

In the Council Chambers of the Municipal Building held on Wednesday, April 5, 1995 at 7:30 P.M. with Council President Kiesling presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
APRIL 5, 1995

Roll Call: Service, Pizzo, Kiesling, Cole, White, Hopkins, Bonnell. (Sherman and Swain arrived at 8:25 p.m.)

ROLL CALL

Kiesling gave the Agenda Summation.

AGENDA SUMMATION

The minutes for February 1 and February 15, 1995 were approved by voice vote.

A motion to move the time allotted for Privilege of the Floor at the end of the Council Meeting to the Reports from the Public section of the meeting was approved by a 7-0 vote.

Service expressed her sorrow at the passing of George Heise. In reference to recent incidents at People's Park, which had brought many citizens to the Council meeting this evening, Service said the community needs law enforcement agencies it respects, and which are themselves adequately educated in the law. Pizzo added his sympathies to the Heise family and expressed his concern for the treatment some citizens had received at the hands of police. Cole welcomed her mother who had recently moved to Bloomington and expressed her appreciation for the spirit behind the turnout at tonight's meeting. Cole also thanked those who had given their input on the zoning ordinance. White commented on the moving of a house through the downtown area today and thanked the citizenry for their cooperation. Kiesling noted the contributions of Heise and his wife to the community. She expressed her regrets over the closing of Garcia's and hope that the changes in the area are for the better.

MESSAGES FROM  
COUNCILMEMBERS

The Mayor asked Ellie Rogers, director of the Public Health Nursing Association, to come forward and then read a proclamation for Public Health Week. Rogers thanked the Mayor and the Council for their support throughout the years. The Mayor also read an encomium for George Heise. The Council accepted the encomium by acclamation.

MESSAGE FROM  
THE MAYOR

Alex Tanford, President of the Indiana Civil Liberties Union: The March 24 sweep of People's Park was illegal and unconstitutional. He suggested the search could be attributed to inadequate training of police officers, an unclear chain of command, and possibly indecisive leadership that does not clearly set an example.

MESSAGES FROM THE  
PUBLIC

Michael Hudson: Curbing violence is important but adult officials, like youth, should be held accountable when they step out of line. Hudson said he was the step-father of Jerry Bale who was the young man with the pistol on the night of the 24th. Hudson said Bale had a permit to carry the pistol. Hudson said Bale was told to sit with his hands in the air and he told the police he was carrying a pistol and had a permit in his pocket. The police officer took the gun, held it above his head and took some prescription drugs and held them beside his head. Hudson said Bale was handcuffed and told he would be taken by the police to the police station. He was then taken by police two blocks down an alley and then let go. Hudson called the police behavior totally irresponsible.

Darrin Haggerty: On the night in question Haggerty made a rude remark to a police dog and was then told by a police officer to show identification or he'd have to go to the police station. Haggerty said that the officer told him that since Haggerty was unemployed and not paying taxes, the police officer was under no obligation to protect him. He said the officer accidentally spit in his face and Haggerty asked him if he had AIDS. He said the officer responded by telling him he would never associate with any scum who had AIDS. Haggerty

said we cannot afford to have attitudes like this on the police force.

Tim Michael read a statement questioning the tactics used in the pat down.

Sacha Vosekas: She was at the park the night of the pat down and treated like a criminal. When she attempted to leave the park she was ordered back in and told to put her hands over her head and was laughed at by people in cars passing by which she said was humiliating. She said she asked the police officer whether it was legal for him to search her and that the officer responded that he could search whomever he wanted. She said she asked him why there were no female police officers present and he told her that the last female officer on the night shift wasn't cut out for it and quit the force. She said the officer searched her backpack and her person and in the process touched her crotch where it wasn't possible to keep a gun. She said the officer said the police couldn't separate good kids from bad kids. Vosekas told the Council she understood that but asked "what about the good kids? There were no bad kids there." She said she would be 50% less angry about the incident if a female police officer had conducted the search, especially since half of those searched were female.

