

In the Council Chambers of the Municipal Building held on Monday, March 6, 1995 at 7:30 P.M. with Council President Kiesling presiding over a Special Session of the Common Council.

COMMON COUNCIL
SPECIAL SESSION
MARCH 6, 1995

Roll Call: Sherman, Service, Swain, Pizzo, Cole, Hopkins, White, Bonnell, Kiesling.

ROLL CALL

Kiesling gave the agenda summation, stating she anticipated starting Ordinance 95-21 and completing at least Chapter 2 this evening.

AGENDA SUMMATION

There were no minutes for approval.

MINUTES FOR APPROVAL

Sherman stated that as of next week he will be the Council representative on the Plan Commission. He said he would not apologize for the proposed Zoning Ordinance, as he knew what a lot of work went into it. This begins the transition from the Plan Commission to the City Council. He thanked the Plan Commission by name for their work on the Plan and Zoning Ordinance. He introduced Rod Young, President of the Plan Commission, who gave the council some words of encouragement and thanked them for their efforts.

MESSAGES FROM
COUNCILMEMBERS

Kiesling reviewed the rules of procedure suggested by the Council Attorney, and noted that the time limits could be changed if necessary. It was moved and seconded that the time limit on the debate be five minutes, which was approved unanimously by roll call vote.

It was moved, seconded to consider the document by chapter, taking it one chapter at a time considering amendments, and not adopting that chapter at the end of the review and at the conclusion of the review, and to take a final vote on the amended document.

The motion received a roll call vote of Ayes:9, Nays:0.

Council Attorney Sherman stated the method of presentation as beginning the chapter with Plan Director Mueller giving a general presentation, then taking up amendments from Councilmembers, who will present their amendments, then Council will discuss and public will be given an opportunity to comment, then discussion will return to Council. When done with all amendments, the public will have opportunity to comment on the rest of the chapter not covered.

It was moved and seconded that Ordinance 95-21 be introduced and read by title only by the Clerk. Clerk Williams read the ordinance by title only.

ORDINANCE 95-21

It was moved and seconded that Ordinance 95-21 be adopted. Clerk Williams read the synopsis.

Tim Mueller started by presenting an oversight of whole ordinance. He said that the process has been a long one, and they have tried to accommodate various community concerns. This has made the document long and complex. The goal of the document is to implement the Growth Policies Plan. In doing that, some parts bear close resemblance to the existing Zoning Ordinance; some are quite different. He gave highlights.

In terms of preservation of community character, they have tried to enhance the landscaping requirements throughout the document in all of the zones in the interest of meeting that goal. Another big part of community character is preservation of the single family residential neighborhoods, to be accomplished by several zoning measures. In the core neighborhoods there are some changes in zone from multi-family to single family. They have created a number of other single family RS zones with differing lot sizes. The purpose of the multiple RS zones is so they can apply zones which complement existing lot sizes.

They have also tried to incorporate a lot of environmental protection measures. This concept is evolving and early on they rejected the idea of creating overlay zones. Instead they established staff level procedures to identify environmental problems, and specified environmental management plans. The lakes watersheds will be protected by RE 2.5 zoning which requires 2.5 acre lots in sensitive areas. There is also a lake watershed overlay zone, which will require additional precautions for development.

Compact form is served in the ordinance by zoning for high density in appropriate areas. Mueller went on to point out the areas which needed filling in with more density, many now zoned RE and RS. This "up-zoning" is a highly significant area of the ordinance. Providing land for industrial areas is also part of this zoning and pre-zoning it industrial was felt to be important for economic development. As a balance to this, industrial performance standards have been incorporated.

The Downtown zone is expanded by a number of blocks, and will require 50% of first floors to be retail. Also created is a downtown opportunity overlay zone, which relaxes certain development standards as a conditional use: i.e. height, no density constraint for multifamily, and relaxed parking requirements.

Business zones are largely unchanged from existing designations. Inserted minimal sideyard requirements with some landscaping. Residences are allowed in business zones.

The development process has been refined to make it somewhat more streamlined, with staff hearings. Hot points: compatibility review was discussed but rejected by the Plan Commission; environmental issues; and enforcement.

Chapter 1, 20.01, "Title, Purpose, Applicability, and Interpretation." Mueller said it was an important chapter, and there were important transition rules. These spell out where people stand between the old and new rules if they are in process now. The point at which people are "vested" under the current code is if they have full and complete permit applications or site plan application and if it conforms to the current code.

CHAPTER 1

Kiesling asked for questions or amendments from Council. There were none. There were no public comments on Chapter one.

Chapter 2, "Definition of Rules of Word Usage" was then considered. Mueller said this part of the code gave specificity to words and concepts. He called attention to "Light and Heavy Manufacturing" now defined in terms of products. This has problems. Mueller pointed out several other definitions which were changed.

CHAPTER 2

Kiesling asked Mueller about Day care homes and centers, noting it only referred to children and wondered if there was any reference to adult day care situations. There were not, but Mueller pointed out that the definition treated the difference between care homes and centers, not children and adults. Kiesling asked if there were any questions; there were none. Council Attorney Sherman read a list of amendments to be considered.

Kiesling asked Hopkins to introduce his amendment #23. He said he would like to explain how it relates to something coming later. The amendment will deal

with the idea of an accessory apartment, defined as an apartment in an owner-occupied home not requiring an external modification of the home. He will move to add this when the section on Conditional Uses is reached.

Kiesling asked for the introduction of amendment #24 from Hopkins on cooperative housing. He said he wanted to withdraw amendment #24 until the amendment on the family is considered.

It was moved and seconded that Amendment #12 be introduced. Bonnell said that this was an amendment offered by Hopkins and himself which came out of a work group on affordable housing. Present zoning, of units per acre creates a disincentive for creating affordable housing of efficiency or one bedroom units. They propose creating "Dwelling Unit Equivalents" of unit-per-acre zoning to help with the problem. He gave some examples of sizes of equivalents. This only applies in multifamily districts and in the industrial and commercial districts. Bonnell introduced amendment #12 and it was seconded. AMENDMENT #12
D.U.E.

Hopkins said there were long discussions in the work group and it was felt if the disincentives were removed, then the market would provide affordable housing by building more smaller units. Mueller said it was clear that current code has a disincentive for building smaller units but on the other hand normal development builds complexes heaviest in one and two bedroom apartments, so efficiencies are the ones we see the least of. He warned caution in this, as the public may not be prepared for the high number of units per acre, which could be as high as 45 per acre. He also warned about the possibility of creating large bedroom spaces which could be divided and allow a two bedroom unit to function as a four bedroom in reality, but not have the required parking or other facilities. He said that this needed to be carefully considered.

Sherman asked a procedural question, saying that this is a definitional question for discussion, not a merit question. Why discuss it now? Council Attorney Sherman responded that the only other opportunity for discussion would be in the Zoning District chapter, and by then they would have a good grasp of the implications of the concept. Bonnell asked Mueller to point out the places on the map where there were RM 7 and 15 zones. Mueller indicated a few areas of RM zones and said that commercial zones would also be affected by this. There are many more areas of commercial zones, especially along the corridors. Bonnell offered a friendly amendment, replacing a row of X's after Boarding Room with the words "less than 250 Square feet equals .25 of a unit".

It was moved, seconded and approved by a voice vote.

Sherman asked if Hopkins or Mueller was aware of any other areas using this concept of dwelling unit equivalents. Hopkins responded by saying one member of the task force had serious doubts whether the market would work well in this manner, however, that it was worth taking a chance on. Service commented that this would make producing a more accurate measure of an impact of a development in an area, by counting the people in a unit, rather than counting the number of units.

Service asked Mueller what he thought the impact of this would be in the core areas, would it actually add more people or only be a change in counting technique. Mueller said this was one of the concerns of the Plan Commission, but they could not give the time to work it out thoroughly. He said they should take a hard look at the square footage requirements so they make sure that they are not creating an incentive to build units that could be subdivided internally to hold more people than envisioned by the ordinance. Service said she wanted to

see more small units created but did not want to add more density in areas that already had density problems.

Discussion followed about the possible impacts. Bonnell pointed out that this only applies in RM 7 and 15, and commercial zones. Swain asked Mueller about the impact on downtown. Mueller said that it would probably be positive, and had been discussed with the subcommittee of the Commission for Downtown. He urged that they look at the square footage requirements as a way to control misuse. Service said that a big chunk of her district, a core area, was zoned to allow this density increase. She said this is a big step to make without fully understanding the implications. Sherman asked if the sponsors had thought of tying the use of this to affordable housing. Bonnell said this was a "free market" approach that would remove the disincentive and install an incentive to let the marketplace work. Sherman asked what would happen if people took advantage of this? Would this density be grandfathered, and what are the options for undoing this provision?

Kiesling stated that there were audience members there who may be able to answer some questions and wanted to turn it over to public comment at that time.

Norm Deckard spoke about efficiency apartments his family has owned for 45 years, at a size of 336 square feet. He said there have been almost no vacancies at that time. He thought this was a good idea. White asked him if this would be a good incentive; Deckard said yes.

Jeff Brantley thanked Bonnell and Hopkins for doing this amendment and said this was an experiment and a good one in market based thinking.

Marc Cornett commented on the discrepancies in the one bedroom and two bedroom square footage. There are 250 extra square feet for the second bedroom, which is a large bedroom. He said make the single bedroom unit a little larger or the two bedroom a little smaller, or both.

Greg Raisman said there was too much talk about business or students and not enough about families. This will benefit families, because developers don't have incentive to build smaller more affordable units. It will help with young startup families. He said that the buildings would take up less space with this provision, and the market would discourage providing bedrooms with tiny living rooms and kitchens.

City Attorney Bernens answered the question about the provision being grandfathered if passed. She said it wasn't a legal difficulty but that people tended to get upset when a provision like that was taken away. Sherman said perhaps they could add a provision to review this new concept.

Hopkins said that the bedroom sizes could be adjusted if needed. Kiesling asked if the square footage related to the whole unit or the bedrooms. She was assured that the 750 square feet applied to the whole unit. Service said she was hesitant on this because she has seen developers take advantage of loopholes and damage neighborhoods. She said you can close loopholes but cannot repair the damage. There have been instances in the past where that has happened.

Amendment #12 received a roll call vote of Ayes:8, Nays:0, Abstain:1 (Swain)

It was moved and seconded that Amendment #25 be considered. Hopkins said that the concept of cooperative housing was introduced in the original draft of the zoning ordinance. The idea was to introduce the concept of people coming together democratically to own a house. Amendment 25 is to modify the definition of "family" to account for the coop housing concept. It is intended to expand the definition of "family" to include no more than six adults and dependent children living together in that cooperative unit. He believes this introduces a different sort of housing concept -- these are people who buy the house together. The adoption of amendment 25 was moved and seconded.

AMENDMENT #25
DEFINITION OF FAMILY

Sherman questioned the wording of definition of family, referring to the number and the reference to underlying zoning. Hopkins assured him that the definition of family would apply to all districts and override the coop housing definition. Sherman referred to the phrase "living in a cooperative arrangement" as being too loose. Hopkins agreed that it should be changed. Hopkins said it should be cooperative housing. Sherman asked about the phrase "and their dependent children" which did not appear. Hopkins said it was important to include the phrase "and their dependent children". Swain asked how the number five was chosen in the past to define the limit of occupancy. Mueller replied that five adults as an occupancy limit had become a problem in the '80's, with formerly stable single family neighborhoods becoming impacted when landlords found they could rent to five. The code was amended to limit occupancy in single family neighborhoods to three adults and retained five as the limit in multifamily zones. Mueller said there may be a legal problem of distinguishing between a limit with an owner-occupant group and a rental group. There needs to be legal scrutiny on this.

Service said that the "family" question was still current when she came on the Council. The problem was in the definition of relationship, gender, and was very emotional at the time. Mueller recommended that one area to make sure was defined well was "ownership", because there was tremendous pressure from landlords to rent to as many per unit as possible. He said that while the d.u.e. provision would only apply to a few areas, this one would apply to almost all of the campus proximate areas of single family zones. Developers could set up loose contracts to purchase with a group which were really only rental agreements. Bernens was asked if the definition of ownership could be improved to cover those concerns. She said she didn't think it did at this time, and that it was a valid concern. If we are proposing a distinct housing arrangement, then we need to be quite specific about ownership and what is the basis for making the jump in occupancy from three to six. Sherman pointed out that under this provision, six adults with two children each could buy a house in Hyde Park and move 18 people in.

Kiesling asked for public comment.

Marc Cornett said it was a good idea and referred to a book on the subject of cooperative housing. He said that the difference between condos and coops is that one owns a share in the whole building in a coop, not just a unit.

Bret Morris supported the concept as a way to get affordable housing on the market. He said non-profits may be able to buy in housing developments.

Bill Sturbaum noted that the Growth Policies Plan had suggestions for providing affordable housing. He said that one way to maintain affordable housing was to curtail the buying up of houses for investment purposes. The Plan advised this and he urged comparing the Plan with the ordinance before adding anything new.

Marie Webster said she felt very strongly about changing the definition of family and feels that this has the potential to make major changes in her neighborhood. She asked how this will be enforced. She felt it would let down the core neighborhoods to pass this.

Chris Sturbaum said that the one constant in the housing situation was competition between single family buyers and investors, and when a house was lost to an investor it was lost from the single family pool forever. He cautioned them about passing this ordinance.

Marc Cornett said typically this was not a single family house that this was put in, but a unit where parts of the home are shared.

Greg Raison said another issue was ownership and the fact that lower income people could not afford to buy a house outside of a cooperative situation. He didn't think slums would be created by this.

Service asked Bernens what she thought of the legal implications of this amendment. Bernens said that she needed to research it further in terms of the definitions. Swain said he supported letting legal take a look at this and that this could have a negative effect on core neighborhoods. Hopkins said that the current definition of family allowed any number of people with no restriction. Bonnell asked Bernens about the rational basis distinguishing between choosing between three and five adults in the current code. Bernens said that more adults mean more impact. Bonnell said he supported this amendment because there are safeguards in the definition of coop housing, which he enumerated. Pizzo commented that he thought the legal ramifications were important and he favored waiting until those questions were answered. Sherman also wanted to hear more from Legal, and the goal of increasing affordable housing is good, but the impact could be bad.

There was a discussion as to whether hold a special session on this and whether to table this amendment.

It was moved and seconded to table Amendment #25. The motion received a roll call vote of Ayes:6, Nays: 3 (White, Hopkins, Bonnell).

Bonnell said he wanted to skip Amendments 28 and 29, reserving the right to bring them up again.

CHAPTER 3

It was moved and seconded that Amendment #5 be considered. This adds a paragraph to section 20.03.05.06, which has to do with asking the Plan commission and staff to add time limits for the procedures which were being adopted. This reflects the concerns with the lack of time limits in moving applications from one process to the next. He explained the purpose of this as setting reasonable times for getting through the approval process.

AMENDMENT #5
TIME LIMITS FOR
PLANNING PETITIONS

Mueller said that specific deadlines combined with heavy workload reduces flexibility. He preferred to have guidelines instead of fixed time limits and to allow the Plan Commission to establish these after study. Sherman asked Bonnell about the intent of this, especially the term "reasonable time limits". Pizzo felt that this was an attempt to legislate efficiency and it would be difficult to predict their workload. Kiesling commented that there could be a fiscal impact also. White said this amendment was answering a concern of the development community with the time taken for the approval process. Mueller said that

Planning does not control all aspects of the approval process. Much discussion followed about the merits of the proposal. Hopkins proposed a friendly amendment of "establishing reasonable guidelines for the timely processing and approval of all applications". Bonnell accepted the amendment to his amendment. There was discussion about micromanagement.

Jeff Brantly from Positive Progress said this will force the Planning Department to focus on getting developments through.

Eugene Fritz warned about establishing time limits on the planning process because some projects take a lot of time, for instance Wal-Mart.

Norman Deckard said Bloomington has a reputation for being difficult for development and people from out of town wonder if its worth their time to even try.

Marie Webster pointed out that many times the reason for passing things was only to speed things up; she pointed out that we will live with these projects for many years.

Bill Finch asked about the meaning of the word "guidelines" and spoke in favor of the amendment.

Mueller said part of the reason that it takes so long to review proposals is that many proposals are inadequately prepared, and that some go back for changes.

Swain said he couldn't support this as it was micromanagement. There was discussion about the wording of the amendment and its placement in the ordinance. The final wording was "The Plan Commission shall adopt rules within six months of the effective date of this ordinance which establishes reasonable guidelines for timely processing and approval of all applications or parts thereof within control of the planning staff in conjunction with Engineering, Code Enforcement and other city staff." The synopsis was also changed. The placement was under 20.03.05.06.

Amendment #5 received a roll call vote of Ayes:8, Nays:1 (Swain).

Mueller then introduced Chapter Three as intended to be a reference source for processes and procedures. He called attention to the authority of the Plan Commission and variances, the change being that the Plan Commission would review use variances before the BZA. The rationale being that use variances can be very substantial land use decisions. He also pointed out that the Certificate of Planning Compliance for extension of sanitary sewer was new as was the creation of a Plat Committee by rule. The staff's role in the PUD review process and building permit review was also made more specific.

It was moved and seconded that Amendment #18 regarding Hearing Officers be considered. Sherman said this would make the process more efficient and predictable and this amendment mandates the establishment of a Hearing Officer. Mueller said the planning staff favors the use of these mechanisms, but there could be a legal issue here about the authority to mandate. There followed discussion about the legality of mandating the establishment of a Hearing Officer and of the Plan Commission's feeling about the issue.

AMENDMENT #18
HEARING OFFICER

It was agreed to separate the amendment into two parts, with the first part being the sentences mandating the establishment of the Hearing Officer. This first part would be continued until a recommendation from Legal could be given. Kiesling asked for public comment.

Gene Fritz asked about where the public would have opportunity to comment. Mueller said the Hearing Officer would hear public comment and also the decision could be appealed to the Board of Zoning Appeals.

Jeff Brantley spoke in favor of the Hearing Officer. Bill Finch, representing CFC, and Ben Beard spoke in favor. It was asked who had the authority to overrule the Hearing Officer. The answer was the BZA, on appeal.

The motion on amending 20.03.07.02 with a sentence at the end of the paragraph reading "Where feasible and permissible those procedures shall allow for the consolidation and simultaneous review of approvals connected with applications relating to the same" received a roll call vote of Ayes:8, Nays:1 (Service).

The question was asked about what was wanted in a report from Legal. It was decided that the Hearing officer proposal, as well as Sherman's proposal for the Plat Committee could come back as a Council resolution.

Hopkins moved that the top section of the amendment, mandating the establishment of the Hearing Officer, be tabled until legal advice could be given. It was seconded.

The motion received a roll call vote of Ayes:9, Nays:0

It was moved and seconded that Amendment #17 on the Plat Committee be considered. This mandates the establishment of the Plat Committee. It was moved and seconded that the amendment be tabled.

AMENDMENT #17
PLAT COMMITTEE

The motion to table received a roll call vote of Ayes:9, Nays:0.

It was moved and seconded that Amendment #26 be considered. Hopkins said this adds a provision for appeal of decisions by the Hearing officer and specifies time limits for making these appeals. Mueller said state law provides for this appeal. Kiesling asked for public comment. It was asked if the 14 day limit meant working days.

AMENDMENT #26
APPEALS

The motion received a roll call vote of Ayes: 9, Nays:0.

Kiesling asked for public comments on the whole of chapter Three. There were none. Kiesling asked for a motion to continue the meeting to March 7 at 7:00 p.m. It was approved by a voice vote.

The meeting was recessed at 11:05 pm

On March 7, 1995, Kiesling called the continuation of the March 6, 1995 meeting to order.

