenses are incurred, but not later than sixty (60) days following the period of assistance, unless the deadline for identifying damage is extended in accordance with 44 C.F.R. Part 206. A Recipient shall pay the bill or advise of any disputed items, not later than sixty (60) days following the billing date. These time frames may be modified in writing by mutual Agreement.

SECTION VIII. RIGHTS AND PRIVILEGES OF PROVIDER'S EMPLOYEES

In accordance with KRS 39B.080, whenever a Provider's employees are rendering Aid and Assistance pursuant to this Agreement, such employees shall retain the same powers, duties, immunities and privileges they would ordinarily possess if performing their duties within the geographical limits of a Provider.

SECTION IX. PROVIDER'S EMPLOYEES COVERED AT ALL TIMES BY PROVIDER'S WORKER'S COMPENSATION POLICY AND EMPLOYEE BENEFITS

All Emergency Responders remain employees and agents of their respective employers and jurisdictions. This mutual aid Agreement does not create an employment relationship between the jurisdiction requesting aid and the employees and agents of the jurisdiction rendering aid. In accordance with KRS 39B.045, all pension, relief, disability, death benefits, worker's compensation benefits, and other benefits enjoyed by Emergency Responders rendering mutual aid under this mutual aid Agreement extend to the services the Emergency Responders perform outside their respective jurisdictions, as if those services had been rendered in their own jurisdiction.

SECTION X. AMENDMENTS

- A. Approval and adoption of the Agreement by the governing body of a Party to this Agreement and the signature of a Party's chief executive officer; and

- B. Submission of a copy of an approved and adopted Agreement, along with approved minutes of the legally constituted meeting at which the Agreement was approved, to the Kentucky Division of Emergency Management.

SECTION XI. INITIAL DURATION OF AGREEMENT; RENEWAL; TERMINATION

This Agreement shall be binding for not less than one (1) year from its effective date, unless terminated upon at least sixty (60) days written notice by a Party as set forth below. Thereafter, this Agreement shall continue to be binding upon the Parties in subsequent years and shall be considered to renew automatically from year to year, unless terminated by written notification as provided above. A Party terminating their participation in this Agreement shall submit a copy of their written termination notice to the other Party or Parties to the Agreement. A Party's termination of this Agreement shall not affect a Party's reimbursement obligations or any other liability or obligation incurred under the terms of this Agreement. Once a termination is effective, a terminated entity shall no longer be a Party to this Agreement, but this Agreement shall continue to be in force among the remaining Parties.

SECTION XII. HEADINGS

The headings of various sections and subsections of this Agreement have been inserted for convenient reference only and shall not be construed as modifying, amending or affecting in any way the express terms and provisions of this Agreement.

SECTION XIII. SEVERABILITY

Should any clause, sentence, provision, paragraph or other part of this Agreement be judged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Agreement. Each of the Parties declares that it would have entered into this Agreement irrespective of the fact that any one or more of this Agreement's clauses, sentences, provisions, paragraphs or other parts have been so declared invalid. Accordingly, it is the intention of the Parties that the remaining portions of this Agreement shall remain in full force and effect without regard to the clause(s), sentence(s), provision(s), paragraph(s) or other part(s) invalidated.

SECTION XIV. EFFECTIVE DATE, APPROVAL AND ADOPTION

This Agreement shall take effect upon approval and adoption of the following resolution by each of the entities seeking to become a Party to the Agreement and is effective in Kentucky upon proper approval and execution by the appropriate Kentucky Local Entity. Upon final approval(s) and signature(s), a completed copy of this Agreement shall be furnished to the Kentucky Division of Emergency Management.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF HENDERSON, KENTUCKY that the foregoing Mutual Aid and Assistance Agreement between the City of Henderson, The City of Owensboro, and the County of Daviess, Kentucky is hereby approved and adopted, and that the Mayor of the City of Henderson is hereby authorized to execute the Agreement and the Mayor of the City of Henderson, Henderson City Manager, City of Henderson Fire Chief, and City of Henderson Chief of Police are authorized to request, offer, or otherwise provide Aid and Assistance under the terms of the Agreement for, and on behalf of the City of Henderson a public entity established under the laws of the Commonwealth of Kentucky.