Chris Hossler: Hossler said he was at the park the night of the pat-down and wanted to stress the level of intimidation by the police officers. He said he was asked repeatedly if he had a gun, his backpack was searched, he was asked what he was doing at the park, and was told to leave it. He said People's Park was a place where anyone should be able to go and congregate. He said that if the police or the City want to accomplish anything, any respect that people his age might have for the police is totally destroyed by incidents such as this.

Rubin Cochran: He said the police contradicted themselves in the newspaper accounts of the pat-down. He said the police said they didn't search females which wasn't true, and that they only searched someone if their personal safety was in danger, and their personal safety was not in danger until the police got there.

Mandy East: She suggested that the police were the biggest "gang" in Bloomington and that if citizens were treated liked animals that is how they would behave.

Aaron Nadille: He said that while he wasn't searched the night of the incident he had been searched many times for no reason and that the People's Park pat-down was not an isolated incident.

Tim Sutherlin: He said there was an incident similar to the recent pat-down about a year and a half ago in the parking lot across the street from People's Park involving about 30 youths. He said that complaints were filed about that incident with the Board of Public Safety and that as a result of that and some other incidents people were demoted and reprimanded. And yet here we are today. Sutherlin said the issue is broader than chain-of-command or training and that the city needs to look at personnel policy and that repeated problems with a given officer should lead to a pink slip for that officer. He said the Bill of Rights is a profoundly conservative document and that, with regard to the 4th amendment, there are two views people can hold with regard to searches and seizures: either you believe that only those the police believe to be engaged in criminal activity can be searched, or you don't. And in this situation people were searched whom the police had no reason to believe were engaged in criminal conduct. It's illegal and it's wrong.

Dan Combs: He said that he and Darryl Breeden spoke before the Council in 1993 about a similar incident and that People's Park was not a "blip" but a

constant policy. The creation of a task force to look procedure and policy is fine, but when he asked what specifically was going to be done about *this* incident (People's Park), the answer, according to the police chief in the newspaper, was nothing. He said the kid in the park who allegedly had the pot, allegedly broke the law and will be punished. Yet while everyone but the police agrees the police broke the law, they apparently will not be punished. He said that someone told him we can't point fingers, but yes, we can, because someone suspended the constitution and that's very important.

Marc Haggerty: This kind of treatment of our citizens has been going on for a very long time. On the west side of town people have been deprived of their rights for many, many years. When a complaint is filed, the complainant is taken to a back office with four police officers, three of whom are called city insurance people. Then they go through your complaint with you and try to kid you out of the complaint. Haggerty described a complaint about a search he witnessed on Fourth Street. As he observed the search he was told to move away and yet fifty feet was not far enough. He said two of the police left the search to tend to him and threatened to take his kid away and put him with welfare. Haggerty said that if a complaint gets to the Board of Public Safety, the Board asks the police to make a report on the complaint. By the time the complainant appears before the Board, they have already used this report as the basis for their investigation. The police are investigating themselves. He said people are frequently being searched and roughed-up in this community by armed police.

Darryl Breeden: Breeden said he was fearful speaking tonight because his son was currently going through the legal process here and he knows in his heart the capacity of some of the officers in this town to take out their vindication on his son. He said he was invited to attend a gang task force meeting and that he went with 20-30 young people who had been searched on Kirkwood. He said these people wanted to talk to the gang task force about intimidation, harassment, sexual innuendo and constant verbal abuse from certain officers in the police force. They didn't get to talk to the task force because they weren't on the agenda. They then scheduled a meeting with task force members and a representative of the police force to discuss their concerns. The task force and police force representatives did not show up at the meeting. Breeden said the task force and the police force are more concerned about solving the problem of Youth than addressing the problems of youth. He said he fears his son could be killed by police officers and that their attitude towards young people is inexcusable. They are not professionals. They are rude to young people, although not to adults. Breeden said that in this morning's paper Police Chief Sharp said the police did nothing wrong. If he was mayor Steve Sharp would be dismissed.

Brain Withem: Withem said he was at the Board of Public Safety meetings that Combs and Breeden mentioned and that the issues of search and seizure, procedure and training came up but a year and a half later we are all here and not much has changed. He said he hoped the new task force listened to what people are saying and the previous complaints against specific officers are reviewed.