MARCH 7, 1995
MEETING CONTINUES

Chapter 4. Mueller said this chapter identifies the other planning documents referred to by the Zoning Ordinance, such as the Comprehensive Plan. Of interest are some of the references in the Plan, especially those calling for a yearly review. It is thought that that is unrealistic, and is changed to once every four years. He said subarea plans are similar to neighborhood plans which have been done before, and are identified in the comprehensive plan as neighborhood enhancement areas. These are felt to warrant subarea plans. The intent is to continue the program of subarea planning as soon as the Zoning Ordinance procedure is over. The thoroughfare plan is also referenced, and has a bearing on several sections of the Zoning Ordinance, such as street setbacks.

CHAPTER 4

Kiesling asked about subarea plans being incorporated in the comprehensive plan and if the Zoning Ordinance would be changed to accommodate subarea plan provisions. Mueller replied that they would.

Chapter 5. Mueller said this chapter spells out the standards and procedures for the various actions called for under the Zoning Ordinance, such as public hearing procedures. Much of it is specified by state statute. He pointed out the conditional uses provisions, and noted that they included provisions formerly called Special Exceptions. Some, but not all, conditional uses have specific criteria as well as the general criteria. New definitions were bed and breakfasts, drive-through. He also pointed out the Historic Adaptive Reuse provision and commercial uses in industrial zones. He also identified a section of "worst-case" industrial uses which are conditional uses, so that some control can be given. Other additions to the conditional use section were outdoor storage, shared and off-site parking. The parking provision was to enhance development flexibility. Mueller also explained the new business park zone which allows light manufacturing if it is compatible with the business park environment. He noted the downtown development opportunity overlay and the off-premise sign provision, but said full discussion would come later in the ordinance.

CHAPTER 5

He noted that variances are changed to reflect state statute, which allows Plan Commission review of use variance requests before decision by the Board of Zoning Appeals. He explained the difference in use variances and standards variances, and said that use variances could be serious issues, changing the use of the land in major ways. The Plan Commission review would lend their expertise in major land use questions to the BZA decision.

The site plan review section has been beefed up and replaces the old Title 21, which was a maze of site plan requirements. This consolidates site plan provisions, with the process being the same as now. There are some changes as to what is reviewed by staff and what is reviewed by the Plan Commission.

The Planned Unit Development section has some significant changes, mainly to give flexibility to mixed uses. This is a rezone on which the Council will have the final decision. Mueller feels that the new process is more straightforward, and allows more negotiation. He said that one area of PUD which would generate discussion was the RE 2.5 district, which covered "sensitive areas" such as lakes watersheds. This limits where PUDs can be considered, and restricts them from these areas. This was a compromise generated from the committee formed after the Gentry Estates rezone was not approved. There are three areas outlined in the RE 2.5 area which may be upzoned through the PUD process which have been identified by the criteria set forth by the committee. The criteria are contiguity, direct access to an adequate thoroughfare, and development

capability according to the subdivision chapter and potential for sewer service.

Mueller mentioned Home Occupations, saying they were much the same. "Administrative Interpretation" has been expanded, because much still would require interpretation, and this gives the staff guidance and specificity.

Bonnell asked about the site plan review process being forwarded to the Plan Commission: under what circumstances would it be sent to Plan Commission? Mueller explained that current code required much the same thing, and read the provisions that required the staff to forward the project to the Plan Commission for their review. He explained some of the other site plan review provisions and their rationale at some length.

Bonnell asked about the fact that every application needs site plan approval. Mueller said that there is a simpler process for single family residences. Bonnell asked about the process for approval for other projects: would it be much more lengthy? Mueller agreed that language was needed to except certain activities from this review process. The staff will work on language to that effect.

It was moved and seconded that Amendment #6 be considered: Bonnell said that this amendment follows the customs of the planning staff and states that maps required for some applications "would be provided free of charge by the Planning Department in the form of a GIS map or its equivalent". This merely makes a current practice clear. Kiesling asked about the fiscal impact of this and if the GIS maps were up to date. Mueller said he had some suggestions as to wording and placement in the ordinance. Sherman questioned the placement of the amendment. Discussion followed about the proper place for this.

AMENDMENT #6
FREE GIS MAPS

Kiesling asked Mueller about the provision of GIS, and Mueller said that GIS maps now are made available at cost, and that cost would likely go up. He didn't want to imply that the cost would always remain the same. Discussion followed about the fees for this service, and it was determined that Planning charges the same for the maps as Utilities does. Mueller's wording of, "A GIS map showing the required information, to the extent available, shall be provided by the Planning Department to applicants without additional charge over the application fee" was accepted by Bonnell and also the suggested change in placement.

White said that this was an appropriate amendment and a good way to kick off the development process. Kiesling said that she agreed with this, but that there would be a fiscal impact to this.

Amendment #6 received a roll call vote of Ayes:9, Nays:0.

It was moved and seconded that Amendment #7 be considered: Bonnell said this referred to availability of the Planning Department staff report on applications and required it be available to the review body, applicant and public no later than the end of the last working day prior to the first scheduled meeting. Bonnell explained his rationale for proposing this, saying sometimes the staff recommendation was not available to the public until the date of the meeting.

AMENDMENT #7
PLAN DEPT. REPORTS

Mueller said that the first scheduled hearing may not be where the staff recommendation is made and said that it should be a requirement before the hearing which is the final hearing on the application. He explained that sometimes the negotiation process went on down to the wire.

Swain said that he thought this may be micro-management and this may create an artificial deadline which may hamper negotiations. Kiesling said did he want this

to mean staff report or recommendation? Mueller said this was a big difference and if he wanted recommendation, then that should be the word. Bonnell suggested two changes: That "final" be inserted instead of "first" hearing, and the words "and recommendation" be added at the end after "staff report".

Jeff Brantley, Positive Progress, spoke in favor.

Amendment #6 received a roll call vote of Ayes:8, Nays:1 (Swain).

It was moved and seconded that Amendment #8 be considered: Bonnell said this adds to the notice requirements of 20.05.02.01 with the purpose of bringing the noticing requirements into the electronic age, i.e. cable tv, internet, etc.

AMENDMENT #8
ELECTRONIC NOTICE

Kiesling asked Mueller and Clerk Williams to comment on this as the are both affected by the proposal. Mueller said this was probably a good idea but that state statute specifies that notice requirements be part of the Plan Commission and BZA rule making authority and that would be the proper place for that. City Attorney Bernens agreed that it was probably the job of the Plan Commission and BZA to set these rules. Clerk Williams said this was a good idea and noted that this would be easier to implement in the new city building. She also said that a bill was in the Legislature about the availability of information. Kiesling said that there was need for a procedure for this to make sure it is coordinated.

Swain said that he thought it a good idea but needed more thought. Discussion followed about the need for making this amendment at this particular time.

Sherman said he favored doing it now. Bonnell said that it wasn't mandated that the Planning staff put it on BCAT, etc., but that they make it available for that.

Amendment #8 received a roll call vote of Ayes:8, Nay:1 (Swain).

It was moved and seconded that Amendment #9 be considered: Bonnell said this requires the Planning Staff make available the decision of the decision-making body within five working days. However, Bonnell said he objected to the disclaimer on the end saying this may be in the form of an audio tape. He wanted a written copy of the decision within five days. He said most Plan Commission decisions follow staff recommendations and it should be a simple matter to add a certification on top of the staff report for most cases. Bonnell accepted a friendly amendment changing the term to "a written copy of the decision" and deleting "in the form of an audio tape".

AMENDMENT #9
DEADLINE FOR PLANNING
DECISIONS

Assistant Planning Director Toni McClure said she thought that they had described the decision in 20.05.02.02f, and recommended if this was adopted to add "as described in 20.05.02.02f" after "copy of the written decision." Bonnell said he had no problem with that.

Bill Sturbaum commented about the danger of using a summary as a report. He cited an instance of the agreements made in a meeting not getting into the summary report.

Bonnell clarified the amended amendment by reading: "A written copy of the decision, as described in 20.05.02.02f, of the decision-making body or officer shall be available in the Plan Department within five working days of the decision."

Amendment #9 received a roll call vote of Ayes:9, Nays:0.

It was moved and seconded that Amendment # 21 be considered: Service said this was being added to the section on additional criteria for certain categories of Conditional Use, Industrial Uses with Potential Adverse Effects were "manufacture and processing of drugs and pharmaceutical" and "metal fabrication". This section is industrial activities which are conditional uses because of their potential for causing problems, particularly off-site problems. This would provide more scrutiny into some of their processes, such as dealing with waste, but not prohibit them. Mueller said that they sympathized with the amendment but took issue with the language. Making it a conditional use limited the predictability that was needed in economic development efforts. He said that they tried to refine the list of manufacturing activities so every new industry would not have to go before the BZA.

AMENDMENT #21
CONDITIONAL USE

Discussion followed about the definition and impacts of various industrial uses. Mueller pointed out that most industries had both good and bad effects; Hopkins said that this made it the perfect argument for conditional approval. That way the effects, both good and bad, could be looked at and the decision made on that basis. Mueller pointed out that conditional uses were also reviewed by the Plan Commission which would subject the petition to a longer review. Pizzo asked if they were not on the conditional use list, then would they be reviewed in another process? Mueller said no, not if they were a permitted use, then they would need a permit, but that would not be a discretionary review. They would be permitted by-right, and not be reviewed as to being a good neighbor or not. They would have to meet objective industrial performance standards, but there would be no ability to control effects not listed in those standards.

Sherman said this is what happened with the asphalt plant; it was a permitted use and the Council did not have the authority to make any decisions. This was the reason for adding some industries as conditional uses. The question was how broad these categories should be.

Bonnell said he wasn't comfortable with adding metal fabrication to the Conditional Use category.

George Heise from the Environmental Commission spoke in favor of the amendment. He worked for a pharmaceutical company and said that although it was a very reputable company, the stream it discharged into ran in different colors almost daily. It was not a particularly "clean" industry, and it made a variety of products, not just a few.

Peter Wright asked if the point of this was to ask manufacturers if they were a potential danger to the community. He suggested that that question be added to the end of this list and then if they were a danger, they could be excluded.

Gene Fritz asked if the items were not listed here would they be assumed to be not permitted.

City Attorney Bernens said that they would then probably fall under the definition of light or heavy industry.

Bill Finch, representing Cook Group, asked that drugs and pharmaceutical, not be included on this list. He said they are strictly regulated now by the state and the federal government.

Norm Deckard said that metal fabrication was used somehow in almost every plant and the process varied widely in its impacts.

Hopkins referred to the definition of Light Manufacturing and proposed a friendly amendment to add to "other than Light Manufacturing" after the words "metal fabrication" in the conditional uses list. This would cover any adverse effects of objectionable heavy metal fabrication. Mueller said this was an improvement in the definition, and suggested saying "light manufacturing as defined herein". Service accepted both suggestions to amend the amendment. Bonnell asked if Service had in mind the kind of processes to which Finch referred. Service said that she didn't think "drugs and pharmaceutical" covered medical devices.

Discussion followed about the production of pharmaceutical. Sherman asked what the problem was with drug manufacturing -- was it toxicity?

Pizzo replied that most drugs are not toxic but production processes may have toxic impacts, such as the extraction process.

Bonnell said there was already a definition of toxic substances which should protect the public safety. Service said she agreed with the changes to the definition of metal fabrication but did not want to change the drugs and pharmaceutical definition. She agreed to split the amendment to take each subject separately.

Kiesling said they would vote on the metal fabrication issue first. Service read the amended definition to be added to the list of conditional uses, "metal fabrication, other than light manufacturing as defined herein." Swain asked for an overview of the IG areas on the zoning map. Mueller pointed out those areas on the map. Swain asked for a description of the light industrial and general industrial zones. Mueller gave a brief description. Swain asked what the economic development community thought of this. Mueller said they didn't want any conditional uses, but were told that this was only to screen the most problematic industries.

Amendment #21 (a) received a roll call vote of Ayes:9, Nays:0.

Service then proposed the second part of her amendment, adding "the manufacturing of drugs and pharmaceutical" to the list of conditional uses.

Sherman asked what size had to do with it. Bonnell moved to change the wording to "the manufacturing and processing of drugs and pharmaceutical, other than light manufacturing as defined herein". It was seconded. Mueller said this improved the situation.

Gene Fritz asked about odors, saying living next to a pharmaceutical manufacturer could be odorous. He was told it was listed. Service read the definition of light manufacturing.

Bill Finch said Bonnell's amendment may cover the situation.

Marc Cornett asked them to remember that there are people involved in each manufacturing decision. Service asked the representative of the Environmental Commission for his reaction; he said it seemed reasonable.

Amendment #21 (b) received a roll call vote of Ayes:9, Nays:0

Amendment #21 as a whole received a roll call vote of Ayes:9, Nays:0.

It was moved and seconded that Amendment #23 be considered: Hopkins said in this accessory apartment definition he was looking for a solution to the affordable housing problem. This will have a minimal affect on neighborhoods,

AMENDMENT #23
ACCESSORY APT.

as the occupancy is limited to the underlying zone. Mueller said that this evolved from discussions at the Plan Commission level about family apartment accommodations. He explained the current code provision for family occupancy and said that in our student-driven market it was a concern that accessory apartments would become student rentals. He said that the term "owner-occupied home" raised legal questions in his mind, and he wondered if there was a legal basis for setting up this distinction. This also may have the effect of setting up duplexes in single family neighborhoods.

Service said that this proposal got around some of the problems brought up in the Plan Commission discussions. One question is if the owner sells the house, will the next owner be able to rent the accessory unit? She said that the proposal has enormous potential for affordable housing, as well as helping families care for elderly relatives. She said she thought it was a good proposal, although it has potential for abuse.

Sherman asked about the current code -- if he was allowed to have a student live in rooms in his house in trade for cooking and landscaping. Mueller said that although it was no longer a family, it meets the maximum limit of three adults. Sherman asked if he could rent those rooms. Mueller said yes. Sherman asked what the difference was in this proposal. Mueller said that this proposal creates a separate full apartment, not just rooms. Mueller asked about the normal occupancy provision: does that mean per unit or for the whole house.

Hopkins said it was for the whole house. Kiesling asked what the difference was between someone having a hot plate, refrigerator, etc. in their room and this proposal. Mueller said it was the difference between having a single housekeeping unit with shared areas, and having two separate living units. The presence of a second kitchen is one criteria of a separate unit, Mueller replied.

Sherman clarified that this proposal makes an apartment within a house. What happens when the house is sold? Is it two units where you can have three unrelated adults in each, or is it just one unit?

Hopkins said it is only one unit total. Sherman asked about selling it. Mueller said that conditional use approval is given to the owner, not the structure. The apartment can be disassembled or someone with a family member needing the apartment could buy it and live there. If an investor bought it for a rental, it would have to be reconverted back to one living unit. There could also be a recordable commitment attached to the deed.

Swain asked Hopkins about the tax question he mentioned in his introduction; Hopkins said he speculated that there would be a higher tax assessment. Mueller asked why they did not specify this to be for family members only. Hopkins said that some people want people living with them who may not be family.

Bill Sturbaum spoke against the amendment, saying it would have a bad effect on core neighborhoods and is against the "conserve community character" principle of the Plan. Putting in an apartment makes the house a duplex and when sold, makes it an investment possibility and prices it out of the family market. He said there were many houses in his neighborhood that were already over occupied and nothing could be done about it now.

Marc Cornett said this would contribute to the Plan's compact urban form principle.

Kiesling asked if this proposal applied in core neighborhoods; Mueller replied that

they can limit it to certain zones, but as now it applies everywhere. One thing they could do would be to limit it to certain zones or prohibit it in core neighborhoods.

Bonnell said he supported it and doesn't think it would increase density and besides, it requires the owner to live there.

Cole said she would vote against it because it would raise the price of housing because of having another apartment. Also, most older homes have an integrity of design and chopping them up in the interior will hurt that.

Swain agreed with Cole and Sturbaum and said if it passed, he would like to see specific zones and also the recordable commitment included.

Sherman asked if he owned a house alone, could he do two of these apartments? He said he could not support this amendment.

Kiesling said she had a problem with nonspecific zones and it needs a provision for when the home is sold. Discussion followed about possible changes to this amendment. Kiesling suggested that it be turned back to staff to work out the details better.

Amendment #23 received a roll call vote of Ayes:5, Nays: (Sherman, Swain, Cole, Kiesling).

The meeting was then continued until March 8, 1995. (Recessed @ 10:45 pm)

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March 8, 1995

Present at the start of the meeting: Sherman, Service, Pizzo, Kiesling, Hopkins, White. Arriving later: Swain, Cole, Bonnell.

MARCH 8, 1995
MEETING CONTINUES

It was moved, seconded and approved by a voice vote that the following appointments be made:

APPOINTMENTS TO
BOARDS &
COMMISSIONS

Traffic Commission:

Reappoint: Doug Porter

Appoint: Christine Glaser
Buff Brown

Environmental Commission:

Reappoint: Jim Capshew

Appoint: Keith Argabright
Marc Lame

Martin Luther King Birthday Commission:

Appoint: Dorie Yorgen

Chapter 5 continued.

It was moved and seconded that Amendment #26 be considered: Hopkins explained that it was agreed in earlier discussions to create this position of Hearing Officer and this amendment provides for an appeal procedure to any decision by the Hearing Officer. Mueller said that it paralleled the state statute.

Sherman read a statement saying he thought the Council was starting to tamper with fundamentals of the Zoning Ordinance, specifically the provision regarding the number of unrelated adults [in rental units] and policies involving the right to have separate apartments within houses, thus potentially changing the concept of single family residencies. There has been little discussion, he said, and little public input. These are in contradiction to important goals of the Master Plan and to sensible and important zoning principles. Sherman asked about the current timetable for appeals to Hearing Officer decisions and Mueller said that there was none now because there was no Hearing Officer, but that the 14 days specified by the proposal was what the statute specified. Sherman said then it was a reasonable time period.

It was determined that this motion was already passed on the first night of meeting, so the Council moved on to Amendment 10.

Hopkins wanted to respond to the comments of Sherman. He said that the concepts were all talked about at some length. Hopkins said that interpretations of the Comprehensive Plan may differ and he hoped they could agree.

Since Bonnell was not there, Kiesling asked for another Council member to introduce amendment 10. It was decided to wait until the Council member who had written the amendment arrived.

It was moved and seconded that Amendment #27 be considered: Hopkins forwarded this amendment to add a commitment "to protect environmental quality" to the section "Purpose of Site Plan Review" 20.05.08.01. Assistant Planning Director McClure said staff had no problem.

AMENDMENT # 27
PROTECT ENVIRON-
MENTAL QUALITY

Amendment #27 received a roll call vote of Ayes:6, Nays:0

It was moved and seconded that Amendment #19 be considered: Sherman said this amendment is to achieve the goal of having more site plan decisions made at the staff level rather than at Planning Commission level, and this strengthens the language of the review process.

AMENDMENT # 19
STAFF LEVEL
DECISION
AUTHORITY

Mueller said that he concurred with this amendment, but the words "important planning implications" were not specific enough. He explained about the provisions of a, b, and c, of the section regarding SF neighborhoods, commercial or industrial projects, and developments requiring new streets.

Service asked what was different about this provision from the current practice. Sherman said he envisioned this as a method to generate discussion of the concept of staff responsibility for site plan review.

Bill Finch, representing CFC, said more of the routine site plan decisions need to be at the staff level, and the proposed language indicates the intent.

Steve Smith said he shared some concerns, and said that wording like this could be substituted for the wording of Number 2.

Bill Sturbaum said that he understood the desire to speed the development process, but there were a number of amendments to the zoning ordinance which in no way relates to the Growth Policies Plan. He said the more the development process is speeded up, the more you eliminate public input. This will exclude the public.

Hopkins said he was also concerned about the phrase "important planning implications" and suggested changing the word important to unusual. He said that he liked the language in part two, because a big neighborhood complaint was a developer buying two lots and aggregating them, and building a duplex on them; he wanted that language kept.

Service said she did not approve of this, because it let the staff and developer agree to ignore the implications of a proposal which may have a significant impact on a core area, or affect the environment.

Kiesling said that this document needs to deal with future staffing and administrations with different objectives, and she favored caution.