Passed and approved this _____ day of _____, _____.

Name and Title

CERTIFICATION

I, _____, duty appointed _____
(Title)

of _____, do hereby certify that the above is a true and correct copy of a
(City, County, or Other Entity)

Mutual Aid and Assistance Agreement approved by the _____ of _____
(City, County, or Other Entity) (Public Entity)

on the _____ day of _____.

(Official Position)

(Signature)

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF OWENSBORO, KENTUCKY that the foregoing Mutual Aid and Assistance Agreement between the City of Henderson, County of Daviess, Kentucky and City of Owensboro, Kentucky is hereby approved and adopted, and that the Mayor of the City of Owensboro is hereby authorized to execute the Agreement and the Mayor of the City of Owensboro, Owensboro City Manager, City of Owensboro Fire Chief, and City of Owensboro Chief of Police are authorized to request, offer, or otherwise provide Aid and Assistance under the terms of the Agreement for, and on behalf of, the City of Owensboro a public entity established under the laws of the Commonwealth of Kentucky.

Passed and approved this 16th day of Feb., 2016.

[Signature]
Name and Title Mayor

CERTIFICATION

I, Beth Cecil, duty appointed City Clerk
(Title)

of Owensboro, do hereby certify that the above is a true and correct copy of a
(City, County, or Other Entity)

Mutual Aid and Assistance Agreement approved by the City of Owensboro
(City, County, or Other Entity) (Public Entity)

on the 16th day of February, 2016

City Clerk
(Official Position)

Bob Cecil
(Signature)

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DAVIESS, KENTUCKY that the foregoing Mutual Aid and Assistance Agreement between the City of Henderson, The City of Owensboro, and the County of Daviess, Kentucky is hereby approved and adopted, and that the Daviess County Fiscal Court Judge Executive is hereby authorized to execute the Agreement and to request, offer, or otherwise provide Aid and Assistance under the terms of the Agreement for, and on behalf of the County of Daviess, a public entity established under the laws of the Commonwealth of Kentucky.

Passed and approved this 7 day of April, 2016.

[Signature]
Name and Title

CERTIFICATION

I, Jennifer Warren, duty appointed Fiscal Court Clerk
(Title)

of Daviess, do hereby certify that the above is a true and correct copy of a
(City, County, or Other Entity)

Mutual Aid and Assistance Agreement approved by the County of Daviess
(City, County, or Other Entity) (Public Entity)

on the 7th day of April, 2016.

Fiscal Court Clerk
(Official Position)

Jennifer Warren
(Signature)

City Commission Memorandum
16-92

April 26, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager 

SUBJECT: Municipal Order Awarding Bid for Purchase of a Trencher for the Gas Department to Ditch Witch of Shepherdsville, KY

The accompanying municipal order authorizes the award of a bid to Ditch Witch, Shepherdsville, Kentucky, for the amount of \$54,855.00 with the trade-in of our 2006 RT 40 model trencher. The trencher will be placed in the Gas Department.

Bid packages were sent to four vendors, with two bids received. The low bid of Ditch Witch fully complies with the bid specifications and award is recommended accordingly.

The Fiscal 2016 budget included \$64,000.00 for this purchase. Gas System Director, Mr. Owen Reeves, will be in attendance to answer any questions you may have. Your approval of the attached municipal order is requested.

c: Owen Reeves
Paul Titzer

Gas Department Memorandum
16-08

April 20, 2016

TO: Russell Sights, City Manager

FROM: Owen R. Reeves, Gas System Director

SUBJECT: Trencher Award

Bids were solicited and received for a new trencher for the Gas Department pursuant to KRS 45A.365. Bids were publicly opened on April 15, 2015 at 1:30 PM local time. Two bids were received. One bid included a trade-in option of our 2006 RT 40 model by Ditch Witch and the other by Vermeer was for new purchase only. As Vermeer was high bid on new purchase the award would be to Ditch Witch in either case.

I recommend award of option B (trade-in), with a low bid of \$54,855.00 to Ditch Witch Midwest, of Shepherdsville, KY.

There are sufficient funds available to complete this purchase. I plan to be in attendance of the April 26 commission meeting to answer any questions regarding this recommendation.