Fay Vore: Vore said that she was in the parking lot behind People's Park on the night of the 24th and a police officer in a car instructed her to get into the park. She said that they were asking for everyone's cooperation but that the police and the City will not get the cooperation of youth if they keep treating everyone like they have been.

David Venstra: Venstra said he wasn't at the Park the night of the 24th but had

been harassed on other occasions. While once walking to a pay phone he had his hands damaged by a police officer when they were pinched together above his head. He said that recently the police came to his home a half-hour after he had arrived there on his scooter and was asked to prove that the scooter was not stolen. He was then intimidated into taking a breathalyzer test which registered .02. Venstra said he has been illegally searched, torn down and embarrassed in front of many people countless amounts of time. He said he does not feel safe in a town with a group of policemen who intimidate and make fun of us. He says none of his friends respect the police and he doesn't blame them because every time he sees the police he is stared down or stopped and harassed. He says this has happened 30 to 40 times when he was doing nothing.

Jan Byron: Byron said that when she first came to town 20 years ago it was a peaceful town with a lot of respect for a lot of different kinds of people. She said that the incident being discussed was not the only one of its type. Kirkwood has gone from small, locally owned businesses to franchises. There has been gentrification around the courthouse square. We have gone from tolerance and encouragement of people who are different to intolerance and terrorist acts. The ambiance of the town has changed due to greed and paranoia. Change is not but not uncontrolled change. We're slicking up and anyone who doesn't fit the profile is under suspicion. The police will stop you for anything and it is not just a problem with young people but one that everyone is subject to.

Bonita Hudson: Hudson said that six years ago she wrote an article for the newspaper asking for a place for the kids. Today she is asking for the same thing. They are asking for a place with security, with music, with a place to get off of the streets. My son has been through the legal system. He has paid his a price. We were harassed a month ago when the police came in our home. The police came at 2:00 a.m. saying we had a fifteen year old child hidden in our home. We didn't. I want help from anyone who can help the children; give them a place and give them their rights back.

Keith Washington: Minority males and females have been going through this for years. As an undergrad he had six policemen stop him in his vehicle and swore he stole his vehicle and broke into a female's apartment house. Two of his white friends didn't get searched or pushed to their knees. When he complained the police chief said nothing was wrong and you didn't get hurt. These are sort of things African-American males and females have to deal with.

Bo Baker: Baker said he really didn't have much to say other than everyone just needs to be kind to each other.

Bet Savich: Savich said she moved here from Philadelphia about 20 years ago. Philadelphia is sort of famous for nasty cops. Her father taught her and her brothers and sisters that if a cop stops you, run. You are better off shot in the back than what that cop is going to do to you, he said. Savich said that she has taught her kids that the police in Bloomington are good police. She had been traumatized by the police in Philadelphia and it took her a long time before she didn't cross the street when she saw one. She wants to tell her kids that the cops here are good and if the council doesn't look into the records of the police, it is making a mistake. Each police officer needs to be judged individually on their own merits and they shouldn't be given blanket sanctions.

Brett Morris: Morris said he moved to Bloomington right after he got out of the Marine Corps where he worked in the military police. He has worked in civilian law enforcement all around the country. And he has never seen police like those in Bloomington. The first thing he saw when he moved here was a peaceful protest broke up by the police, people were arrested and the police

chief said "I will not tolerate civil disobedience in Bloomington" which is ridiculous because that is what America was founded on. The police in Bloomington harass and intimidate. It the worse he has seen all across the country and it shouldn't be tolerated.

Isa Gordon: Gordon said she was not at the park the night of the incident but very well could have been. She spends time at the park because it is one of the last bastions of real diversity and acceptance in this town. There is an energy there of the ideology of youth. Go down and talk to these kids. They have something to say. These are not bad kids. They're just bored. The way to fix this is not to further alienate them from a society that they feel is at best indifferent, and at worst is terrorizing. The way to do it is to give them something else, something to create, something to do, a place to be. Because piece by piece everything they have is being taken away, and now what is being taken away is their rights as U.S. citizens. They are treated by the police as if they are not real people. It's got to stop. Kids are people too who deserve to have the rights of a real human citizen.