Sherman said he liked Hopkins' word "unusual". He said to remember this is site plan approval and it is more a matter of meeting regulations rather than discretionary judgment.

Swain said this was a 20 year horizon with this document, and some of the amendments are too topical.

Pizzo said there is a conflict between speeding up the process and allowing proper citizen input, but he did not see the problem with this.

Bonnell asked staff about PUD hearings; what hearings do those plans get? Mueller reviewed the PUD hearing process. This proposal does not affect the PUD process at all. Bonnell asked if this would only affect areas of more than one lot; Mueller said this had to be something other than a SF house. Bonnell asked about other

circumstances which would apply. Bernans pointed out that problems may occur in areas where one zone abuts another.

Cole said that it is important that neighbors have an opportunity to comment on proposals.

Amendment #19 received a roll call vote of Ayes:4, Nays:5 (Service, Swain Kiesling, Cole, Hopkins). The amendment failed.

It was moved and seconded that Amendment # 28 be considered: Bonnell explained that this amendment removes the necessity of the Plan Commission and BZA to both hear petitions for use variances. He said this was not intended to shortcut the rezoning process. Mueller said usually use variances are regarded as poor practice in the planning profession around the country. State law mandated that BZA hear petitions for use variances. The problem is there is no real limit on what can be allowed as a use variance, and BZA members, who did not participate in the Master Plan process, can allow virtually any use as a variance if they feel the criteria has been met. There is no other instance in city government where three people could have such a profound effect on land use. He gave some examples of previous use variances given by the BZA which went against neighborhood plans.

AMENDMENT # 28
(TABLED)

Mueller went on to list items they may or may not feel comfortable with for Plan Commission review as use variances: a SF home in any zone; maybe duplexes; non-residential uses in residential zones. He said they averaged 1-1.5 use variances per month, and most were small. He said if they excluded SF and duplex requests from Plan Commission review, a commercial use in a non-residential zone, and any non-residential use in a non-residential zone, under some acreage threshold.

Kiesling asked Service about the discussion at Plan Commission level. Service said it wasn't given much discussion. She said she wasn't sure about the impact of this and thought it should be tabled.

Sherman said there was discussion at the Plan Commission level, but there were quite a few use variances he was not comfortable with having only one review. Some can be changes of zoning plans which were done at the Plan Commission and Council level. There are also some use variances of an insignificant nature, and he would support having a list of exceptions to Plan Commission review. To that effect, he proposed tabling this amendment so staff could make that list.

Tim Sutherlin encouraged the Council to table this, and asked about the BZA's authority. Mueller said they are the final decision-maker on these issues and they could grant a variance on any provision of the zoning ordinance. He asked if the Council could reverse the BZA's decision; Mueller said no.

Jim Bohrer was in favor of the amendment and commented on the BZA's ability to judge these cases.

Norm Deckard was in favor of the amendment.

Tim Mayer said he was a former BZA member, and his concern was that the BZA was a very limited forum and

significant issues were given only five minutes for debate.

Steve Smith asked about the membership of the BZA, and pointed out that two of them were Plan Commission members.

Bill Sturbaum, who also had served on the BZA, said he was not given significant guidance to make decisions. He said some use variances went counter to the Growth Policies Plan.

Susan Fernandes said that use variances may not be used now, but could be a significant loophole. When word gets out they are available, they could come in greater number. By nature, the BZA does not deal with the amount of planning law and implications that the Plan Commission does. Also if a property owner does not like a BZA decision, it can only be challenged in court with some expense.

Chris Sturbaum said he challenged the underlying assumption to the right to a quick variance process; he said we should take use variances seriously.

Bill Finch said this added a layer of hearings not required by state law and thinks there is a legal problem with this.

Kiesling said she would like to stop discussion here if the proposal was to be tabled. Service said she remembered that there was a lot of discussion at the Plan Commission, and the problem was that people did not understand the differences between types of variances; some use variances could have as much impact as a rezone. Some deserve a lot of public discussion.

Bonnell made a motion to table this amendment and read the criteria for obtaining a rezone, and said it was not as easy to get a use variance. He then read the criteria for a use variance. The motion was seconded to table.

The motion to table Amendment #28 received a roll call vote of Ayes:9, Nays:0.

It was moved and seconded that Amendment #10 be considered: AMENDMENT # 10

Bonnell said this amendment requiring a written copy of a BZA decision be available within five working days was very similar to another amendment adopted earlier. He agreed with the changes made on the earlier amendment and would incorporate them in this one. WRITTEN BZA DECISION

Amendment #10 received a roll call vote of Ayes:9, Nays:0. Discussion followed about whether the five days were working days or five consecutive days.

It was moved and seconded that Amendment # 30 be considered: AMENDMEN # 30

Cole said that this was to increase the minimum size of a Planned Unit Development from one acre to three acres. Mueller said the intent of the PUD process was to allow maximum flexibility in development and this one acre minimum was part of that thinking. He said that the approval of a PUD was entirely discretionary and he did not want to limit that capability. A PUD usually was used to gain public amenities such as landscaping, compatibility etc. He said many small sites would be good PUD candidates INCREASE PUD

and gave the example of Hillside and Woodlawn. A quarter block of one acre could qualify for PUD under the proposed zoning ordinance. He said this amendment would curtail their ability to use the PUD flexibility.

Kiesling asked if this applied downtown and was told that the downtown opportunity area was excepted from this three acre minimum.

Hopkins pointed out that a PUD was also a means for giving the developer more concessions than would normally be available. There needs to be a balance between the public interest and development. Bonnell said he had an amendment following allowing as a PUD two adjacent lots or one acre anywhere. He asked how many hearings were possible with a PUD; Mueller said four or possibly five. Discussion followed on the discretionary approval process.

Cole pointed out that the present ordinance requires five acres for a PUD and the proposed ordinance cuts that down to one acre.

Sherman asked how the past PUDs smaller than five acres were granted; Mueller said the Plan Commission has power to grant variances to PUD requirements, but that power is not in the new ordinance.

Service said that the argument that this is mainly a method to gain public amenities may be wrong: the give and take may not be of equal value, in that what is gained for the public may not outweigh the harm caused by the giving certain concessions to the developer.

Bill Sturbaum cited the "conserve community character" of the Growth Policies Plan saying to maintain the residential character of older neighborhoods and discourage the conversion of single family households. The PUD provisions were completely rewritten from one draft to the next and were very liberalized with little opportunity for Plan Commission scrutiny. He was concerned with protection of the core neighborhoods and he argued that the present five acre minimum causes no hardship. He illustrated what could be developed on a typical parcel, i.e. covering 65% of the lot and building 40 feet high and asked how that contributed to conserving community character in the core neighborhoods. He also pointed out that existing buildings could be razed to create an aggregation of lots, especially if owners let buildings deteriorate.

Jeff Brantley spoke in favor, saying that this would encourage quality development and Council would still have control. The Plan Commission voted this amendment down.

Tim Mayer said there was a problem with enforcing the developer's commitments, such as landscaping and cited an example when he was on the Plan Commission.

Mike Probst did not favor the amendment and gave an example of a PUD project which worked on a little more than one acre.

Gene Fritz supported the amendment saying as a former president of a zoning board, he felt that one acre lots defeated a purpose of a PUD to have more green space.

Susan Fernandes pointed out that the proposed PUD chapter explicitly gave variances to every provision of the zoning ordinance. She said the only standards for PUDs in this section were the minimum lot size, which was too small, and the lot coverage percentage; there are no other standards. This lack of standards made a wide open situation.

Chris Sturbaum saw high density development coming to core neighborhoods and didn't favor it.

Marie Webster spoke in favor of the amendment.

Marc Cornett said the PUD review section said it should reflect the Comprehensive Plan in the neighborhood and be compatible with surroundings. He said there was no way to judge these two factors at this time. Developers want both predictability and flexibility and criteria are needed to make decisions.

Tim Sutherlin said that issues of compatibility and enforcement were ignored in the past in PUDs. He pointed out that the Cook Tower PUD had one hearing for both outline plan and development plan, so the number of hearings possible could vary widely. He said this amendment is arbitrary and does not provide the protection needed and more restrictions are needed.

Jim Bohrer said to remember PUDs were rezones and were entirely discretionary. It is a good tool to use and they shouldn't be afraid of it.

Sherman said he could not support this without a variance process. He thought that the PUD is a good tool with three acres.

Service said that Brantley's argument that this would allow quality infill in the core areas, and asked how one could evaluate quality without a compatibility review process. Most of the infill in core areas has been anything but quality.

Bonnell said he was against this amendment and he has confidence in future bodies making the right choice.

Hopkins said that he agreed that a PUD was an "open variance" which is rarely overturned and one acre is too small.

White said a PUD gives the maximum flexibility to decision-making bodies and they do not need to be approved.

Amendment # 30 received a roll call vote of Ayes:5, Nays: 4(White, Bonnell, Sherman, and Pizzo).

Kiesling asked for Amendment 13 to be introduced; Bonnell, the sponsor, said he wanted to withdraw that amendment. It was withdrawn.

AMENDMENT #13
WITHDRAWN

It was moved and seconded that Amendment #33 be considered: Mueller introduced the PUD Opportunity Overlay in the Watershed area and explained why it deviated from the Growth Policies Plan. Mueller spoke at length regarding the amendment and the policy as outlined in the Growth Policy Plan.

AMENDMENT # 33
PUD OVERLAY
WATERSHED

Pizzo said there were already provisions to make exceptions and asked why there needed to be an exception in the ordinance.

Sherman said the Council wanted to have conditions set for watershed development, and the committee spent hours developing a comprehensive plan for the whole area.

Pizzo asked why pick out these four areas. Service said this was not supported by the Environmental Commission members or herself and this is not only for the Gentry proposal but three other parcels as well. She said she favored sticking with the watershed line as a very defensible unarbitrary boundary. The master plan had sound principles and they should stick with them.

Hopkins said he thought it was a policy question and wondered why maps were included. Mueller said the reason for the maps was to exclude all other areas from the ability to do PUDs in the watershed.

Pizzo asked what would happen if someone found a parcel which met all the criteria of these four parcels and asked to be able to do a PUD? Mueller said it would be against the code and the code would need to be amended.

Hopkins said this gives clear notice that the other portion of the watershed is off limits for dense development. Hopkins asked about variances; Mueller said that variances from any part of the code could be given, but the staff would not support them in the watershed.

Ben Beard said the main Council objection to his previous Gentry proposal was that it was ad hoc zoning and that a public process was needed. He said the issue has been discussed at great length and he pointed out the amount of time the committee spent on this. He was surprised with this amendment. He pointed out that the greatest negative impact to the lake was from raw sewage, and presented an overlay showing the overall impact of their development on the whole watershed. He noted the number of acres in the entire watershed, in Monroe County, and in the City's jurisdiction. The two parcels under consideration in the Monroe watershed are about 140 acres. He said that the impact of this property is minimal. He talked about the master plan and the fact that the implementation measures are called suggestions. He also discussed the per acre density implications in the watershed policy, saying the biggest threat to the water supply is raw sewage, and septic systems will be prone to that. He said the cost of sewer was the same regardless of housing density and splitting the cost among more units made housing more affordable. That is true of other issues such as drainage. There are other safeguards besides sewers provided by the overlay such as road access, flat topography, etc. He presented studies and documents from engineering firms, Health Department statements and others about septic vs sewers and said he was trying to develop his property in a responsible manner. He presented reports from WW Engineering, the company who issued a report saying that development will not hurt the lake. The usage they are proposing is a better use than the current use of septic, etc running down to the lake. He referred to numerous reports supporting his position and wondered what more he could do to be a responsible developer and not harm the lake.

Tom Micuda, representing the Environmental Commission, said that the committee goals were to see the watershed divide for Monroe and Griffy in half acre lot boundaries. It was hard to decide if the committee would hold their position or if they wanted to be involved in creating the

policy here before the council, this evening. The later was decided. Soil criteria will be discussed via another amendment, as well as the mapping process to support those concerns.

Slope criteria (18%) for the entire watershed is also an upcoming amendment. So from the commissions point of view, they too are waiting to see just how this all develops. Micuda continued by saying that the creation of these 4 PUD areas and the higher density for certain areas of the watershed and then the watershed overlay policy would be addressed in Chapter 7.

Rick Zabriskie said this is not a one developer issue, the Plan Commission and council has had extensive hearings on this proposal. The Environmental Commission drew up another list of considerations and a work shop followed; this has gone on through slope presentation, amendments to be considered and on and on for in depth discussion. He urged the council to leave the ordinance in place with strong, good, well thought out policies.

Steve Smith urged the council to open this up for continued discussion before it is going to be changed by the amendment process. This is an environmentally sensitive community. This is a big area, 5 or 6 sq miles and we can't just say no to development, we have to look at it seriously. State Road 446 is a good road and there isn't a better place to put development. He noted that the city is spending millions of dollars on water and sewer and this is a way to leverage existing infrastructure in terms of utilities and in roads.

Pam Lohman spoke in favor of the amendment because of concern about the watershed line and the water supply. The line should be clear and well defined where the RE 2.5 and the watershed overlay lines apply. There should not be any exceptions built into the ordinance. She read excerpts from the Growth Policy Plan supporting environmentally sensitive areas remaining undeveloped. If exceptions are made, it should be on a case by case basis taking into consideration, the soil, slope and proximity to the watershed boundaries.

Eugene Fritz was in favor of the one unit per 2.5 acres because we are blessed with a very adequate water supply at present. As the community grows, it behooves us to protect our watershed as strong as possible. To allow development, sewers are not necessarily the answer. People must learn to protect this resource.

Russ Skiba said that Mueller says that this deviation from the growth policy plan represented by the watershed opportunity overlay if left in place will not be the only deviation and he may be right. He said he would like to see fewer deviations from the current plan. Over 80% of the general population supported the protection of the watershed as well as 55% of the homebuilders surveyed. There is a pretty big difference in one unit/2.5 ac and 2.5 units/acre. He also stressed a firm dividing line between areas. But he suggested that maybe we have the process backwards, maybe we should talk about the area as an amendment and bring it back in for a future full debate.

Tom Baker supported the amendment and was concerned about the current state of Lake Griffy and hoped that we don't allow Lake Monroe to reach that point.

Marie Webster was also concerned about Lake Griffy and since we use over 1 million gallons of water everyday, we need to be even more concerned about future availability.

Patty Werner said the original strong support of the Growth Policy Plan by the Environmental Commission was the strong consideration given to watershed areas. The Task Force was instrumental in developing criteria that would be acceptable and some of those have been eliminated in this overlay and now the Commission is negotiating and compromising again. It is difficult to accept a compromise and then find it is not supported.

Susan Fernandes said the county Task Force developed some of the tightest septic regulations in the state for watersheds. Specifically Lake Monroe is our only resource to accommodate our future. Farmers, foresters as well as developers are thinking watershed as well and no one is looking at just developers to allay their impact. Other are doing so as well. It isn't just raw sewage that people are concerned about. Roadways carry heavy metals to the water supply and other impervious surfaces speed up the erosion. If we don't have water, we don't have a future.

Jin Boher did not think major changes in the zoning ordinance should be made this late in the process without all parties having the opportunity for input. Hours and hours have been spent crafting this document. Not every principle of the master plan can always be implemented and a balancing process must take place. He spoke at length about various developments, the current master plan document and how to make it less environmentally threatening, to be able to leverage public capital, utilize compact urban form and use the overlays effectively. He urged the council to vote this amendment down.

Pizzo said this issue is too important to resolve this evening and should be discussed by the entire community and there are other amendments that have to do with this same issue.

It was moved and seconded that Amendment #33 be tabled. The motion to table received a roll call vote of Ayes:3 (Pizzo, Kiesling, Cole), Nays:6. The motion was defeated.

Sherman said that some people who have talked tonight think we should consider this overlay issue on a case by case basis and the very project that came before us was sent back because we said we should not be doing it on a case by case basis. We can't have it both ways. And as far as more discussion, there have been hours of meetings and the public was invited to participate and more discussion is not going to change the fact that this is a hard decision. The planning process is complex and many of the requirements are statutory in nature and people who complain about the number of meetings must understand this. He thought a lot of people felt "jerked around", Ben Beard, the Environmental Commission, as well as councilmembers who have heard different things at every step of the way.

Service also said that this issue of the watershed has been discussed for years and new information is coming forward all the time and people do have the right to

bring issues back for discussion. She asked about Compact Urban Form and wondered why this seems to have become the primary principle. It is important, but it isn't the only goal. She was concerned about the premise that tearing up ground, putting down impervious surfaces and chemicals on the ground will have less effect on the environment than leaving a few cow droppings.

Mueller highlighted the overlay districts, the boundary lines and guidance for PUD development shown in green on the map. A small area off Dunn Street, a triangle near University School, a small area near Knightridge Apartments and the Gentry Estates petition. As currently written (without this amendment), the balance of the watershed is not eligible for PUD, it remains RE2.5. Only the green areas can be considered for a PUD project. The questions remains, are we going to consider PUD in any of the RE2.5 zone? or is the whole area opened up for case by case consideration. This really isn't addressed in this amendment.

Hopkins thought this has gone on long enough and said he would vote against the amendment. White agreed with Hopkins and every side has been heard. Compromises have been reached and the issue thoroughly discussed.

Bonnell and Tom Micuda talked about soil types, environmental enforcement and 18% slope construction concerns that will all be discussed with the appropriate amendment.

Amendment #33 received a roll call vote of Ayes:4 (Pizzo, Kiesling, Service, Cole), Nays:5. The motion failed.

The meeting was recessed until March 20, 1995 at 7:00 P.M.

(Recessed @ 11:40 pm)

On March 20, 1995 the Special Meeting of the Common Council concerning Ordinance 95-21, Zoning Ordinance was reconvened at 7:00 P.M. by Council President Kiesling.

MARCH 20, 1995

Roll Call: Sherman, Service, Pizzo, Kiesling, Cole, Hopkins, White, Bonnell. Swain arrived late.

Bonnell said he had a few parliamentary questions: he asked about being locked into the printed agenda, even if an item had been omitted by error. He specifically asked about an extension of Amendment #12, which had already been approved by Council. He said this should be the first item of business when Chapter 7 is taken up. He asked pursuant to 20.04.290 (a) and (e) of the Council rules, that a fiscal impact statement be given before the final vote. Kiesling said they would take it under advisement and allow the staff to respond as to their ability to produce such a statement.

Kiesling stated that the repeal of the old zoning ordinance would also repeal the historic designation provision, which would have to be replaced with a new title, Title 8. This will be part of the regular session agenda on Wednesday night.

Council Attorney Sherman said that Patricia Cole intended to sponsor Amendment #52 which was listed as unsponsored. He also said there was an amendment not listed, Amendment #53, which will be heard next week.

Bonnell said the first three amendments offered tonight are redundant and duplicate action was taken at the last meeting: his Amendments #46-1 and #46-2 are hereby withdrawn. Amendment #33 which failed 4-5 at the last meeting, addressed the same issues. Kiesling said she would withdraw Amendment #32 as well.

AMENDMENT # 4 1
AMENDMENT # 4 2
AMENDMENT # 3
(ALL WITHDRAWN)

It was moved and seconded that Amendment #37 be considered: Sherman said this was to clarify the PUD approval procedure, where the proposal is modified by the Plan Commission. Sherman explained the amendment and Mueller explained the current procedure. Discussion between them followed on which procedure would be most efficient and clear. Sherman said he could improve on this amendment and wanted it moved to the agenda on March 29.

AMENDMENT # 37
TABLED UNTIL
MARCH 29, 1995

It was moved and seconded that Amendment #37 be tabled until March 29.

The motion received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Amendment #20(a) be considered: Sherman said this was to take advantage of staff expertise in the reviewing of PUD final development plans. It also provides a review by Plan Commission under certain circumstances. The amendment was amended under section 2 (c) to strike the words "elects to" after "unless Plan Commission" and add an "s" on the word review. Mueller said that staff shares the goal of having the staff review these plans.