Respectfully,



Owen Reeves
Gas System Director

City of Henderson, Kentucky
Invitation to Bid

Bid Reference No. 16-13

SPECIAL CONDITIONS

The City of Henderson is soliciting sealed bids for the purchase of either a Trencher with Backhoe Attachment without trade in or with trade in of a used trencher.

All bid prices shall include delivery to the City of Henderson at 1131 Fifth Street, and pickup of the trade in (if applicable).

Bid price shall be good for forty-five (45) days after bid opening.

The City is asking for two bid options:

Option A: Bid price for a trencher with backhoe attachment without trade in. Specifications for the trencher follow in the next section "Technical Specifications".

Option B: Bid price for a trencher with backhoe attachment (same specifications as Option A) but with the trade in by the City of a Trencher (see full description at end of next section "Technical Specifications").

The bid will be awarded to the lowest bid price for whichever option the City of Henderson selects.

For questions regarding the trade in or any other specifications please contact Owen Reeves, Gas System Director, at 270-831-1200. Digital photos of the trade in are available upon request.

Bid procedure questions may be directed to Paul Titzer, Assistant Finance Director, at 270-831-1290, ext. 2220.

- End of Section -

City of Henderson, Kentucky
Invitation to Bid

Bid Reference No. 16-13

TECHNICAL SPECIFICATIONS

ENGINE

- DEUTZ DIESEL
- 42HP min.
- EPA TIER 4i

POWER TRAIN

- GROUND DRIVE TRANSMISSION WITH FOOT PEDAL AND HAND LEVER OPERATED
- DISC PARKING BRAKE
- HYDROSTATIC ATTACHMENT DRIVE TRANSMISSION
- HYDROSTATIC DRIVE TRANSMISSION/ FORWARD AND REVERSE/
FRONT STEER ONLY

CAPACITIES

- 13 GAL. MIN. HYDRAULIC SYSTEM
- 9.5 GAL. MIN. HYDRAULIC TANK

HYDRAULIC SYSTEM Guidelines

- 29.3gpm MIN. GROUND DRIVE PUMP CAPACITY
- 3750psi MIN. GROUND DRIVE PUMP RELIEF PRESSURE
- 29.3gpm MIN. ATTACHMENT PUMP CAPACITY
- 10.2gpm MIN. AUXILIARY PUMP CAPACITY
- 2500psi MIN. AUXILIARY PUMP RELIEF

BACKFILL BLADE

- 6 WAY BLADE
- 64" WIDE
- 14" HEIGHT
- SWING ANGLE 28 DEGREE/LEFT-RIGHT
- TILT ANGLE 11 DEGREE/UP-DOWN

TIRES

- 29"X12.5 (OR SIMILAR)

TECHNICAL SPECIFICATIONS

Page 2

BACKHOE ATTACHMENT

- MIN. 160 DEGREE SWING ARC
- MIN. DIG DEPTH 72"
- MIN. 102" REACH FROM SWING PIVOT
- MIN. 12" BUCKET WIDTH/ WITH 1.1 CU. FT. CAPACITY

TRENCHING ATTACHMENT

- MIN. 52" TRENCHING DEPTH
- MIN. TRENCH WIDTH OF 6"
- TRENCHER TO BE ON HYDRAULIC SLIDING BAR

ACCESSORY

- SIDEWALK PADS ON OUTRIGGERS
- CRUMBER MOUNTED ON TRENCHING BAR
- CRAWL AND BLADE CONTROLS MOUNTED BY BACKHOE LEVERS

TRADE IN DESCRIPTION

Trencher

- 2006 RT40 Ditch Witch Trencher
- 1790 hours on meter
- Fair condition with annual scheduled maintenance
- With A322 backhoe attachment
- With trenching bar, digging chain and manual crumber
- Front 6 way blade
- 29 x 12.50 Tires in fair condition

- End of Section -

MUNICIPAL ORDER. _____

MUNICIPAL ORDER AWARDING BID FOR PURCHASE OF A TRENCHER FOR THE GAS DEPARTMENT TO DITCH WITCH OF SHEPHERDSVILLE, KY

WHEREAS, the City of Henderson has issued invitations to bid for the purchase of a trencher for the gas department; and

WHEREAS, bids were submitted to the City pursuant to said invitations, and were publicly opened on April 15, 2016, with Ditch Witch of Shepherdsville, KY, submitting the best bid for Option B in the amount of \$54,855.00 with the trade-in of our 2006 RT 40 model, which bid the City Manager recommends be accepted.