Jan Moore: Moore said that 25 years ago she hung out in the vicinity of People's Park. It's normal and natural and healthy for young people to seek out each other's company. And if the adults in this community cannot joyfully accept this, then there is something wrong with us, not with them.

Kiesling reminded the crowd that they did have the opportunity to file complaints and that if anyone wished to make further comments the council office would be happy to take their information. She said the committee looking into this matter would convene this week.

It was moved and seconded that Ordinance 95-20 be removed from the table. The motion passed 9-0.

ORDINANCE  
95-20

Councilmember Bonnell moved that Council adopt special rules for debate of Ordinance 95-20 which allot, for each "topic" [e.g. amendment] 5 minutes for the proponent, 5 minutes for response by staff, ten minutes for audience members in favor the proposition [e.g. an amendment], ten minutes for those opposed, and then ten minutes for the Council to discuss and come to an action on the "topic", which adds up to forty minutes per "topic." Swain obtained clarification that the ten-minute audience limit referred to the total allotted, not per speaker. The motion passed 9-0.

Nancy Hiestand of the Planning Department gave an overview of the Ordinance.

Councilmember Bonnell moved that Amendments 2A, 9, 10, and 11 be adopted. The motion was seconded. Michael Flory, of the City Legal Department described the four amendments.

Jim Bohrer, representing the Monroe County Apartment Owners Association addressed the Council. Bohrer said the Association is not against the historic designation of property as long as it is not thrust upon an owner against their will. He said it is important to recognize that historic designation affects important property rights held by individuals and that it prohibits many changes to the property. And it decreases the tax base by limiting the use of the property. The Historic Commission has had this power and chosen not to use it. He understands that the Commission has no intention now to bring in a property owner against their will. Thus the Commission would not be giving up any power by making historic designation entirely voluntary. Notice, while better than no notice, is not a substitute for voluntary petition. With respect to Amendment 2A, Bohrer said it is not clear to him from the language in the

amendment exactly what a reasonable return would be and how that works with the wording here on being deprived of all reasonable use.

Jeff Brantley for Positive Progress addressed the Council. Brantley said we want to promote any opportunity to give individual property owners a voluntary right to get historical designation. But this ordinance will empower a city body, unelected and unaccountable, to set aside entire tracts of property for historical designation, whether or not the property owners approve of that and we seriously object to that process. There still seems to be some confusion about historical designation on the federal level and on local designation. Federal designation is a relatively minor process that does not involve major restrictions. Local designation does. We need to recognize that what has been done to this community on a federal basis is a whole other ball game. With regard to amendments, we are in favor of Amendment 11 and continue to support that.

Peter Dvorak addressed the Council. Amendment 2A is a little ambiguous with regard to the definition of reasonable return. He said he is very involved in historically renovating property and that he supports voluntary requests for historic designation.

Chris Sturbaum addressed the Council. He said that the problem with this voluntary idea is that when you're going to have a historic district like Prospect Hill, you can have everybody but one person say this is a great idea, this is going to be in the best interest of the community, and that one person, if he doesn't have to comply, could keep his property with all kinds of different things on that property and it would be like a beautiful smile with one giant tooth missing. That's the concept of a historic district is that it has to be a whole area so that you can walk through that area and have the illusion that you are in that period of time. And just to review what happened with Prospect Hill, everyone in the area was agreeable except for two property owners who were side-by-side and they had plans to develop and they had many people say that these properties weren't useful, weren't necessary, weren't historic, didn't belong in the district. All the people who were saying this did happen to work for those people. But the rest of the district realized the value of these properties. And the only reason the Council avoided this tough choice was we helped find a buyer for these properties at the last minute or Council would have been forced to make this choice and Prospect Hill may not have happened because if Council is unwilling to make this decision, Prospect Hill could not have happened. And there is a parallel universe where Prospect Hill did not happen and I know because I looked at the blue house on the corner and someone wanted to put vinyl siding, reduce the windows and roll out some carpet and rent it to as many people as they could put in it and this was about three months before the historic district happened. And the plan that these other individuals had right at the corner of Third and Rogers right across from the blue house was some kind of thing that I never figured out but it had to do with some kind of 7-11 on the bottom, some residences on the top, it was an atrocity. Now you can look back and everyone agrees it is an asset to the community, but without this kind of power, without this kind of foresight it would not have happened. We are right on the edge and we saw it happen piece by piece, house by house, and it's kind of a miracle that it went through at all. And if we're going to say volunteerism or super-majority we're going to say we're not going to have anymore historic districts in the city of Bloomington.