AMENDMENT #20 (a)
PUD FINAL REVIEW

Amendment #20 (a) received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Amendment #11 (a) be considered: Bonnell said this eliminates the requirement to submit landscape and exterior lighting plans from the application for a home occupation permit. It is intended to streamline the process. Planning staff indicated they had no problem with this amendment.

AMENDMENT #11 (a)
ELIMINATES
LANDSCAPE PLANS
FOR HOME OCCUPAT-
ION PERMIT

Gene Fritz asked if parking was required for home occupations and would landscaping then be required. Mueller said that there was a general provision enabling the Plan Commission to require more information as necessary.

Amendment #11 (a) received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Amendment #29 - alternative 2 be considered: Bonnell read the synopsis which explained that this was changing the procedure for obtaining permission for sewer extension. He spoke about the master plan and zoning process, development plan approval and Utility Service Board decisions. Mueller said that this was an issue for the county, and could apply to them as well. He went on to show overheads of planned and anticipated city growth, and showed where growth was to be encouraged and discouraged. He noted the benefits of containing growth where services can be efficiently provided. The use of utility availability is often used as a growth management tool to implement the patterns agreed on in the Plan. He cited a subdivision petition which offered to run a long sewer line out into the Fringe, and was accepted by the Utilities Service Board, because they had no such policy as conforming with Plan provision. He went on to say that sewers had the effect of allowing more lots and houses, and promoting development in the adjacent area. This stimulates growth in the area.

AMENDMENT #29-2
SEWER/SEPTIC
EXTENSION

Bonnell asked Mueller about development in the lakes watershed area; would the Plan Commission accept proposals counter to the watershed policy, without this provision. Discussion followed between them about the impacts of development on watersheds. Hopkins asked if sewers were not better for development. Mueller answered that there were many policies, not just one, discouraging development in the watershed. What is expected is relatively few developments in the watershed and many in the infill area. Sherman asked about a hypothetical example in the watershed area and Mueller explained how the procedure would work.

Steve Smith asked where this provision would be required; Mueller said that is noted in the USB rules, and showed the map which is part of those rules.

Bonnell contended that the map had no force of law, as it had not been adopted. Smith favored the amendment, saying the Plan Commission should decide where sewers went, as part of the Zoning Ordinance.

Mike Carmin approved of the amendment, saying this certificate requirement did not lend certainty and predictability to the development process, and this was a backdoor manner of controlling development.

Bill Sturbaum disapproved of the amendment and commented that the Plan called for compact urban form and that meant developing close to the city first where infrastructure was most available.

Norm Deckard, speaking for the amendment, said the City does not build most of the sewers; developers do.

Susan Fernandes, speaking against the amendment, cited the state planning law saying the Plan must be considered for provision of utilities. She said regarding septic versus sewers, that locally the watershed septic regulations were the strictest in the state. She also noted that developers had told her that it was not economically feasible to develop one acre lots with sewers. She said controlling growth with sewer extension was a well established and powerful tool and the taxpayers deserved the coordination of growth with public service extension.

Pam Lohman, USB member, was against the amendment, saying sometimes having everyone on sewers was not the best situation; the USB can get caught in a bind trying to balance practical sewer questions with planning issues. They wanted to avoid making de-facto planning decisions; she agreed that it should be up to the Plan Commission and Council to decide where development will go. However, provision of sewer does have an effect on where development occurs. Consensus arrived at after years of discussion should not be undone lightly, and this amendment could be viewed as a backdoor measure.

Gene Fritz said this (the certificate of appropriateness) was a reasonable method of development control, and asked who is going to pay to expand the sewer plants etc.

Bonnell pointed out that the USB can deny a sewer extension if they did not have plant capacity.

Marie Webster, a USB member, said the USB wanted planning done by the proper planning authority, not by them as they are not planners. It is important to have a method to make sure the Plan policies are being followed and how would the USB know the Plan if the Plan Commission does not advise them. This amendment should be discouraged.

Jim Bohrer said this amendment is necessary, because denying sewers is a backdoor downzone. This is also a delay in the development process.

Mike Davis spoke on behalf of the Mayor, saying this amendment did not serve the principles of the Growth Policies Plan as it would foster inefficient use of tax resources, both City and County; promote sprawl and be more costly of tax dollars. There are many examples of sprawl ruining urban areas. Many cases of fostering growth from within is much better use of public resources. This is managed growth vs uncoordinated sprawl.

Kiesling asked Mueller what indication of area would there be for the USB. Mueller replied that it was intended that the USB adopt the map as part of their rules. Kiesling asked why the Plan Commission has not adopted this map; Mueller said this was an interim measure until the Zoning Ordinance is finished. Mueller said that the map should be cited in the Zoning Ordinance and show clearly where sewers would be encouraged/discouraged.

Sherman said this amendment is an important one, and a fundamental change in the Growth Policies Plan. It is about a by-right provision of sewers in certain areas where development should be discouraged. There would not be significantly as much development on septic, so the question is not about sewers Vs septic with the same development pattern. Service said this was an attempt to scuttle a major Plan provision under the guise of being a minor amendment relating to USB policies.

White said he was formerly an ex-officio member of the USB, and he assumed that the maps would be consistent with the zoning. This area might as well be downzoned to make the zoning consistent with the Plan.

Bonnell said that it should be honest: zone it how it should be developed. He said the amendment met the requirements of the state code.

Amendment ##29-2 received a roll call vote of Ayes:2 (White, Bonnell) Nays:6. The amendment failed.

Kiesling called for public comments on Chapter 5 in general. There were none.

Chapter 6, "Development Standards of General Applicability". Mueller said this was a chapter containing standards which were not specific to a given zone, such as landscaping requirements, signage requirements, etc. The provisions which are different from the current ordinance include changes in the sign size provisions, off-street parking, beefed up landscaping requirements, and provisions for increasing tree canopy coverage.

It was moved and seconded that Amendment #45 be considered: Sherman said it was a simple amendment making clear that parking "on a lawn" was prohibited.

AMENDMENT #45
PARKING ON LAWN

Cole asked about the penalty for violation of this. Sherman said he understood that there was nothing that the police can do; Mueller said it was a zoning violation and could be enforced by Code Enforcement.

Bonnell asked about the fine; City Attorney Bernens said the maximum fine was \$2500 but she doubted if that would be imposed.

Mueller explained that the first goal in enforcement was not to go for a fine, but to secure compliance with the law.

Pizzo said that he knew of a single family house turned into a rental for which the whole front yard was blacktopped. He asked if there was any provision against that; Mueller said that the new code does not allow that.

Clerk Williams commented that in some neighborhoods it was difficult to say where the street right-of-way was, because each street could have a different width. People have created parking spaces in front of their homes and in some cases it is in their yards and in others it is in the street right-of-way. It may be necessary to measure each parking space on a case by case basis.

Mueller said the language of this needs refining to define what is meant by setback. Bonnell said that this could cause driveways to be doubled in size.

Sherman said they tried to be sensitive to the limitations of the older lots; what they were trying to prevent was 3-4 cars parking on grassy lawns and creating mudholes. A friendly amendment was accepted to add after setback "between building and street".

Margaret Carter, a resident of Green Acres, said she sees tenant's friends park in front to go to class and she has seen seven cars in the backyards, and it's nothing but mud. She was in favor of this amendment.

Marie Webster of Green Acres also spoke in favor.

Rich Katz asked how this applied to back yards and storing boats. He asked who would enforce it.

Gene Fritz spoke in favor.

Susan Fernandes said she thought the term "street setback" needed to be clarified; otherwise she was in favor.

Tim Mayer asked them to support the amendment. Rich Katz asked about enforcement and who would be accountable. Mueller said that it would be on a complaint basis and probably be enforced most for worst cases.

White said he was in favor of this, but it was complicated. Mueller said this did not cover parking in side yards and back yards.

Bonnell said he supported this, but this does nothing to deal with the issue of side and rear parking; also the word lawn was not defined. He thought it needed reworking.

Sherman said the intent was only to add the word lawn and does not change anything fundamental.

Amendment #45 received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Amendment #48 be considered: Bonnell said that this amendment needs to be discussed with amendments 49 and 50, which will come up later. All of which are intended to re-create a Bloomington-type streetscape with trees and tree plots on the street. This amendment gives incentive to that by placing the parking setback farther back than the building setback.

AMENDMENT #48
SETBACKS/YARD
AND PARKING

Mueller said that this may meet the goal of providing parking in the rear, but expressed concern about line of sight issues for drivers.

Hopkins offered and Bonnell accepted an amendment inserting the words "setbacks" in the place of "facilities" after the word "parking" in the first line; also inserted the words "at least" before the words "ten feet" and deleted the word "or" all on the same line. Mueller noted that the words "minimum required" should probably be inserted before the word "structure" on the second line;

Bonnell accepted that suggestion to change the amendment. Discussion about the exact wording and its application followed. Bonnell said he had a different draft, with the first sentence reading, "The minimum required sideyard and rearyard for any parking facility, except as provided in 20.06.02.05 A, shall be as shown in Table 7-3." And, "All parking setbacks shall be at least ten feet greater than the minimum required setback for structure as specified in Table 7-3."

Council Attorney Sherman read the whole amendment.

Bonnell moved and it was seconded to table this until the language was correct.

Amendment #48 was tabled by a roll call vote of Ayes:7, Nays:1 (Cole).

It was moved and seconded that Amendment #34 be considered: Bonnell said that this amendment would change the requirement for provision of bicycle parking spaces.

AMENDMENT #34
BICYCLE PARKING

Sherman recommended deleting the comma after the word duplexes on the fourth line; Bonnell accepted the suggestion. Sherman asked why the specific mention excepting single family and duplex residences; he was told because of the provision to round up fractions, it may be interpreted to apply to single family, which was not the intent.

Susan Elkins asked what a bicycle parking facility was comprised of. She also expressed doubt that people would use it.

Patty Werner from the Environmental Commission said the commission supported this and cited the Growth Policies Plan's support of bicycle transportation.

John Burnham, apartment complex owner, surveyed his tenants as to their use of racks and 80% said no, they would not use them. They preferred to bring their bikes inside.

Steve Howard from the Chamber of Commerce supported bike transportation but thought this provision was not useful.

Tom Micuda representing the Environmental Commission clarified the ratio of bike racks to parking spaces, saying that originally it did not work for many uses.

Greg Raisman said most students in small apartments don't want bikes inside and would probably use bike racks if provided.

Jim Bohrer said this militates against affordable housing and also that certain types of facilities should be excepted, such as retirement facilities.

Marc Cornett said consider having this replace a car parking space.

Service said this provision was needed, and it could be a matter of very little outlay on the developer's part. There are bikes chained everywhere in her district, such as on the stairways which causes safety problems. She questioned the assertion that this would prevent affordable housing.

Cole said she was in favor also, but said standards were needed to define a bike parking facility.

White said that tenants needing bike racks could talk to the landlord or simply not rent in a place that did not provide them.

Bonnell said it was a good idea to let the bike and pedestrian commission define the term bike facility, and also favored the idea of substituting a number of bike parking spaces for car parking.

Kiesling asked if this could be phased in.

Amendment #34 received a roll call vote of Ayes:7, Nays:1 (White).

Bonnell invoked the rule that stated legislation would not be considered after 10:30 without a two thirds vote of approval. He moved and it was seconded that the meeting would be continued until March 21. Discussion followed about adjournment.

The motion to continue this discussion until the next evening received a roll call vote of Ayes:4, Nays:0. The date and time were announced. (Recessed @ 10:45pm)

On March 21, 1995 Kiesling called the continuation of the March 6, 1995 meeting to order.

MARCH 21, 1995

It was moved and seconded that the agenda be amended to move Amendment #2 forward on the agenda.

The motion received a roll call vote of Ayes:7, Nays:1 (Cole was out of chambers)

It was moved and seconded that Amendment # 1, dealing with Compatibility Review be considered. Service said the maps of the areas in question were ready and should clarify the neighborhoods involved. The reason for introducing this amendment was because of the Master Plan's often-discussed principle of "conserving community character", for which the Plan recommended some sort of compatibility review process for development. This proposal was a limited and refined version of the compatibility review process which is used in many communities today. It would affect the downtown, the entry corridors and the core neighborhoods, which were selected because issues of compatibility would affect the community as a whole, and because they are identified with by the whole community. It is limited to proposals which need approval by a planning and zoning body, and is not to delay development proposal but is simultaneous with the staff review. It is to provide technical expertise and neighborhood advice and is advisory only. The conservation of community character was an overwhelming part of the Plan and has had little implementation so far. Service read the proposal.

AMENDMENT #1
COMPATIBILITY
REVIEW

Sherman asked for information as to the criteria to be used. Service said a specific list was removed, so the focus would be on the relation to the adjacent area and such issues as setback, mass, orientation, etc. would be considered.

Bonnell said that Service's revision had responded to their concerns, which had been vague terms and a specific mapping of the areas subject to this. He pointed out the areas on the map. Bonnell said staff had concerns with possible conflicts of compatibility issues and basic zoning requirements such as height and setback requirements. He recommended that those terms be removed. The Plan Commission was not in favor of this amendment.

Cole asked for specific information as to the areas covered on the map.

Bonnell described the outlines, by streets, of the areas covered.

Sherman asked why was this limited to only permits needing review.

Service said it was a compromise, and intended to apply to developments having a larger impact on a neighborhood than a by-right single family house project.

Jeff Brantley of Positive Progress, said they should be working to reduce the length of the development approval process. The removal of the standards from the other draft made it very vague and difficult to understand the impact. He did not think the developers needed advice and that it would not reduce controversy. This really creates another level of bureaucracy and promotes unpredictability.

Chris Sturbaum said this would help neighborhoods have a voice in the process and avoid late night emergency meetings. Neighborhoods deserve to be treated as full participants in the process and have input on development early on. The purpose of this is to make good development more likely, not less.

Bill Finch, representing CFC, said they did not support the amendment. No one knows what this amendment does, even though it is not a design review. It is

difficult to tell what issues will be looked at if landscaping, setbacks, height, etc. are already covered in the Zoning Ordinance. This will increase the cost of housing and involves enormous discretion as it is too vague.

Ric Zabriskie of the Plan Commission said the Plan Commission vote was 7-2 against this process. This proposal has had little discussion and is not typical of the way we do things, i.e. by committee and much public discussion. He said that subarea plans will do same thing as Compatibility Review, allowing a neighborhood to come in and say they have special needs. Neighborhoods can do this on a strictly volunteer basis.

Talisha Coppock of the Commission for Downtown said this was another stumbling block and could be an economic disincentive to development downtown.

Bob Dunn of Remax Real Estate said he was not in favor saying it was difficult to say what was compatible and what was not.

Greg Raisman said he didn't think we should be speaking just about design compatibility but also about use compatibility. He cited figures about affordable housing, and said that developers use that as a scare tactic to prevent providing amenities such as bike racks.

Mike Probst said he had experience with such a commission in South Carolina, and that without responsibility, authority can get out of hand.

Peter Dvorak questioned the timing of the review, saying he thought it would slow down the approval process. He also objected to the fact there was no criteria for judgement.

Bill Sturbaum spoke in favor, saying he saw nothing in the Zoning Ordinance which was conserving of small town character which was a highly valued trait of Bloomington. This is the only attempt to do this, and it is only enabling legislation to draw up guidelines.

Jim Tolen was not in favor and found aspects of this to be troublesome, giving power to a small group of people. He read parts of the Growth Policies Plan, saying the Plan was for guidance in setting up regulatory procedures and managing development.

Gene Fritz spoke in support, having been a planning board chairman in another community for five years, and said he knew that this concept works. It is advisory only and it helps the Plan Commission make good decisions. It helped tremendously when development came into the older section of town. These planning decisions will affect the town for 20-50 years and should not be rushed through.

Richard Katz didn't think this amendment was needed, and that it was micromanagement.

Eric Stolberg, builder and land developer, urged non-support of this amendment. The development process is very lengthy and we don't need another step in the process.

Susan Fernandes said that older neighborhoods do not have the protection of the covenants and restrictions that subdivisions do; the Plan promised protection for the older neighborhoods. She said this was a communication tool between parties who are now highly polarized and could give a lot of good information.

Steve Howard of the Chamber of Commerce said they objected to this on several bases: no standards, another step in the process, and there is no clear accountability.

Barbara Wolf, president of the Elm Heights Neighborhood Association, supported the amendment and said that many of the objections to this come from people who do not live in the areas under question. We were promised protection and it is not in the Zoning Ordinance. Our neighborhoods are critical components of our economic growth.

Bill Brown, developer, said this adds a layer of bureaucracy that industries would not like when a company looks at Bloomington to re-locate. This would discourage industries from coming to Bloomington, and said not to pass it.

Michael Conner, president of the near-westside neighborhood association, said his association supports this as they are concerned with compatibility issues in zoning changes.

Ben Beard, developer, asked for clarification of the aspects to be considered under this process, the participation of the public, and of the timing of the review. He asked for alternative methods for testing this out, i.e. form a foundation to test this out, and he also wanted to know about how this was done in other communities.

Frank Edmonson, board member of Elm Heights neighborhood, said he was a conservative who was strongly for this amendment.

Marc Cornett said this was a way to talk about site specific issues that are not covered in the Zoning Ordinance. This gives the neighborhood a chance to respond and to "plug in" to the process.

Steve Conrad from the Elm Heights neighborhood said that the people he has heard from are very diverse but all are in favor of this. He asked how they were going to carry out the promise to conserve community character in the Plan. Someone (unidentified woman) urged them to vote against the amendment.

Jim Billingsley said government was to protect property; this takes away all property rights and is communistic. This is an evil and tyrannical scheme to usurp liberty.

Pam Lohman said this has been called vague but it proposes a process for establishing criteria for judgment and that criteria must be passed by the Plan Commission. Then there will be predictability for the developer and for the subarea plans as well.

Susan Elkins, landlord, was not in favor as she thought it would add more layers to the approval process.

Norman Deckard, developer, said this was unnecessary as the Zoning Ordinance makes everything compatible because its zoned that way.

Jim Bohrer, representing the Apartment Owners Association, said the biggest problem with this was the lack of predictability and asked what criteria would be used, because the Zoning Ordinance regulated all of the necessary categories.

Kiesling suggested some sunset review process if the amendment passed and Service said that was all right with her. The words, "This section will be reviewed by the Common Council one year after adoption of the criteria by the Council." were added as a friendly amendment.

Service said some questions need answering: the process will be similar to the Historic Commission; the assertion that this was disapproved before is incorrect, as it was never discussed in the Master Plan Advisory Task Force; as to predictability in development approval, this is not a principle of the Plan - conserve community character is a major principle. This is enabling legislation and will only allow this to be tried.

Swain said most of these amendments were last minute legislation and this one especially was rejected by the Plan Commission. He did not think that neighborhood character would be enhanced by this. He read a section of the Zoning Ordinance saying that the building setback would be that of the dominant portion of the block.

Cole said that the Council is making decisions for the look of Bloomington for the next 20 years and the community needs to start talking about how it wants to look. We need to build well and to make buildings compatible with each other. Neighborhoods need to have a channel to be heard in these issues.

Hopkins said that this is not a scary amendment as it is advisory, and the Council will approve the criteria which will be used by the review board. We do need to more closely at development proposals.

White said this is another level of redundant government regulation and the planning staff is already overburdened. His neighbors are telling him they are losing property value from downzoning. This will make development proposals more costly and time consuming to get through the process.

Bonnell said there were many promises in the Plan, in which design review appears twice, but not in the community character section. There were many ways that the suggestions in the Plan are being implemented, and downzoning residential neighborhoods is one of them. He went on to name others.

Service said that commissions aren't all bad and cited the Environmental Commission as a good one.

Bonnell was disappointed with this amendment as he doesn't know what it will do and he wanted to hear what the criteria would be. There are other ways to fight for your neighborhood.

Pizzo said he had not been convinced as to the specific purpose of the commission, and felt that the forms of input were already available. He didn't understand why this would be a substitute for any existing process.