NOW, THEREFORE, BE IT ORDERED by the City of Henderson, Kentucky, that the recommendation of the City Manager is approved, and award is hereby made to Ditch Witch of P.O. Box 6556, Shepherdsville, KY 40165, for Option B purchase of the Trencher with our trade- in for a total amount of \$54,855.00, in strict accordance with their bid as submitted pursuant to Bid Reference 16-13.

On motion of Commissioner _____, seconded by Commissioner _____, that the foregoing Resolution be adopted, the vote was called. On roll call the vote stood:

Commissioner Royster _____	Commissioner Hite _____
Commissioner Mills _____	Mayor Austin _____
Commissioner Johnston _____	

INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON ONE READING, this the _____ day of April, 2016.

Steve Austin, Mayor
Date: _____

ATTEST:

Maree Collins, City Clerk

APPROVED AS TO FORM AND LEGALITY THIS 25 DAY OF APRIL, 2016.

By: 
Dawn S. Kelsey
City Attorney

City Commission Memorandum
16-90

April 21, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager 

SUBJECT: City Attorney's Report

I. Zoning Ordinances Review
Commission Direction Requested.

The City of Henderson's Codes Department recently received a question on which Zoning District/Districts allow indoor shooting ranges.

The current zoning ordinances do not address Indoor Shooting/Firing Range or other Indoor Recreation uses. I am recommending that the Board of Commissioners request a review by the Henderson-Henderson County Planning Commission and possible amendment in one or more of the zoning classifications to allow an indoor shooting range as a conditional use granted by the Board of Zoning Adjustment.

Your formal action is necessary to forward this proposed zoning review to the Planning Commission to make their recommendations.

c: Brian Bishop
Don Summers
John Stroud

LEGAL DEPARTMENT

MEMORANDUM 16-02

To: Russell Sights, City Manager
Buzzy Newman, Asst. City Manager

From: Dawn S. Kelsey, City Attorney

Dated: April 18, 2016

Subject: Zoning Ordinance for Indoor Shooting/Firing Range

The City of Henderson's Codes Department has been approached with the question in which Zoning District would an indoor shooting range be located. In reviewing the Zoning Ordinances, it appears that the ordinances do not address Indoor Shooting/Firing Range or other Indoor Recreation uses. Consequently, under KRS 100.203, et seq., the Board of Commissioners may consider sending this to the Henderson-Henderson County Planning Commission to prepare an amendment to the current Zoning Ordinances and holding a public hearing pursuant to KRS 100.207.

cc: Brian Bishop, Henderson-Henderson County Planning Commission
Don Summers, Codes
John Stroud, Codes

**UPCOMING
BOARD APPOINTMENTS**

<u>BOARD</u>	<u>EXPIRATION DATE</u>	<u>TERM</u>
--------------	------------------------	-------------

BOARD OF ZONING ADJUSTMENT

	<u>Current Term Expires</u>	<u>Term</u>
Ed Whelan (resigned)	02/24/2018	Unexpired (4-Year)

CIVIL SERVICE COMMISSION

	<u>Current Term Expires</u>	<u>Term</u>
Richard Dzuibich	06/01/2016	3-Year

CITY-COUNTY PLANNING COMMISSION

	<u>Current Term Expires</u>	<u>Term</u>
Bobbie Jarrett	06/01/2016	4-Year
Kevin Herron	06/01/2016	4-Year

BOARD OF APPEALS (Housing & Building)

	<u>Current Term Expires</u>	<u>Term</u>
Mac Arnold	06/22/2016	4-Year
Gray Hodge	06/22/2016	4-Year

HENDERSON-HENDERSON COUNTY HUMAN RIGHTS COMMISSION

	<u>Current Term Expires</u>	<u>Term</u>
Darlene Ware	06/30/2016	3-Year