Dee McIntyre addressed the Council. If there is a requirement for a super-majority for a historic district and if there is an allowance for owners within a proposed district to opt out that creates a situation where it's very difficult to ever have another historic district. One of the problems is that even though it sounds fair on the surface, when you think about it these restrictions would

prevent the Council from hearing the argument and for examining the evidence for and against the designation.

Kiesling reminded McIntyre that they were only discussing four specific amendments and McIntyre said he would save the rest of his comments.

Duncan Campbell addressed the Council on Amendment 2A. Campbell said that his fear with the original Amendment 2 was that if we only used "fair market value" as the definition of reasonable return that we were not allowing the Commission or the petitioner an understanding the many other things entered into a decision on reasonable return. Reasonable return is essentially the phrase used in all preservation ordinances and that has been substantiated (?) in court. So what we've done here in my understanding is the addition of "deprived of all economically beneficial or productive use of the property." That is the standing court decision in the United States at the present that defines what "reasonable return" means if someone takes hardship to court and it has been included in this amendment to clarify what someone can to understand as his plea for hardship in the demolition process. As for as volunteerism, the notion of historic preservation as a land use issue is well-substantiated as an effective and legal use of police power to protect and provide for the public welfare. It is no different than zoning or any other land use issue. It is a preservation issue like watershed, like sheer slopes, like anything else. Police powers are granted not to be voluntary but to provide for the public welfare. It has been well-substantiated that historic preservation can and does provide for the overriding public welfare by preservation of buildings, structures, sites, sidewalks... any number of things that are deemed to be judged by people to have redeeming value to society at large and provide ultimately for some sense of historic and cultural continuity. If an owner can voluntarily refuse, who happens own, say, Jefferson's home, and can refuse the right of the public to enjoy and learn from the historic structure, you might as well say goodbye to landmarking as a way to protect the public welfare.

Kiesling asked Flory to address Amendment 2A as it pertains to approval by elected officials and the degree of difference between the proposed ordinance and existing law. Flory said that an unelected body of experts, whom you want to be experts, will come to you [the Council] with a specific proposal. It is an elected body, the Common Council, that actually makes the conservation or historic designation. Kiesling asked if this was in the proposed ordinance and Flory said yes. Kiesling stated, and Flory affirmed, that we've been working under a similar ordinance for 21 years. As for Amendment 2A, Flory said it is not easy to define "reasonable." There never was an idea that you could come in and say that this was the fair market value of my property and somehow you've established reasonable return. Reasonable return is always a percentage of the return on its fair market value. The state statute requires that fair market value be factored into this calculus, but that isn't in and of itself any kind any kind of an answer that gives you "reasonable return". So the previous definition had just said that it's a return earned on fair market value, and there was confusion and concern about that. So the best way I could think of to deal with that was simply to work in the traditional test from case law on taking, and that is that the owner has to demonstrate that they have been deprived of all economically beneficial or productive use of the property. The problem you're going to have is that reasonable return is always going to be fact-specific. It's going to focus on taking each property and you're going to factor in [inaudible] up with some kind of answer on whether or not you do have reasonable return. It's a difficult standard to use but that just goes with historic takings law. The only alternative would be to say that if you can't earn 6% or 2% or 12% then you've just established that you don't have reasonable return. Obviously the problem you're going to have there is the kind of problem we're trying to

correct with the move from 1940 to "less than fifty years": you don't want a rigid return on investment that may seem reasonable now days but in two years, five years, six months [inaudible.] I think that just as terms of a definition this would be the best definition in this context of what reasonable return would be.