Kiesling said that scenic corridors were left out of the ordinance. She felt we should give this a try and it is not an overburdening of process.

Amendment #1 received a roll call vote of Ayes:4, Nays:5 (Swain, Bonnell, White, Sherman, and Pizzo). The amendment failed.

It was moved and seconded that Amendment #2 be considered: Service explained that this amendment takes the treatment of off premise signs (bill boards) back to the status found in the current Zoning Ordinance. This grandfathers existing billboards but does not allow any new ones. The proposed zoning ordinance allows billboards to be removed from their current location and erected on another location, with BZA approval. She said she was opposed to this because this maintains the number of billboards and creates a bad impression of our community. It will give the appearance of even more signs being added.

AMENDMENT #2
OFF PREMISE
SIGNS
(BILLBOARDS)

Mueller said the current code prohibits off premise signs and all existing ones are grandfathered. One proposal by Hoosier Outdoor was to allow re-locating billboards as a by-right permit. The Plan Commission approved relocation of existing billboards as a conditional permit.

Bonnell asked Mueller to point out the zones on the map where billboards are allowed by-right; which he did.

Sherman asked about the criteria for judging re-location requests and said it was problematic.

Dave Rogers representing Hoosier Outdoor Advertising said this was a compromise and they felt it was valuable for the community. They were sensitive to the fact that some people did not like billboards and said the ones on the highway met the state's spacing requirements. They envisioned a partnership between the City and the billboard company, and this would open the opportunity for cooperation.

Leo Hickman, owner-manager of Hoosier Outdoor Advertising, gave a history of his family and their business. He spoke of all of the public service work they do, and of the landscaping he has done in the last five years. He wanted them to know that he doesn't want to put up litter on a stick, i.e. visual pollution. He asked them to leave the conditional use in the provision.

Cole asked Hickman if this meant he could not increase the number of signs.

Bill Sturbaum said that the proposal to allow billboards to be moved was another example of the continuing decline in the standards of the proposed ordinance as compared with the current ordinance, as currently, billboards are prohibited. He said we have no inventory of billboards now and how will we know what is the total now.

Jim Bohrer said that off premises signs do serve a useful purpose and tourism is a significant industry here.

Swain asked if he had any local competitors. Hickman named a few.

Service said tourism is a significant industry and that is why we need this now, as we want to promote tourism. She said this was not harming the Hoosier Outdoor business.

Hopkins said he agreed that this weakens the existing ordinance.

Sherman said the old ordinance was a good one and billboards would diminish over time. He would like to see a reduction built into the process.

Bonnell said while he would support reducing the number of billboards on Highway 37, he would not support this amendment.

White said that he supported the compromise in the proposed zoning ordinance.

Kiesling asked staff which standards are in the current ordinance as to height or size. Mueller responded with those numbers.

Amendment #2 received a roll call vote of Ayes:4 Nays: 5 (Swain, Pizzo, Cole, White, Bonnell). The amendment failed.

Hopkins asked for a vote on adjournment since it was after 10:20 PM. A roll call vote was taken and it was decided Ayes:7, Nays:2 (Swain and Hopkins).

It was moved and seconded that Amendment #49 be considered. Bonnell explained that this was intended to increase green space in parking lots and set backs, by prohibiting mulch and increasing the vegetative value required.

AMENDMENT #49
GREEN SPACE IN
PARKING LOTS

Mueller said that there needed to be specific mention of parking lot islands. Several amendments in wording were discussed.

Bill Finch of CFC said they supported it.

Amendment #49 received a roll call vote of Ayes:9, Nays:0.

It was moved and seconded that Amendment #35 be considered. Hopkins said this amendment, at the suggestion of the Environmental Commission, increased the percentage of parking lot vegetative coverage from 3% to 6%. The EC researched local existing lots and made a convincing case that the proposed ordinance was too lenient in its requirements. He said he was personally interested in this amendment because of the disappointment with the outcome of the Wal-Mart parking lot.

AMENDMENT #35
INCREASE OF
VEGETATIVE COVER
IN PARKING LOTS

Mueller said the staff tried to strike a balance in the current proposal.

Sherman asked Mueller how this requirement measured up against other cities. Mueller said that in cities known for their attractiveness, their parking lot green areas are bigger than either three or six percent and either measure would not put us in the forefront. Mueller then presented a slide show of local parking facilities and explained their relation to the proposed requirements.

Patty Werner with the Environmental Commission made a slide presentation showing local lots and their percentage of coverage.

Gene Fritz strongly supported this amendment and said that his former community had stricter requirements, even specifying the size of tree to be planted.

Norm Deckard said the addition of islands made it very difficult, and proposed a 4% increase.

Chris Sturbaum said we wanted to avoid another Wal-mart.

Gene Fritz also suggested that they add a requirement to replace vegetation that dies. Mueller said there were size and replacement provisions in the proposed code.

Amendment #35 received a roll call vote of Ayes:9, Nays:0.

Kiesling announced the regular Council meeting the next evening. The meeting was continued until March 27. (Recessed @ 11:50 pm)

On March 27, 1995 the continuation of the March 6, 1995 Common Council meeting was called to order. Pizzo asked for a motion to change the rules and procedure for this Special Session.

MARCH 27, 1995

It was moved and seconded that the agenda order be revised. The motion received a roll call vote of Ayes:7, Nays:0. Kiesling and Swain were not present.

It was moved and seconded that debate be limited for any amendment to one hour, broken down into five minutes for presenter, five minutes for staff, 20 minutes for Council discussion and debate, and 15 minutes each for public discussion. Bonnell explained the reasons for his motion.

The motion received a roll call vote of Ayes:6, Nays:0. White was out of chamber.

It was moved and seconded that Amendment # 52 be considered: Cole said that this was a proposal to add an overlay zone to core areas to require new construction to conform with dominant setbacks and other features of the existing buildings in the block.

AMENDMENT #52
CORE AREA OVERLAY

Mueller said that the Plan Commission decided not to work on architectural standards, so none were developed. He said this should not be done casually as that causes sweeping changes. He said there were problems with this: boundaries need defining; standards are vague; and many blocks are not consistent. He felt it would hold up permits.

Hopkins asked about a provision for proportions and White asked Mueller about the location of the core area.

Mueller pointed them out on the map and White asked if the Plan Commission rejected this amendment. Mueller said they rejected a very similar one.

Service said that if they voted down Compatibility Review because the standards were vague, then this is an answer to that problem.

Bill Sturbaum, who authored the amendment, said this came from the historic guidelines for Huntington Indiana, Dan Quayle's hometown. He read excerpts from that legislation and showed slide examples of the local situations the amendment would address.

Jeff Brantley of Positive Progress said he agreed with Mueller about the problems that this would cause.

Norm Deckard said that the first slide shown had a building which was a good solution to a difficult site.

Rebecca Clendening, attorney for the Monroe County Apartment Owners Association, said this was an indirect means for opening the compatibility issue again and the requirements were vague.

Bill Finch for CFC said that the phrase "dominant proportion" is not clear.

Peter Dvorak said Sturbaum's pictures pointed out how subjective this could be.

Susan Elkins said that this could cause confusion on a block-by-block basis.

Tim Mayer spoke in support, saying this could help preserve property values.

Sherman said there has been tremendous damage done to some core neighborhoods by development which was not sensitive to the overall look of the street.

Cole said that there needs to be a balancing act between diversity and conformity.

Amendment # 52 received a roll call vote of Ayes: 3, Nays: 5 (Sherman, Pizzo, Hopkins, White, Bonnell).

Kiesling said she hoped that this subject would be revisited later, with more thought and study.

It was moved and seconded that Amendment # 36 be considered: Cole read the synopsis and the amendment, proposed by the Environmental Commission, which added to the restrictions for development in Karst Terrain.

AMENDMENT #36
KARST RESTRICTIONS
(TABLED)

Mueller said that this would be triggered by the permitting process when karst was found on the site. He said the 2.5 acre lot size may not be an appropriate requirement and the 25 foot setback from karst features may be difficult for industrial sites. The prohibition against modifying drainage holes may be too absolute, and it may be better to allow some engineering.

Bonnell asked about a recent case where a small sinkhole was covered and Mueller named two examples and also commented that existing lots would be grandfathered from this requirement.

Kevin Komisarck, of the Environmental Commission, spoke in favor of this amendment, saying that there is a lot of evidence that septic systems drain into caves locally. He said the 2.5 acre lots requirement comes from other communities who regulate development on karst. The setback of construction near karst features is sensible because sinkholes tend to open back up after being filled and it will also reduce pollution. He read an excerpt from a planning journal advising prohibiting construction within 500 (five hundred) feet of a sinkhole. The Hoosier National Forest requires setbacks of 200' from a karst feature.

Mike Probst said that the effect on economic development was his concern. He thought this was intended to eliminate opportunity for people. He pointed out the conflict between our area for industrial growth and the karst area.

Jeff Brantley for Positive Progress pointed out that we are seriously limited in our supply of industrially zoned land, and this would have a very negative impact on economic development.

Jim Tolen said this amendment was unnecessary.

Bill Sturbaum said we needed to be responsible to those people downstream, not just the ones who were here now.

Scott Wells supported the amendment, saying the most of the soil types are highly erodible and the slope of the sinkhole would increase the water rate, thereby increasing erosion and filling of the sinkhole. He said a buffer was needed, and

25' was not that much to ask. A buffer is needed because of the increase in impervious surfaces.

Jeff Ehman from the Environmental Commission said they should support the amendment because they might exert a leadership role for the County.

Ben Beard noted that diverting growth from the eastside to the westside in the Master Plan caused this conflict with karst.

Service commented that protecting economic development opportunities has been raised to the level of religion, but protecting the environment was honored only if no one was in danger of losing any profit. Allowing danger to sinkholes from pollution is inexcusable.

Sherman said he agreed with many of the provisions but had a problem with the absolute prohibitions.

Bonnell said he could support much of this but did not like other parts. There was discussion with Mueller about the meaning of the technical reporting requirements.

Hopkins said he was bothered by the 2.5 acre requirement and Mueller said that the solution may be to allow smaller lots which avoid the sinkhole area. Hopkins offered a friendly amendment specifying that a lot must be of sufficient size to avoid the karst feature. Discussion followed about this addition to the amendment.

Bonnell said he felt that there was little agreement over the bulk of this amendment, and moved to table this matter, instructing the Environmental Commission and staff to rework it.

It was moved and seconded and approved by a roll call vote: Ayes:8, Nays:0 that the amendment be tabled.

Kiesling asked Mueller if he understood what was needed. Mueller said that there were conflicts in perception and Kiesling said that compromise was needed.

Scott Wells said that the 18% slope restriction was important for erosion control and landscaping. He said that there was a lot of money riding on the development regulations and some of the rules were written by the development community. He said errors needed to be corrected regarding erosion control and he has submitted amendments to that section.

Mueller said that the erosion control section is one they have been working with for two years.

Chapter 7, Zoning Districts. Mueller said the zoning districts are modeled after the current ordinance, with new densities for the residential districts. He explained those, and the PRO (Planned Residential overlay) zones. He explained other new features, such as parking setbacks, allowing residential in commercial zones, deleting retail from industrial zones, and adding criteria based on the manufacturing activity instead of product to define an industrial use as light or heavy. He mentioned a number of special zones, such as the airport zone, and overlay zones, such as the lake watershed.

Service said that Amendments #38 and #3 were very similar and she was willing to withdraw her amendment, #3.

It was moved and seconded that Amendment # 38 be considered. Kiesling said this amendment, prohibiting development on 18% slopes was from the Environmental Commission and asked them to speak for it.

AMENDMENT #38
18% SLOPE
RESTRICTION

Tom Micuda said the first reason the EC feels this is necessary is that is consistent with the County's overlay zone. He explained the provisions of that zone. He said there were other steep slope requirements in the ordinance, but this one is needed for the watershed areas. He spoke of walk out basements, saying that as erosion inspector he saw significant areas of earth disturbance at construction time and often slope stabilization is not done in a timely manner. Velocity of water flow also increases on steeper slopes, thereby increasing run-off and erosion. Disturbed slopes also continue to erode at higher rates than natural cover. He showed a graph of tons (of soil) per acre lost on certain slopes.

Bonnell asked if sedimentation was the main concern; Micuda said direct sedimentation is one concern, the other is increased velocity of storm water run-off which would cause more erosion as well. Discussion followed about the requirements for storm water detention in various size subdivisions.

Mueller said this watershed has been an on going concern and that there are other ordinance limitations such as street and parking lot grades and what it comes down to is the location of the structure itself. The Plan Commission's amendment, allowing structures to be built on 18% slopes, was a compromise to allow walk-out basements.

Shermnan said that there were several developments in the past where this was discussed and that Mueller and the developers all seemed to accept the 18% slope requirement.

Mueller said there had been developments with structures over 18%, but most of those areas are not zoned intensively. He showed some examples.

Ben Beard asked them to vote no on this amendment, and noted other restrictions in place in the watershed. This was over regulation and unnecessary. He also quoted the Master Plan, saying that walk out basements needed 33% slopes. Scott Wells of Environmental Education Enterprises quoted an expert he had called who said slope restrictions should be between 12 and 16 percent, especially in watersheds. Another said their slope restriction was 15% and another said degree of slope is one of the biggest factors in determining soil loss. He presented a report of these experts and gave the Council the experts' phone numbers and asked them to call. He presented figures about slopes and erosion and said they needed the 18% restriction.

Jeff Brantley for Positive Progress said that he urged them to reject this amendment as an unnecessary restriction on building in this area. There is an erosion control ordinance in place already, and the problem is in enforcement.

Gene Fritz urged adoption of this amendment.

Bill Sturbaum commented on the proportions given as examples.

Kevin Komisarck of the Environmental Commission said that the correct number for a slope restriction would be 12%, not 18% because of the soil loss equation. The 18% was a compromise to give developers some leeway, but still a huge amount of soil would be eroded with an 18% slope.

Bonnell asked about different remedies for erosion; Komisarck named a few and said the simplest was to stay off steep slopes.

Pam Lohman said that the Council has had a lot of information about construction on slopes with fragile soils, and this is the absolute minimum protection that the Council can offer the watershed.

Tim Sutherlin commented that this limitation on development fits into the Compact Urban Form principle of the Master Plan.

Hopkins said that the current erosion control ordinance is not enforced and is a joke. This is not a good reason to reject the amendment. This is a reasonable amendment.

Sherman said his position was based on the fact that knowledgeable people say it is not good to build on slopes, also that erosion control measures do not always work, and you can see that in Lake Griffey. The decline of Griffey seems to correspond with the development in the area. There is no compelling reason to build houses on these slopes.

Service said the Master Plan recommends a slope restriction of 15%. We know that there is no compliance with the current erosion control guidelines, and also we should not rely on technology to solve our problems. It's important that our number matches the County's and prevention is more effective than cure. This is the only water source for us and it would be irresponsible to continue to allow damage that we know will occur.

Bonnell said he wished he knew what the County was going to do. Walk out basements are an important addition of space to homes, and are actually required in another part of the ordinance.

Cole said she supported the amendment and we must protect our precious water.

White said this is going too far and is over-regulation. Discussion followed about where this amendment would be applied.

Amendment # 38 received a roll call vote of Ayes:6, Nays:2 (White, Bonnell).

It was moved and seconded that Amendment # 12(a) be considered. Bonnell said this amends the previous Amendment #12 regarding Dwelling Unit Equivalent (D.U.E.s), by placing it in the zones it was intended for.

AMENDMENT #12(a)
AMENDS D.U.E.

Mueller said the Plan Commission thought, in the past, that the provision needed more discussion and fine tuning and the staff agreed with them. He said they were worried about taking advantage of the density bonuses and gave the example of creating very large bedrooms so more than one person could use the space. Another concern was that most apartments were two bedroom units, not three. There was also a concern with how the impacts of different apartment sizes actually balance out and the staff and Plan Commission are concerned that it needs refining. He pointed out areas internal to the city that had RM zoning where this could apply, and that had been an intense concern to those areas in past times.

Hopkins said that this has been discussed in several housing groups and he thinks this is a reasonable formula.

Mike Davis said that the lack of Plan Commission treatment of this issue did not reflect lack of support for affordable housing, but reflected a concern with a density formula which could have widespread impacts. They agreed with the concepts but disagreed with the speed of adoption. Major concerns and the reason for requesting that it be withdrawn for more study were: the inclusion in multi-family zones, both prospective and existing which could be re-configured to add more density. He cited statistics of the addition of rental units, over 33,000 rental units added between 1980 and 1990. He also said that the median rent increased over 93% in the same time period, so increased supply did not lead to a decrease in prices. Providing more supply, if not tied to affordability, would only mean more housing built, not necessarily for low income families.

Steve Smith said the formula may need refining but at least this addresses the difference between efficiency units and five bedrooms.

John Burnham said he inquired in the past about developing a parcel close to campus and downtown and was told he could develop 16 efficiencies, 16 one-bedrooms, or 16 two-bedrooms. This did not make a whole lot of sense to him, especially in terms of parking requirements.

Tim Sutherlin said the supply force is not working in the city as the vacancy rate has been less than 5% for some years, and a large proportion of renters in the city cannot afford to rent at the going rate. The issue is compact urban form, not affordability. The question is where we put the high density.

Mike Dunn said he lived in one of the areas affected by this and had some concern with this. He said it hasn't been discussed that long and he was frustrated with the process. He was concerned with implementing it in the core neighborhoods and saw the possibility of older houses being torn down or converted to apartments.

Bill Sturbaum said he was for affordable housing but this proposal was one-dimensional. We need to consider infrastructure demands as well.

Gene Fritz said he felt it needed more study and asked them to table this.

Bonnell offered a text amendment changing the wording to read "these districts" instead of "this district". He also pointed out that this does not apply to Townhouse Residential zone. The areas where this applied are mostly RM7 or PRO 12 development zones and does not allow more density than is currently possible. He said it would help preserve neighborhoods.

Cole asked to see the zones that this applied to and Mueller pointed them out on maps, commenting that most multi-family was in older neighborhoods.

Service said the concept made sense, but she wasn't sure it was worked out sufficiently. There is no assurance the units will be affordable and she was unhappy with the assumption that core areas will continue to be in transition. She recommended that it apply to commercial zones only.

Pizzo moved to table this amendment; there was no second.

Bonnell said there would be an amendment at the housekeeping section to make it not apply to the PRO areas, which would limit it to the RM7 and RM15 zones.

Sherman suggested that the core areas map be used to except out those areas from this provision.

White said that there were significant amounts of downzoning around campus, and this proposal does not allow for more density. This is the way to increase affordable housing.

Hopkins said he agreed that there was a need for efficiency apartments, and he felt the market could work in this case.

Bonnell said that his amendment cut the density in multi-family areas and creates an incentive to build smaller units.

Service said she wanted to amend the amendment to remove the core neighborhoods from the proposal.

Sherman seconded Service's amendment to the amendment. Discussion followed about the map showing the core neighborhoods - "the older residential neighborhoods".

Service clarified that she was only referring to removing the multi-family zones from application of this proposal, not the commercial zones in the core neighborhoods.

Cole moved to continue the discussion for 10 minutes more, the motion passed. Cole said she would support this if core neighborhoods were not experimented upon.

White said the whole thing was an experiment and we should try it.

Tim Sutherlin misunderstood the amendment to the amendment.

Mike Dunn said he was confused by the maps and the rules were changed at the last minute.

Kiesling asked for Council comments on the amendment excluding from this provision the multi-family zoning in the older residential neighborhoods.

The amendment to the amendment received a roll call vote of Ayes; 7, Nays:1 (White).

Amendment #12(a), as amended received a roll call vote of Ayes:8, Nays:0

It was moved and seconded that Amendment # 48 (a) be considered: Bonnell said this amendment has come up before. It creates an incentive to provide parking at the side and rear instead of in front yards. AMENDMENT #48 (a)
AMENDMENT #50

Assistant Planning Director Toni McClure pointed out that this proposal was replaced by Amendment 48a. McClure gave a staff report explaining the intention of this amendment, which Bonnell said was to preserve or enhance the streetscape.

It was moved and seconded that Amendment #50 be considered: Bonnell said this was closely related to Amendment #48 (a).

Mueller explained that setbacks were currently related to the proposed thoroughfare width in the thoroughfare plan. These provide incentives to locate parking in front of the building; these amendments provide incentives to locate parking to the side or rear of the building. The amendments site the building setbacks forward of the parking setback, creating a disincentive to site parking in

front of the building. Staff agrees with the concept, but feels its possible that the market wants parking in front of the building.

Kiesling asked how much greenspace would be created in front and Mueller said it depended, but at minimum ten feet. Discussion followed about having enough sight distance when pulling out onto the street.

Hopkins recalled a long discussion about making the language more precise, and felt that this language was not adequate. The correct amendment was read by Bonnell and Hopkins said he was satisfied.

Mueller cautioned that this imposed a slightly greater constraint on development by this amendment.

Steve Smith said he was responding as a designer and thought this was a good amendment to address the streetscape issue and makes it better for landscaping. He didn't think the ten foot vision question was a problem.

Bonnell said a good example of this is the Parks and Rec building with the commercial strip beside it.

Amendment # 48 (a) received a roll call vote of Ayes:8, Nays:0.

Amendment # 50 received a roll call vote of Ayes:8, Nays:0. (Recessed @ 11:46 pm)

On March 28, 1995 the continuation of the March 6, 1995 meeting was called to order.

Hopkins opened the meeting with a brief summary of the subjects to be heard in the next meetings. Discussion was held regarding the technique for hearing the Downtown amendments.

DOWNTOWN
AMENDMENTS

It was moved and seconded that Amendments # 4, 16 (b) and 15 be considered as well as Map Amendment #41 be considered. Service introduced amendment 4 on height limits in the Downtown Commercial District and explained that this amendment restricted heights to 80 and 40 feet. She explained the rationale for this restriction and Mueller gave some background on the height question, going into the different options which had been considered by the Plan Commission.

AMENDMENT #4
AMENDMENT #16 (b)
AMENDMENT #15

Sherman asked the height of the Carmichael building; 40 feet was the answer. He also asked the difference from the ordinance currently in effect and was told that that limit was 80 feet all over, except immediately around the Square.

The name of the next amendment was changed by Bonnell from Amendment #15 to #15a. He explained that the amendment removes the off street parking requirements for that part of the Downtown Opportunity Overlay Zone which are residential and go beyond the commercial district.

AMENDMENT #15(a)

Mueller explained the difference between the downtown commercial and residential districts.

Bonnell explained the off street parking requirements in the proposed and current codes and said that this amendment removes any off street parking requirements for residential uses. He said that if residential uses were to be encouraged downtown, especially affordable housing, then the parking requirements should be changed.

Mueller gave background on the function and purpose of the downtown area as a mixed use area, with residential to support the main purpose of downtown as a commercial area. He said the downtown needed to be a compact pedestrian area and showed a map illustrating this area.

Kiesling asked for the next amendment; Bonnell said that Amendment #16(a) was now #16(b), and explained the difference between them. This changes the residential density requirements for the downtown and removes the limitations in some areas.

AMENDMENT #16(b)

Mueller said that this came up late in the process, with much discussion of different density provisions. He thought that this amendment followed the direction of the consensus of the Plan Commission discussions. Sherman said this was his impression as well. Kiesling asked for public comment on amendment 16b.

Bill Sturbaum noted that in Councilmember Cole's amendments which were proposed by citizens, those people were identified by name, such as in amendment 53. He said it was only fair to identify others who had proposed amendments to councilmembers.

Sturbaum went on to say about Amendment #16b that he thought that originally this overlay was not to be a by-right zone, but a special exception situation. He said the Plan Commission said that this was a rezone and the Council should think of it as such. There needed to be hearings with the public.

Bill Finch of CFC said that this provision was left out of the Zoning Ordinance draft by mistake and this just puts it back where it was supposed to be.

Bob Sullivan, representing the Commission for Downtown, said they were in support of this amendment. Downtown property is expensive and difficult to put together for residential development.

Chris Sturbaum said that this was related to the parking provision.

Amendment # 16(b) received a roll call vote of Ayes:9, Nays:0.

It was moved and seconded that Map Amendment # 41 be considered: Pizzo explained that this amendment expands the CD zone and includes three new areas. He asked Mueller to point them out on the map.

AMENDMENT #41

Mueller pointed out and explained the change in zones for the Downtown zone. He went into the Plan Commission's discussions of different areas proposed to be added to the CG district and gave the staff recommendations.

Bonnell asked which expansion the staff supported; Mueller said the Madison Street one. Discussion followed about the other two areas.

Mueller explained about the difference in parking provisions and their impact on the proposed zone.

Hopkins asked about the other implications for Downtown of these other areas being zoned commercial.

Mueller said lot coverage, smaller setbacks, no off-street parking requirements, a shorter list of permitted retail.

Hopkins asked Pizzo what his main purpose for this amendment was.

Pizzo said most of this was commercial already and was contiguous enough to lend itself to this. Pizzo said this would help the town grow.

Sherman asked for the colored zones to be clarified, and Mueller explained.

Swain and Service also asked for clarification of the zone boundaries and the applicable overlay regulations.

Hopkins asked the Clerk to call the roll. Clerk Williams stated that because she was the record keeper, she would like the record to reflect her concern about the fact that this was a combination of amendments. These essentially eliminated all density and parking requirements, and she thought this was shortsighted,

given the parking concerns in the existing downtown zone.

Bill Sturbaum said that Mueller's report was not accurate in terms of the Plan Commission's deliberations, and reminded the Council that this was a rezone.

Chris Sturbaum, speaking for the Westside neighborhood, said parking was extremely tight now in that neighborhood and doubted that the "bicycle" apartments tenants would really be car-free.

Gene Fritz said that this could promote high rise apartments with no parking; therefore the community would have to subsidize parking for them.

Talisha Coppock for the Downtown Commission spoke in favor, saying this would increase the tax base and residents downtown.

Sherman asked Coppock about the Downtown Commission's feelings about cutting the parking to zero; he remembered meetings with them where they had mixed feelings about it. She said that the parking should not necessarily be provided by the developers; a partnership with the City was needed. Sherman said he wasn't sure that the City was prepared to provide the parking, if that was what was meant.

Brad Wetnight also spoke for the Commission for Downtown, and confirmed their support of the amendments. He also supported affordable housing downtown.

Peter Dvorak said it was inevitable that another parking structure would be needed and parking requirements for residential development downtown would make it impossible to have affordable housing downtown. He said Allen Building residents do not use all of the 10 leased spaces available.

Mike Davis spoke for the Mayor, saying one point all agree on is that the Downtown continue to flourish, and density of people allows better service. He said that the Downtown area zone has not been significantly expanded since 1973 and they favor the expansion on Madison, but not on Fourth Street or to the north. He showed a chart showing the costs of parking versus the tax revenues from new construction. They are opposed to minimizing the 120 foot height limit and to the elimination of parking requirements in the Downtown overlay.

Bonnell asked Davis if the City still envisioned providing some parking structures in the future. Davis said yes, but most of the funds would have to come from the Tax Increment Financing from downtown development, and there aren't many other general funds available. They needed to be cautious about eliminating parking requirements.

Bonnell asked about the Convention Center parking;

Davis said that would be paid out of TIF revenues. Discussion followed about the provision of other public parking.

Service asked if the Mayor's office was in favor of 120 feet height on Kirkwood and Davis said he did not know.

Steve Smith spoke about the relation of the parking requirements to the commercial square footage and said that most of the businesses downtown draw customers from people who are already downtown and if there was more residential downtown, then they would support the businesses too, without needing more parking. Mixed uses mitigate traffic congestion, and the Downtown Development opportunity area should encourage mixed use. Parking is the barrier to making those projects easier. He said the Master Plan principles all work for development Downtown. Speaking about the City providing parking downtown, he said that the subdivision development in the outer areas was expensive in terms of public funds, and cited Hyde Park as an example. He listed all of the public services that required. He said downtown was less expensive in terms of public funds.

Kiesling asked if a compromise was possible, i.e. no parking for efficiencies and a certain number of spaces for more than one bedroom.

Jim Murphy, President of CFC, Inc. said there probably was a compromise and that the market would indicate it. He showed a map of the Downtown area and pointed out areas which could not be developed, such as churches, the post office, etc. He also cited parking studies by PKG in 1985 and 1993, showing how many parking spaces were already available. He said he supported the parking amendment.

Marc Cornett said that we should build 80 foot buildings first and look at them and see how we liked them before allowing 120 foot buildings. About parking he said we need to consider other forms of transportation for cutting down on parking requirements. Height is the single most important aspect of a building when you consider its relationship to the community; the taller a building is, the further out its reach becomes.

Bill Finch spoke in opposition to the amendment, saying it was a biggie and the downtown needs to be full of buildings and people.

Russ Skiba, representing Quality Growth, strongly supported Amendment #4, and said that the whole idea of the master plan process is a balance between competing principles and we need to go slow in allowing a lot more height.

Sherman said that at the Cook Tower hearings everyone seemed in favor of more height downtown and this amendment decreases height downtown. As for parking, he thought cutting parking requirements in half was enough, not eliminating entirely. The map amendments were acceptable.

Service said that the master plan did not support increased height downtown, and specified an eighty foot limit. The reaction to the denial of the height of the Cook Tower was positive. On the parking amendment, we are saying that developers do not need to provide parking which is not correct, as there are many retail

services missing from downtown. This would require the City to provide more parking and this should be more carefully considered. This would force this public investment. The map amendments have a problem in the Madison Street area because of the lack of parking required.

Cole said she strongly supported Amendment #4, because we could revisit this in the future. She felt we were rushing on many of these major issues, and we should take it one step at a time. The parking amendment needs to be considered in the light of the public investment which may be required. She felt the map amendments needed more thought, as their impact could be significant.

Swain said he liked Amendments #4 and # 41 and not #15. He liked the height amendment because it provided a step-down and we need to be a little cautious. As to Amendment #15, the Showers project will have an effect on the available parking. He asked Mueller about the impact of Amendment #15 on some of the properties in the north section; Mueller said it would become more valuable and development could occur on more of the area.

Bonnell said that it seemed silly to expand the Showers and not provide for any retail services for the inhabitants. He didn't see any problem with expanding CG to any of these areas. As to the downtown parking, he thought that this was already the pattern. The height limit should stay as it is in the present version, and not be amended.

Kiesling said that the issues should be voted on separately in Amendment #4 and #41. She thought there could be a better compromise on the parking requirements downtown.

Swain noted that variances could be sought for "practical difficulties" in development for any of these provisions.

White said Amendment #4 has been discussed for a long time, and he heard that height was not a big problem with the Cook Tower, and to encourage compact urban form we need some height downtown. We don't notice the height of the eight story Graham Plaza. Amendment #15 would help with the affordable housing cost downtown. He said that the map amendments were appropriate for encouraging growth in the Downtown.

Sherman made a motion to separate the question on the issues of Amendment #4, Swain seconded.

Sherman said the first section would be to extend the 40 foot height limit to Kirkwood from Indiana to the Courthouse Square and the second section would set an 80 foot limit in the Downtown Commercial District.

The motion to separate the question received a roll call vote of Ayes:8, Nays:1 (Hopkins).

Kiesling said the next motion was on Section 1 of the amendment, the 40 foot height limit on Kirkwood Avenue.

The motion received a roll call vote of Ayes: 7, Nays: 2 (White, Bonnell).

Kiesling asked Mueller to explain Section 2 of Amendment #4, which was to set an 80 foot height limit for Downtown and to describe where it applied. Mueller pointed out the areas on a map and explained the implications of the conditional use proceedings.

The motion received a roll call vote of Ayes:6, Nays: 3, (Sherman, White, Bonnell).

Amendment #15a, to remove parking requirements for residential development Downtown, received a roll call vote of Ayes: 3 (Pizzo, White, Bonnell), Nays:6

It was moved and seconded that the question on Amendment #41 be divided and voted upon separately.

The motion to divide the question received a roll call vote of Ayes:7, Nays:2 (Cole, White).

The first amended section for consideration would be on the Madison Street area, the second on the North area, and the third area 4th and Lincoln.

The first section (Madison) received a roll call vote of Ayes:6, Nays: 3 (Service, Cole, Hopkins).

The second section (North Side) received a roll call vote of Ayes:6, Nays: 3 (Service, Kiesling, Cole).

The third section (4th/Lincoln) received a roll call vote of Ayes:6, Nays:3 (Service, Kiesling, Cole).

Chapter Seven.

Scott Wells spoke in favor of Amendment #3 restricting land disturbing activities on 18% slopes. He spoke about the types of soils and their erodibility and pointed out that our soils are much finer than the sediment basins can catch. He spoke on about the design standards of erosion control devices and quoted several experts. He has proposed several amendments for protecting the Lake Monroe watershed from siltation.

Service noted that it has been said several times that they need to re-convene the committee on the watershed requirements and address those issues then. She complimented Wells on his well done work.

Ben Beard said that engineers said that these are matters they take into account and that the overall impact should be taken into account. There are many ways to provide environmental protection and it may get better results if technical details are left up to the engineers.

Terry Elkins commented on the RM 7 and RM 15 zones, saying with the parking and setback requirements, it was impossible to achieve the densities allowed. He gave specific examples, and said this would not provide for compact urban form from in-fill projects. This would stop construction of multi-family housing in most inner areas.

Bonnell asked for a staff response for this; Mueller said that in many ways this was true, but some increased density is available in the PRO zones. There was some discussion about the implications of the requirements.

Chapter 8. Nonconformities. Mueller explained the relationship of the new zoning ordinance to existing areas and structures, saying that many nonconformities would be created by the passage of the new ordinance. He said that the aim was to be very liberal in their treatment of nonconformities, such as allowing 100% reconstruction of structures accidentally damaged. He said the most difficult issue would be the "grandfathering" of the residential units in the areas being downzoned. He said something similar was done in 1985 to reduce occupancy in some areas from 5 to 3 adults. They provided for landlords to register their units for grandfathering at the higher density. In the proposed ordinance, there is a provision for making the current actual use density permanent. Enforcement difficulties were key in the reasoning for making the grandfathering permanent; Mueller listed several other reasons for this. Legal department recommended that the procedure used in 1985 be followed with this ordinance. Mueller said that the apartment owners asked to be grandfathered at the currently zoned density, regardless of whether that was the actual use. The Plan Commission rejected this, and chose the permanent grandfathering at the current use density.

AMENDMENT #5
GRANDFATHER
PROVISIONS

Bill Sturbaum, referring to Amendment #53, spoke about the process of revising this provision at the Plan Commission level. Many forces were brought to bear on this after the Plan Commission had discussed it, and it was changed in ways that were not the ones agreed upon. He said if you give a permanent grandfathering, you take that house out of the family market. Keep the housing available, and encourage single family occupancy.

Jim Bohrer, representing the Apartment Owners Association, spoke against this amendment, saying it would change and not conserve the neighborhoods. This amendment would take away the reasonable expectations of the landowner, banker, etc.

Jeff Brantley, from Positive Progress, spoke against the amendment, saying that lawful nonconformities are under constant assault.

Susan Elkins, president of the Apartment Association, said they wanted to protect what landlords currently had, and would not fight the downzoning. She read a letter from the Apartment Association with their requests.

Terry Elkins said that the landlords recommended that the occupancy load be taken off the records already in the building so to avoid unnecessary paperwork procedures.

Kiesling asked Mueller for an explanation of some of the issues. He said one is the duration of time you can abate your nonconforming use, the second is whether permanent grandfathering is based on what is actually in the house, or in code enforcement records. There is

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a big difference between the two. Peter Dvorak said this amendment would force landlords to cram as many people in their nonconforming units as possible.

Marjorie Hudgins said she was against this amendment. Don Baker of Greenacres neighborhood spoke in favor of the amendment, saying they have a lot of experience with over occupancy in the neighborhood.

Chris Sturbaum spoke in favor of the amendment.

Gene Fritz spoke in favor of the amendment.

Barbara Wolf, president of the Elm Heights Neighborhood Association, said that enforcement is an important consideration, if we allow all the units now being rented to three persons to go to five persons with the lack of enforcement now, then things would only get worse.

Beth Gallman spoke against this amendment, saying renovation of a unit could eat up the time available for the abatement.

Sherman said that he did not think this amendment was workable.

Service said that the Growth Policies Plan specified a goal of transition to single family and although enforcement would be difficult, it was the right thing to do.

Swain asked if this would increase the stock of nonconforming uses. Mueller said no. He didn't think it was workable, either.

Cole said many of the rental homes in older neighborhoods were bought in the past for very modest amounts, and have brought in a tremendous amount of money over the years. If we ask why we don't have affordable housing, its because the older stock has become investment, and families cannot compete.

White said this was a compromise, and we need to respect the people who have made the investment.

Hopkins said he didn't think the amendment would work to increase the stock of affordable housing.

Bonnell said that it was confusing, and the way to increase affordable housing was to increase the multifamily zones.

Kiesling said she wished that there was some provision to maintain single family homes as single family.

Amendment # 53 was defeated by a roll call vote of Ayes:4 (Service, Cole, Pizzo, Hopkins), NAYS: 5

Kiesling asked for general public comments on the rest of the chapter.

Jim Bohrer, asked about the registry of property that occurred on Oct. 1, 1985 as a non-conforming use and whether the current grandfathering was for existing use or the previously zoned use. Mueller explained the difference. Bohrer also asked about non -conforming

uses in a conforming structure; Mueller pointed out the similarity to a non-conforming business in a conforming structure and explained the grandfather clause.

Bill Sturbaum pointed out that many of the sections of this Ordinance had been written by and for special interests. He said that many people worked on the Plan thinking that it would be carried out by the Zoning Ordinance and others with special interests said that though they lost on the Plan, they could win on the Ordinance. This is what has happened.

Chapter 9, Enforcement. Mueller said this was a general enforcement section, with some of the provisions, such as fines, mandated by state law.

It was moved and seconded that Amendment #39 be considered: Council Attorney Sherman explained that this was inconsistent with state statute, and said the sponsor Council member Sherman was willing to withdraw the amendment. It was withdrawn with no further discussion.

AMENDMENT #39
(WITHDRAWN)

It was moved and seconded that Amendment #22 be considered: Bonnell that this proposal came from neighborhood complaints. He said that he tried to develop some tools the enforcement staff could use in the case of overoccupancy; the staff resisted this. He said that overoccupancy was only enforced when there were too many people on the lease and it was impossible to determine how many overoccupancy complaints were made. Neighborhoods also complain that they were not kept abreast of enforcement cases. This would give the Council and staff some indication of how bad a problem may be.

AMENDMENT #22
OCCUPANCY ISSUES

Cole said she didn't think this was micromanaging. Chris Sturbaum proposed an amendment having the penalty for repeated abuse of occupancy limits be loss of their grandfather status. This part of the ordinance needs some teeth.

Jeff Brantley from Positive Progress supported the amendment, saying that it is good management.

Gene Fritz said he supported the amendment, because he could only get results on a complaint by complaining to the Mayor's office.

Ben Beard asked what parts of the ordinance this applied to and Bonnell said not to building permit inspections. He said that there should be an opportunity to correct this record.

Terry Elkins said he had no problem with this amendment, but he encouraged them to spend time with the enforcement officers.

Sherman said that if an owner knowingly violated their occupancy limits they should lose their nonconforming status. He moved to table the amendment until such language could be written, and it was seconded.

The motion to table Amendment #22 received a roll call vote of Ayes: 4 (Sherman, Service, Swain, Cole), Nays: 5. Kiesling, Hopkins, White, and Bonnell.)

Swain asked Bonnell why he wanted the Legal Department to report. Bonnell said that in some complaints, especially overoccupancy, he could not get any quantitative information from Legal. Swain said it was micromanagement.

Service said it was important to remember that this is the area that the City and citizens have the most contact, and it is important to have them feel the City is responsive.

White said he thought it was a good amendment and should make people accountable. This is a perfect time for a computer tracking system.

Amendment #22 received a roll call vote of Ayes:8, Nays:1 (Swain).

Kiesling asked for additional public comments on the chapter.

Scott Wells said he was disappointed that Amendment #39 was not passed. He quoted an HT article that said that the erosion control enforcement was not working because it was not enforced. He said flagrant violators knew they could get away with it because there were no stop work orders, no fines, and no bonds.

Pizzo said the Legal Department said this was not a legal ordinance.

Gene Fritz said that there is a strong reluctance to punish violators.

Chapter 10. Mueller explained that it was an appendix showing the scope of the Indiana University campus, i.e. potential acquisition and activity. The other is an historic zone. Both of these are reference.

The meeting was continued to the next night at 7:00 P.M. (Recessed @ 12:25am)

On March 29, 1995 the continuation of the March 6, 1995 Common Council meeting was called to order. Cole was absent.

MARCH 29, 1995

Kiesling summarized the session by saying they would handle amendments to maps and then some housekeeping procedures. She announced that the next meeting would start at 7:30 p.m. instead of 7:00 p.m.

It was moved, seconded and approved by a roll call vote of Ayes:8, Nays:0, that Amendment # 40 be tabled. Service, the sponsor of the amendment said that the Plan Commission was to hear a case involving it.

AMENDMENT #40
(TABLED)

Sherman said that this was not the proper venue for hearing zoning changes which should require public hearings with remonstrators and public input. The Plan Commission is the appropriate body to hear these petitions.

Kiesling asked Mueller to explain the difference between rezoning separate parcels with the Plan Commission and at this time. Mueller explained.

Hopkins asked about mistakes in map drawings and oversights; Mueller said that they were willing to consider those and explained how many public hearings they had about these proposed maps. Discussion followed about hearing specific zoning changes.

It was moved and seconded that Amendment #42 be considered. Sherman said this would change the zoning of part of Park 48. He explained that he thought it was a unique situation which has not been thought about as it could have been a PUD and be more flexible.

AMENDMENT #42 -
BUSINESS PARK
INDUSTRIAL

Mueller explained that this was a difficult question. He explained at length how this was zoned and how it related to the Plan, concluding with current zoning would allow business uses, but the Plan principles strongly favor retaining it as industrial.

Swain asked for map clarification and Mueller explained.

Hopkins asked what the current zoning was; Mueller said ML which allowed commercial uses.

Doug Duncan spoke for the rezone, saying industrial recruitment was extremely competitive and development of industrial parks was a lengthy expensive process. The developer wants the flexibility to keep commercial there as well as industrial.

Steve Smith pointed out that Park 48 was almost completely served by infrastructure and the buyer had assumed that commercial would be available on the front end of the property. This changes the current ability to develop as commercial. All they want is what they had before in terms of property use.

Hopkins asked if this case had been before the Plan Commission.

Swain asked how this compared with the Downtown zoning change issue.

Service said that the Plan Commission had been hearing for years that there is not enough industrial land. Commercial land pays more.

Swain said that this should be put through the regular rezone procedure.

White said that it was possible to do amendments from the floor. He felt that this was a good amendment.

Sherman said he also felt that this was a good alteration to the text and would withdraw Amendment #42 so it could be tabled and changed.

It was determined to vote on Amendment 42 as is.

Amendment # 42 received a roll call vote of Ayes:5, Nays:4 (Service, Swain, Kiesling, and Hopkins)

Kiesling introduced Amendment #43 and it was seconded. She said she thought that the property owner would be best to present it.

AMENDMENT #43
CORE AREA DENSITY

Beth Gallman, property owner, said the Plan was made for RM 15, PRO 20 about 4 - 5 blocks and her house falls just beyond this zone, separated by a 12 foot alley. Behind this house is RM 7 which is also high density. She pointed out that there was high density zoning close to this on several sides. She thought this was an oversight in the process.

Mueller said that the zoning here was prepared on the advice of the Advisory Committee and explained how this was arrived at, i.e. by looking at the use on the block face. He said that what distinguishes this property from others similar is that the property owner has chosen to come in and petition the Council at this point. The staff does not support this amendment. He said that the lot was so small that if the building was demolished, she could only rebuild a single family house.

Service asked about the ability to remodel; Mueller said that expansion would be prohibited but maintenance was not.

Gallman said if it was rezoned, she could modernize such as adding a room.

Barbara Wolf said this petitioner had always maintained a cooperative attitude when working with the neighborhood and this is one of the more attractive homes on that block. However, if this zoning change was granted it would be spot zoning. The neighborhood association was anxious to work on their neighborhood plan and this would push a decision prematurely.

Steve Conrad said he was on the Elm Heights Association Board and he was concerned about the precedent which would be established by this.

Marjorie Hudgins said that a quarter block was zoned low density in the middle of high density.

Service said that the Advisory committee went block-by-block very carefully in their decisions about what density to recommend. Lines must be drawn somewhere and they have been drawn at streets and alleys, not zigzagging to include specific house. The property owner can continue to use this house as she is now, and this is spot zoning and not the proper venue for hearing this rezone.

Sherman said that if they owned the property, they would feel the same way.

Bonnell asked staff how the larger area was zoned; Mueller showed the map.

White said he was sympathetic and he was the owner of a house on a block in which he was the only owner-occupant. He said that they needed to respect the process, however, and maintain the integrity of this zoning line.

Hopkins said that the criterion should not be the reputation of the landlord or friendship, but the criterion should be the assessment of the block face, etc.

Amendment #43 was defeated by a roll call vote of Ayes:0, Nays:9.

It was moved and seconded that Amendment #44 be considered. Kiesling said this was a similar situation and asked Mrs. Gallman to introduce this amendment.

AMENDMENT #44
CORE AREA DENSITY

She explained the present use of the properties, and what would happen if it was torn down and rebuilt.

Mueller said that this case was not as clear as the previous one, where they were following clear-cut guidelines. He explained the discrepancies in the zoning situation, saying that was why RM 7 zoning was proposed, and it was a subjective decision. It could be argued either way.

Barbara Wolf asked about the commercial zoning; Mueller explained the map. She pointed out the building occupied most of the lot now, with no off-street parking. She said they should err on the side of conservatism.

Steve Conrad said they worried about setting a dangerous precedent with this rezone.

Marjorie Hudgins said there could be a very nice duplex at 300 Smith.

Service said the arguments brought out before applied to this one. We don't want to do anything to encourage demolition of intact housing. This is not an appropriate venue for this rezone.

Sherman said he agreed that this was not a decision to be made on sentimentality but he was going to support this.

Bonnell asked about the surrounding housing.

Amendment #44 was defeated by a roll call vote of Ayes:1 (Sherman), Nays:8.

It was moved and seconded that Amendment #51 be considered as Amendment # 51 (b). Bonnell explained that this involved a property on Miller Drive which had a small furniture store. He was asked why it was not zoned commercial, as it was noted in the neighborhood plan. It is currently zoned BG and this amendment rezones the lot with the furniture store to the equivalent, CG. He quoted from the subarea plan. He said this amendment will zone the parcel so the owner has the same use.

AMENDMENT #51 as
AMENDMENT #51(b)
MILLER DRIVE
COMMERCIAL

Mueller said Bonnell's assessment was accurate, and pointed out some features on the map. He said this was an omission by the staff, and they supported this amendment, although there are several ways this could be done.

Hopkins asked what extra benefit would accrue to the owner through this change. Not much, Mueller said and explained them.

Sherman asked for the worst case scenario of uses which could go next to a school under the CG zoning. Mueller said that CG allows liquor stores, service

stations, and auto repair. Both CL and CG allow convenience store groceries.

White asked Mueller about the year this neighborhood plan was finished; 1992 seemed to be the year agreed upon.

Jim Register, representing the owner's family, said that the owner lives in the neighborhood and is only asking for the same zoning to continue, and are not asking for anything different.

Cole asked about the rumor of a Bigfoot store going in there. Register said there is not any substance to that.

A representative from the Bloomington Developmental Learning Center said that they are satisfied with the new amendment proposed tonight as it will maintain the status quo and require another hearing to change.

Randy Dyer asked them just to leave it like it is as it was in 1976.

Jeanne Jerden, administrator of the Montessori School, said the zoning should stay the way it is.

Discussion followed about the change from BG to CG. There is no equivalent to BG and Mueller explained the difference. Text of the amendment was changed to reflect the impact of the zoning change.

Cole said that a local convenience store could fit into the neighborhood better than the 7-11 on North Indiana does.

Swain said that the wording should be changed from "a" strip to "the" strip to make it more specific. Swain said he thought it may be spot zoning.

Bonnell said it raises the issue of the neighborhood subarea plan being second guessed.

Amendment #51 (b) received a roll call vote of Ayes;7, Nays:2(Swain, Kiesling)

Amendment #55, was proposed by staff. Mueller explained that this was a staff oversight and this development, on South Covey Lane, was designated PUD and is built out. The policy established was to carry forward PUDs into this zoning ordinance.

AMENDMENT #55
PUD
S. COVEY LANE

Amendment #55 received a roll call vote of Ayes:7, Nays:0. (Sherman, Bonnell out of chamber)

Kiesling asked for public comments in general on the map changes.

Jim Bohrer, representing Ralph Thrasher, a masonry contractor on Vernal Pike, said his property was presently BA and being used that way. This property is surrounded by PCDs which will retain that classification, but Mr. Thrasher does not have that and his property is being rezoned from BA to CL which will make most of his structures and uses non-conforming which he thinks is unfortunate. He has letters of support from his neighbors to maintain his present use. Bohrer recommended changing the zone to IL or limited industrial.

White said he would be willing to move an amendment for that and Cole seconded it.

Service said they should not vote on this tonight as it had not been publicly noticed and it would put an industrial zone near a residential area. The Plan Commission voted this down twice, she said. Discussion followed about voting or tabling this.

Council Attorney Sherman recommended calling this Amendment #61.

AMENDMENT #61
INDUSTRIAL/
RESIDENTIAL
COMPATIBILITY

Mueller said this was an auto repair facility and staff made the decision to make this local business CL being in proximity to a residential area. Petitioner pointed out that his use would be rendered non-conforming by this zoning. Mueller gave some of the history of the zoning in the area, which was strongly slanted towards residential, except for the lots facing Vernal Pike which were identified as commercial. However, these should not be high intensity commercial as Vernal Pike is not suitable for a lot of traffic. He explained the reason that it was not designated IL by the Plan Commission.

Bonnell asked about the implication of a non-conforming use; Mueller said he was not allowed to expand. He would need a rezone or use variance to expand.

Cole asked the name of the business; AutoSport was the name given.

It was moved and seconded that this amendment be tabled.

The motion to table Amendment # 61 received a roll call vote of Ayes:8, Nays:1 (Service).

Bonnell noted that hearing tabled amendments would occur the next night; discussion followed about notifying neighbors.

Kiesling said they would now take up some housekeeping amendments which were tabled previously.

It was moved and seconded that Amendment #28 be removed from the table.

AMENDMENT # 22

The motion received a roll call vote of Ayes:7, Nays:2.(Service, Swain)

Bonnell explained that in working with the staff, they have identified two types of use variances that do not need the two step hearing process.

Amendment #28(a) identifies those two: those involving single family residences and those involving a change in use of a non-residential use within an existing structure.

Bonnell moved to substitute Amendment 28a for 28; it was seconded.

AMENDMENT # 28 (a)

The motion to substitute the above received a roll call vote of Ayes:9, Nays:0.

BZA ISSUES

Assistant Planning Director McClure said that this was an improvement as there were some petitions which were no problem and it was unfair to subject them to a two step process. Mueller said the goal was to not have large land use policy decisions go to the BZA, but some variances are not big deals.

Service asked if it was an industry changing use, could a polluting industry replace a non-polluting one. Mueller said there were other safeguards which would make that difficult.

Bill Finch of CFC said this was a good idea to carve out narrow exceptions.

Service said she was wary of allowing this in commercial and industrial areas.

Amendment #28 (a) received a roll call vote of Ayes:6, Nays:3 (Service, Swain, Cole)

It was moved and seconded that Amendment #13 be removed from the table.

AMENDMENT # 13

The motion received a roll call vote of Ayes:7, Nays:2 (Service and Swain)

It was moved and seconded that Amendment #13 (b) be considered instead of Amendment #13.

AMENDMENT #13 (b)
VARIANCES FROM
PUD REQUIREMENTS

The motion to substitute received a roll call vote of Ayes:9, Nays:0.

Bonnell explained that he was asked to substitute language involving variances from PUD requirements and this language is the same as in the current ordinance.

Mueller said that is true but with one difference which is that the variance granting authority used to be the Plan Commission, now in this amendment it will be the Council when they approve the PUD.

Bonnell said this explicitly says that this cannot be used for variances in the watershed.

Kiesling asked about the phrase "preservation of topographical features";

Bonnell said he took it out because he thought it would protect the watershed. Bonnell said he put it back in on staff advice.

Hopkins asked about the accuracy of the synopsis; it was resolved to change the synopsis.

Amendment #13(b) received a roll call vote of Ayes:9, Nays:0.

It was moved and seconded that Amendment #37 be removed from the table.

AMENDMENT #37
(TABLED)

Sherman said this was a knottier problem than he previously thought and he was not prepared to construct the right language.

Kiesling recommended that it be tabled.

It was moved and seconded to table Amendment #37.

The motion to table received a roll call vote of Ayes:9, Nays:0.

It was moved and seconded that Amendments #31 and #59 be discussed concurrently but be voted upon separately.

Bonnell said this makes it clear that the city has the responsibility for maintaining the GIS system and making it affirmative that citizens inform staff about errors on the maps. It also looks at disseminating the GIS system. Amendment #59 looks at the possibility of using three dimensional architectural modeling in the future.

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Assistant Planning Director McClure said staff had no problem with that.

Bonnell said that it should say "The City should maintain the current GIS system" and offered that as an amendment.

Steve Smith spoke in support of the amendment.

Marc Cornett strongly supported the amendment, especially Amendment #59.

Tim Sutherlin spoke in favor of both amendments.

Gene Fritz also strongly supported both amendments.

Maureen Friel spoke in support.

Mueller cautioned the Council, saying they shouldn't create expectations that this will be a requirement for petitioners. He promised to evaluate this expeditiously and will come back with a report.

Sherman said he supported these.

Swain said he had a weak opposition to these, but there is a fiscal impact to consider.

Amendment #31 received a roll call vote of Ayes: 8, Nays:1. (Swain)

Amendment #59 received a roll call vote of Ayes:8, Nays:1. (Swain).

Kiesling reviewed the business for the next night, saying that items had been added to the agenda.

The meeting was recessed until the next evening. (Recessed @ 12:35 am)

On March 30, 1995 the continuation of the March 6, 1995 meeting was called to order. Pizzo explained the time limits on each item and on the speakers. This was approved by voice vote.

MARCH 30, 1995

It was moved and seconded that Amendment # 58 (b) be considered. Bonnell said amendment would not allow the relocation of off-premise signs to locations visible from State Road 37.

AMENDMENT #58 (b)
OFF PREMISE SIGNS

Mueller said staff had no objections to this.

Leo Hickman, of Hoosier Outdoor Advertising, said he expects to be in Bloomington a long time and wants to work with them.

Cole asked about the list of signs in engineering - was it complete? If not, would he give a list? Hickman said he would work with them.

Amendment # 58 (b) received a roll call vote of Ayes:9, Nays:0.

It was moved and seconded that Amendment #23 (a) be considered. Bonnell said this had to do with accessory apartments and it had five significant provisions: only one apartment is created in any one structure, the owner shall continue to live there, no external modifications are allowed within a certain amount of time, required occupancy limits shall not be exceeded for the entire home, and a recordable commitment terminating the use upon sale of the home. Discussion followed about the proper procedure for approving this amendment.

AMENDMENT #23 (a)

Mueller said there were still some concerns about this. This makes a distinction between a landuse that is owner occupied and one that is not. That is the only such distinction in the code and there may be legal problems. This also moves into the face of neighborhood's conviction that single family neighborhoods should stay single family. This amendment still adds a unit to a single family house. He said that the Plan Commission was working on a "for family use only" concept for this. However, they wanted to not place an additional burden on Code Enforcement until some other issues were resolved.

Service asked what made this a separate unit in an apartment. Mueller said it was the fact it was a separate housekeeping unit with a kitchen. Service said that charging rent may be a way to distinguish between them.

Bonnell said the whole issue of defining family is a touchy legal issue.

City Attorney Bernens said she was more comfortable with using "family" than with the concept of limiting it to owner occupancy. Discussion followed about the definition of "family" as a legal issue.

Mueller said that this could benefit from more work and more input.

City Attorney Bernens read a new version of the amendment which had been worked out by staff.

Hopkins said that this had turned into a bureaucratic monstrosity, and he would insist that the original Amendment 23, passed by the Council previously, stay in place unamended.

Sherman said that a lot of neighborhood people were not able to speak at the last hearing on this and were here now. He felt that there were more issues unresolved. He asked how they could revisit the issue of the original amendment.

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Council Attorney Sherman said someone on the prevailing side should open it to that.

Service said if they liked these additions to this amendment they could accept them. She asked how the amendment could be amended.

Kiesling asked Bonnell about accepting the staff's amendment to his proposal; he said no.

Kiesling suggested to put all housing issues into one grouping to consider after the passage of the Zoning Ordinance.

Bonnell disagreed with this proposal.

Kiesling suggested hearing testimony about Amendment #23a now.

Sherman said that these changes are improvements to the original Amendment #23.

Bonnell reiterated the standards contained in Amendment #23a.

Kiesling called for public input on Amendment #23a.

Mike Davis, Deputy Mayor, respectfully requested reconsideration of this amendment. The issues are complex, and the neighborhood associations are concerned with over-occupancy in single family neighborhoods. This could compound the problem and more study is needed.

Hopkins asked Davis if he understood that this requires occupancy at the same levels as the zone required. Davis said this would add to the occupancy problem, as it could add an additional unit to every home.

Bill Sturbaum said this was a serious problem threatening single family neighborhoods as an efficiency apartment rents for \$400 - 450 a month. This doesn't solve the problem; it creates a problem. He suggested they study AARP material and reconsider the amendment, charging the Plan Commission to come up with a workable solution.

Ray Buehls, president of the Eastside Neighborhood Association, said he agreed with Sturbaum. This decision has not been well-coordinated or discussed and they are not happy with it.

Peter Wright said he was concerned about the definition of family and objected to adding unrelated adults to the use.

Phil Stafford, Director of Senior Health Services at Bloomington Hospital, said only about 2% of the non-institutionalized elderly live with relatives but this may increase. Older people may also may want someone to live in the accessory apartment to be caregivers. The Evergreen Study may be helpful in the future. It may be useful to consider senior citizens as a zoning class; this has been upheld in court as non-discriminatory. There are other useful standards to consider: the entrance not be visible from the front of the building, renewal of the conditional use permit annually.

Violet Couch of the Fritz Terrace Neighborhood Association said it took her five years to get the house next door up to code. They had seven or more people there and since there was not a stove in the other apartment, it could not be approved.

Richard Darling, a single family homeowner from Matlock Heights, supported 23a because 23 needed tightening up.

Tim Mayer said Amendment #23 was one that came from the heart and was not well thought out. It should be sent back to staff to re-write.

Chris Sturbaum said neighborhoods already understand the dangers of non-compliance but at the same time they want to take care of grandma. It should be a conditional use rather than by-right, people should be related, and the use should revert on the sale of property.

Barbara Wolf said she supported 23a only because 23 was already on the books. She also was concerned about Code Enforcement because they needed some improvement. This amendment needs work.

Susan Fernandes said that accessory apartments have a place in neighborhoods but need a lot of control. The three amendments so far are getting close, but they are not adequate yet. Tinkering on the floor at this time is not going to result in a good situation and there are several situations not provided for. For example, she plans to add a screen porch to her house. Would this be an exterior modification which would prevent having an accessory apartment permit? There is also a great potential for abuse here and enforcement needs to be improved across the board. She supports the idea of 23a if the staff amendment is included, but the whole provision needs work.

Herb Marks said he shared a concern with his core neighborhood neighbors about this. Their experience was that it took 2-3 years of effort to make some people conform to the occupancy code. This amendment needs work and the fact that it is more complex and bureaucratic then should not be a factor.

Bonnell moved that Amendment of 23a with 23c (the staff revision) be considered. It was seconded. There was discussion about amending the amendment.

Sherman asked about some of the wording to Amendment #23c and suggested some grammatical changes. He also said part of it was ambiguous. Discussion followed about the wording.

Kiesling read the changes that were made by the inclusion of 23c. Kiesling asked for public comment.

Don Baker, of Green Acres, asked if there should be some sort of time stipulation attached to the termination of use. There was a possibility of abuse here.

Bill Sturbaum said that maybe a bond was needed for the possibility of violations.

Hopkins said he was committed to this idea but saw that it had caused a lot of dissension which was not yet resolved.

It was moved and seconded that Amendment 23a and 23c be tabled.

Bonnell said that was not possible as Amendment #23a was not on the floor. Discussion followed about the technique for the procedure.

Hopkins said he also wanted to reconsider Amendment #23. It was decided to vote on tabling the amendments separately.

The motion to table Amendment #23 (c) received a roll call vote of Ayes:7, Nays: 2 (Sherman, Service).

The motion to table Amendment #23 (a) received a roll call vote of Ayes:6, Nays:3 (Sherman, Swain, Service).

It was moved and seconded that Amendment #23 be considered.

White said he supported the motion to rescind this; however, we do need to look at innovative ways to increase the supply of affordable housing. We need to think of ways we can live with the students and provide more affordable housing for low income people. He challenged everyone to put efforts into trying to solve these problems.

Kiesling thanked Hopkins for bringing this forward and was sorry that it was not worked out. We do need to find creative ways to solve these problems.

Service said that when the Plan Commission was considering this, it was not in the context of affordable housing but in terms of families caring for each other. Calling this affordable housing muddies the issue. If it is tabled, she hoped we didn't lose sight of the need to resolve this.

Sherman said that Amendment #23 was a fundamental change in the planning process and we owe it to the neighborhoods to assess the impacts and know what will happen.

Bonnell said he would follow the lead on this, but he tried to make it work because he believed in the idea.

Kiesling wanted to have something from staff by June.

Cole commended Hopkins for bringing this forward and also reconsidering this. Conditional use may be the best way to do this.

The motion to reconsider Amendment #23 received a roll call vote of Ayes:8, Nays:1 (Service).

It was moved and seconded to table Amendment 23.

The motion to table Amendment # 23 received a roll call vote of Ayes:8, Nays:1 (Service).

Hopkins said he hoped that this would go back immediately to the Affordable Housing Task Force for more work on the issue.

Council member Swain withdrew Amendment #60, as it amended Amendment #23 which was tabled.

It was moved and seconded that Amendment # 47 be considered. Kiesling noted that this adds the definition of "duplex" to the Zoning Ordinance. She read the definition.

AMENDMENT # 47
DUPLEXES

Mueller said the staff had no objection.

Bill Sturbaum asked whether these were side by side duplexes or stacked. Pizzo asked for Council comments; there were none.

Amendment # 47 received a roll call vote of Ayes:9, Nays:0.

Kiesling asked what happened to Amendment #24 (b). Hopkins said he wanted to withdraw Amendment # 24b. Kiesling said Amendment #25 was tabled earlier and has not been untabled.

Bonnell said he would withdraw Amendment #25a and #25b because many of the comments made about accessory housing apply to these. However, the city has a strong commitment to cooperative housing like this, and this was an attempt to codify this support.

Swain said something should be done to Amendment #25.

It was moved and seconded that Amendment # 54 be considered.

AMENDMENT # 54
INDUSTRIAL
STANDARDS

Tim Mayer asked to speak and Kiesling said she would allow it. Mayer said he came to talk about the co-op housing issue as had many in the audience. He said there had been a cynical attempt by some Council members to portray the audience as against co-op housing. He said that was not true, and what people are saying are that these are good ideas but they are not thought through. We are all concerned about affordable housing and also about the impact on our neighborhoods.

Mueller introduced Amendment 54 saying that they had been concerned with performance standards and had taken a draft to the BEDC staff. They had asked them to solicit some feedback from industry. Unfortunately, not much was achieved by this. Mueller gave a synopsis of how they arrived at this. The consultant was asked to devise middle-of-the-road standards for the types of industry the city would want to have. They were also concerned with duplication of state and federal laws, resulting in more paperwork. The Manufacturer's Roundtable has been active lately in the process, and has questioned some of the numerical standards, such as for noise, vibration, and odor. That is why the numbers for those performances are blank. In the ordinance is a charge to the Plan Commission to work on that and establish these standards. The staff is comfortable with the proposal you see tonight.

Kiesling said she had a letter from the BEDC on this matter in support of this amendment.

Service asked if this was discussed with the Environmental Commission or was the Manufacturer's Roundtable the only input on this. Mueller said they had some comments from the Environmental Commission and staff member Tom Micuda was the person handling this.

Tom Micuda said he had submitted early drafts of this to the EC and they had questioned the consistency of some of air quality number standards proposed by the consultant. They commented on the noise standards, saying that they seemed somewhat restrictive, as they were lower than the noise ordinance standards.

Service said she hoped the EC was also consulted when it was time to fill in the other blanks.

Mueller said that John Langley of Utilities was also consulted.

Hopkins asked if any IU experts were consulted; Mueller said yes they were. Mueller said this is the only industrial performance package in Indiana, and professor Greg Lindsey at IU-PUI had taken an interest and assigned it to a class.

Hopkins pointed out that this was very technical and they had only seen it a few hours ago so it was a real act of faith to accept it. Mueller said that most of the actual figures included were from state and federal regulations. Mueller urged the Council to pass this as it is a step in the passage of performance standards.

Linda Williamson, of BEDC, said that a Manufacturer's Roundtable was established and had wanted to talk first about the purpose and philosophy of this. She said the industries involved were: GE, Thompson, Cook Inc., ABB, Tasus, Carlyle, Tree of Life, Whitestone, PTS Electronics, Otis Elevator, and Sunrise Publications. Those are the 11 largest manufacturers, employing over 7,000 people with a payroll of over \$250 million annually. The industries involved have discussed these standards and measurement techniques and feel that if given time, they could come up with standards they could live with and new industries coming in could, as well. She also noted that all of these industries were grandfathered from these standards unless they expanded. Yet, these industries wanted to make sure they were able to meet these standards as they didn't want to be the bad guys. She said that BEDC would continue to facilitate this process.

Dave Millen from ABB said he was the manager of facilities and environmental affairs and a member of the Manufacturer's Roundtable. He said they could not meet the original standards, and would like the chance to work on this amendment to help set the standards. He supported the amendment.

Jeff Isaac said he was concerned that other groups be consulted such as labor unions.

Hopkins asked if labor unions were involved in the process; Mueller said no.

Linda Williamson said that those companies which were organized brought labor representatives with them to the Roundtable.

Cole asked what standards we had now. Mueller said there were none now except for the noise ordinance.

White said he hoped that this good faith effort be continued.

Amendment #54 received a roll call vote of Ayes:8, Nays: 1 (Service).

Bonnell withdrew Amendment #14.

It was moved and seconded that Amendment #61 be considered.

AMENDMENT #61
VERNAL PK. REZONE

White said this was a rezone from BA to IL on Vernal Pike. He said he discussed this with the owner a few weeks ago and both neglected to follow up on this. The adjacent property owners on Vernal Pike support this. He said that CL uses were not consistent with the existing uses in the area.

Mueller said this was the AutoSport auto repair facility on Vernal Pike, which was zoned BA in the '70s. It also has a contractor's business in the back, run by the property owner. Staff designated it CL, thinking about the residences close by. Staff favored the IL zone, and the Plan Commission rejected IL zoning with a vote of 5-3. He explained the uses in the surrounding areas.

Hopkins asked if the neighbors were consulted about this; Mueller said no, and that is one of the issues.

Cole asked about the relation to the business park. Mueller said that was not the reason for the IL designation.

Jim Bohrer, representing the owner Ralph Thrasher, said it is BA right now and the IL zone restricts uses that are currently available to the BA zoning. The CL would restrict them even further and Mr. Thrasher was not aware he was being downzoned until late in the process. Mr. Thrasher went out that afternoon to the residents of the closest homes and obtained the support of everyone he spoke to. He named the neighbors who had no objection to this. He also cited the letters of support which were also received. This is really a fine-tuning of the map and not a rezone.

Service said that the Plan Commission turned this down on two separate days because this was not the proper format for making a large zoning change. This was not done in a public forum and could be controversial. The wording of the question to the residential neighbors focused on their objections to the existing business and not the fact that other industrial uses could come in after that business leaves. That is the advantage of having a public forum, it gets all of the questions out. There is no public notification in this process now. She pointed out that there is a Day School a few houses down. We haven't passed any map changes so far and this is not the appropriate forum for this. We should turn it down.

Sherman said he remembered this debate at the Plan Commission and he heard the Planning staff saying that they should have proposed this in the first place.

Pizzo said it did not seem fair to put him out of business; he was told that this is not what would happen.

Cole asked Mueller if he did actually support this; Mueller said yes. Cole said she would support this as it was a good business.

Swain said we should not lose sight of Service's comments this is not the proper forum for this rezone as the neighbors have not had a chance to look at this.

Service said that the zoning draft maps were the public notice and now they are being changed without the opportunity for the public to respond. This is not correct, she said.

White said comparing the list of limited industrial uses with limited commercial uses, the IL uses seemed to fit best with the existing neighborhood.

Amendment #61 received a roll call vote of Ayes:5, Nays:4. (Service, Swain, Kiesling, and Bonnell).

Kiesling said a property owner had sent letters about a similar situation as the one before and he would present his concerns.

Milton Waldrip, property owner at S.R. 45 and Curry Pike, said they were requesting a retail commercial zone for the property from an RE1 zone. He had a letter from all of the property owners.

Mueller explained this in the context of the Growth Policies Plan saying this quadrant was designated as industrial. The neighbors requested a different designation and the Plan Commission dealt with this and other requests at one meeting. Staff did not want to support these requests when they were not supported by an existing landuse pattern or the Plan. Mueller said staff would support IL zoning but does not think business zoning is supported by the Plan.

Kiesling asked what the Council wanted to do with this.

Bonnell asked if the property owners wanted commercial zoning and Waldrip said yes. Bonnell said that he would make a motion to approve CL zoning so it could be voted upon and it was seconded.

It was moved and seconded that Amendment #63 be considered.

AMENDMENT #63

COMMERCIAL REZONING

Kiesling asked for Council comments.

Cole asked about the RE1 current designation; Mueller said that it was now clear that both owners would not be damaged by IL zoning, but he could not support CL zoning.

Bill Sturbaum said that the staff recommendation was right.

Service said she opposed this on the same basis as the last one.

Amendment #63 was defeated by a roll call vote of Ayes:0, Nays:9.

Sherman said he was willing to make a motion to zone the property IL. He later rescinded that suggestion.

Kiesling said that appeared to be the end of the discussion.

Mr. Waldrip asked what he needed to do and Kiesling recommended that he talk to staff. Mueller offered to call him on the next day.

It was moved and seconded that Amendments #36a, b, and c, be considered.

AMENDMENT #36
(a), (b), (c)

Cole said that they were pretty close to agreement and explained the differences. She said the staff amendment left out "sewer is required for subdivisions of three lots or more". Mueller reviewed the process so far. He said sensitive areas will require an Environmental Management Plan and that would be triggered at the presence of karst terrain. He said that the staff thought that there were strengths and problems with both the Plan Commission and Environmental Commission's drafts, so the staff worked to make a combination incorporating the best features of each. This was Amendment #36a. The staff did not agree with the provision that more than three lots needed sewer Service because if you want to discourage development in a sensitive area, then requiring sewers are not the way to do it. He went on to point out differences in the separate amendments and explain the pros and cons of each.

Bonnell commented that regarding requiring sewers, his amendment followed the EC's and Cole's provision. Discussion followed about the other differences

between the amendments.

Service asked what the difference between Cole's and Bonnell's amendments;

Cole said that Kevin Komisarcik of the EC could respond.

Komisarcik said the difference was that Cole's specified a single lot development not on sewer be of sufficient size that the septic system not have an impact on the karst feature.

Kiesling asked if the Health Department had any regulations on that; Komisarcik said that as far as he knew, neither the Health Department or the State had any karst regulations. The EC also recommended a 25' setback from karst features.

Pizzo asked Komisarcik to compare his amendment with 36a. Komisarcik went on to compare those differences.

Bonnell asked about the prohibition of paving over sinkholes. Komisarcik cited the Wal-Mart project. He said sinkholes do not always stay insignificant and gave an example of the state highway department paving over a small sinkhole.

Komisarcik went on to testify in regard to the amendments in general. He asked if it made sense to put the most high value property, i.e. industrial, on inherently unstable land when we have other options. We have the opportunity to learn from the mistakes of other communities and to avoid them.

Sherman asked about Wal-Mart and Komisarcik said the engineers said they could not move the building because it was mandated by Arkansas.

Jeff Brantley from Positive Progress said there are not a lot of options for industrial locations, and the more stringent the karst restrictions are the less there is. He had a problem with locating pavement or construction over 25' from a sinkhole. He recommended adopting 36b.

Mike Probst said he felt that designers and engineers could solve many of the problems and this restricts that ability.

Linda Williamson of BEDC said they supported the language "shall be avoided to the maximum extent possible". Jim Bohrer said not to prohibit building on karst areas.

Cole asked Komisarcik to explain what role size of sinkholes played. Komisarcik said they came in all sizes and an expensive survey would be needed to designate the important ones.

Service asked if it was true that the surface appearance of the sinkhole was not indicative of the subsurface size or drainage capacity. Komisarcik said that was correct.

White suggested adding a section "i" to 36a, reading "sewer is required for subdivisions of three lots or more when sewer is available for hook-on within 300 feet". This brings it into compliance with state regulations.

It was moved and seconded that this change be lettered "a" and put at the front of the sections.

Cole asked Mueller how he felt about that; Mueller said that was a good

compromise.

Kiesling asked what the city responsibility was in providing sewer.

Discussion followed about which of the amendments to vote upon. A friendly amendment combining the requirement of a geo-technical report or a report by a professional engineer was offered and accepted.

Cole pointed out that Lemon Lane Landfill was a sinkhole big enough to use as a dump, and this helps people realize the problems with sinkholes. It was resolved to vote on 36a as amended by White's amendment.

The amendment to the amendment received a roll call vote of Ayes:9, Nays:0.

The amendment, as amended, received a roll call vote of Ayes:8, Nays:1 (Service).

Amendments 36b and 36c were withdrawn by their sponsors.

It was moved and seconded that Amendment # 56 be considered.

AMENDMENT #56

Assistant Planning Director McClure explained this as a list of clerical corrections proposed by staff. She gave a brief explanation for each of the items.

Bonnell said Amendment 3 should have added the indented part, which is modified by 20.06.05.02d, which is what they amended.

Assistant Planning Director McClure agreed with this suggestion.

Bonnell said he was disappointed to see that residential care homes did not including those are addicted to alcohol or narcotics.

Assistant Planning Director McClure pointed out that these would be called rehabilitative centers and permitted as conditional uses.

Amendment # 56 received a roll call vote of Ayes:9, Nays:0.

It was moved and seconded that Amendment # 62 be considered.

AMENDMENT #62
GRANDFATHERED
OCCUPANCY

Sherman summarized it as stating if the owner of the property now holding a grandfathered occupancy level that is greater than the current prevailing occupancy level for that zoning area knowingly violates the grandfathered occupancy level, then that grandfathered status will be removed. He said he had supported situations that gave property owners predictability and this was part of this.

Bonnell asked City Attorney Bernens about the legal situation. She said that Indiana law does not allow this and the only valid instance of cessation of non-conforming use has been in the case of abandonment by the owner.

Hopkins commented that this is a classic case where the City should assert itself and take their chances in court.

Bonnell said that the \$2500 a day fines should accomplish this if they were used. He said this takes away a property right without due process.

Michael Conner said this issue comes up all the time for the neighborhoods and passed out pictures of the situations. He explained the pictures were showing a variety of violations.

Jim Bohrer representing Monroe County Apartment Association said they were vehemently opposed to this. There has been no prior notice of this and this is a last minute amendment which was not on the agenda.

Chris Sturbaum said that people that oppose this must be planning to break this law or they wouldn't oppose this. Over-occupancy has an impact on neighborhoods and let's make this three strikes and you're out rule. After a while it's really obvious who is not following the law. Violations have an impact on neighborhoods and let's make this three strikes and you're out rule. After a while it's really obvious who is not following the law. If the historic core neighborhoods are to survive, it will be because we have the right zoning and enforcement.

Jeff Brantley of Positive Progress said we have a \$2500 penalty provision in the Zoning Ordinance and urged them to reject this amendment.

Terry Elkins was appalled by the eleventh hour attempt to infringe on the property rights of the citizens. This is not the proper format for this amendment; it has been discussed and rejected at the Plan Commission level.

Jeff Isaac was disturbed about problems with Code Enforcement and wanted them to know that it was a serious problem.

Bill Sturbaum said he supported this amendment.

Barbara Wolf, president of the Elm Heights Association, said the majority of the complaints have been on over-occupancy. The pictures tonight represent obvious provable violations which have had no action by Code Enforcement. We cannot get physical enforcement of the law. She said there were 237 grandfathered units in the core neighborhoods; 72 are in Elm Heights. With this ordinance, the stock of grandfathered apartments will increase.

Gene Fritz supported the amendment and said part of the problem was the number of absentee landlords. We need to get their attention. Susan Elkins said when people were in violation the laws should be enforced.

Barb Wolf said homeowners wanted to realize their financial investment the same as apartment owners. She suggested: have the owner agree that he/she is responsible for maintaining occupancy, appoint a task force to draft an ordinance to prevent over-occupancy, provide incentives for enhanced maintenance of exteriors, require that apartment owners post occupancy limits in visible locations, revise lease agreements to include landlord responsibility for maintaining occupancy loads. She said that they should check with the Legal Department about the ability to levy the \$2500 fine.

Sherman said he introduced this amendment last night and told them he would bring this back tonight. He did not try to sneak this through. He thought this was not irresponsible, but something they needed to think about.

Service said that they have been trying to get landlords to comply with this ordinance and it hadn't worked so far. Maybe this will work.

Bonnell said that this is a management issue and coordination and focus between departments is needed.

Hopkins said he believed in due process, but we need something like this. There are serious violations of the housing code and occupancy limits. It is a policy problem because we are not putting heat where it belongs.

White said he had tried to follow the Legal Department's advice and he was adverse to taking this risk. He knew there were problems in his neighborhood and his method is to go and talk to the students. Sometimes he goes to the landlords.

Swain also thought it was not wise to go against the Legal Department's advice.

Amendment #62 was defeated by a roll call vote of Ayes:1, (Service), Nays:8.

Kiesling announced that they would come back to this document on Wednesday, April 5, 1995 and also deal with the Historic Preservation Ordinance at the same time.

Hopkins moved that the meeting be continued until April 5, 1995 and it was seconded. This motion was passed by voice vote.

Bill Sturbaum pointed out that in many instances, the regulated parties were the people writing the regulations.

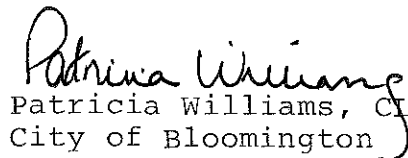
The meeting was recessed at 12:35 am

APPROVE:



Iris Kiesling, President
Bloomington Common Council

ATTEST:



Patricia Williams, CLERK
City of Bloomington