Bonnell asked about Amendment 11. He said that as he reads Amendment 11 the state statute and our statute before this amendment says that the transition from conservation district to historic district will take place unless the majority of the landowners remonstrate in writing. We have replaced that by saying that "unless this Council approves it." Flory said he thinks the state [inaudible] is still implicit. Bonnell said we've taking it out and he doesn't know how it could be implicit. Swain said his understanding was that the change was to make sure it didn't happen passively and would require affirmative action from the Council. Flory said he was correct that that language wasn't in this definition. Flory said his anticipation was when the people in the conservation district received notice that they were being under consideration for elevation to historic district it would be spelled out that if you disagreed you need to complain in writing. Let's assume that 60% disagreed in writing but the Council still went ahead a put in an affirmative step to raise it legislatively, that wouldn't withstand a court challenge. Bonnell asked why not? Flory said because it goes beyond what the enabling statute allows us to do. Bonnell said we don't take referendums. We have the ability to vote in very unpopular things and sometimes we do it and we're right to do it. This body has faced many of those tough choices and made the right choice unanimously and the history of our country is based on those kinds of tough decisions. And that's right. The majority of the people doesn't always rule. We have to vote with our conscience. So I don't understand. You want it both ways. That language, we're taking it out. And I think that's right. I just want to make sure that everyone understands that's what we're doing. Flory said that wasn't his understanding. He still thinks the state enabling statutes puts that limit in there. The idea with the notice to the property owners was that they wouldn't being watching their calendars for a three-year period and know that they have to sit down and write a letter now to the Common Council.

Bonnell said all of our meetings are public. If there's not one, we could add a notice provision. But it's clear to me that's what it does because when it says delete the phrase, it means take it out and we're substituting a referendum for our Council voting.

Sherman asked about the phrase "if the majority of the property owners in the district do not respond unfavorably. He wanted to understand what a majority was. The hypothetical came up with a conservation district of ten houses, and one person owned eight of them, and another person owned one and another person owned one, is the majority of the property owners the two who own two properties as opposed to the one person who owns eight. Does the majority refer to the owners or to the properties? Flory said it applied to the owners according to the state enabling statute. Bonnell asked if you get one vote for every piece of property you own. Flory said no, a property owner gets one vote regardless of how many properties they own. Bonnell said he know that Flory is uncomfortable with his interpretation of Amendment 11 but the thinks it put the ability to do this where it belongs, with the elected officials.

Amendment 2A passed 9-0 in a roll-call vote.

Amendment 9 passed 9-0 in a roll-call vote.

Amendment 10 passed 9-0 in a roll-call vote.

Sherman said that he understands the purpose of Amendment 11 is because the original word puts the onus on the homeowners to get together and work a



majority and find out what's what and this eliminates that. Had you thought about the possibility of it being done in the affirmative; that is, in order to raise the status it's the committee's responsibility to get the okay of a majority. Bonnell clarified that this was not his amendment. Flory said there was some discussion of that, but he saw a lot of procedural problems with it. If you send letters and say 'let us know if you agree with this step', you'd be relying on everybody to sit down [and reply.] It seems that people are more willing to complain rather than say yes I will go along with something. So people who may not care or feel strongly about it may not sit down and answer your letter. So you're going to be left with less than 50% response and not being able to act. Sherman said that's the point and that has been his experience with the ethics of research. You give kids a questionnaire and say 'you do this unless you bring some note from your parents' so the onus is on him. Well, they don't let us do that. They require us to get positive affirmation from the parent and it's hard. Of course, it creates problems. But the other way the kid throws the thing away and you really don't want to put the burden out there. You really want the burden to be on the organization that desires to implement something. Yes, it may be work, but I'd feel more comfortable about that with its problems. When you say you hear from complainers, well you don't. Sometimes they're away, sometime it's hard to get them, they work, they're on vacation. And then you're putting the onus on the owners to get together as a group. I'd rather see it the other way because I think it's a fairer thing to do. But if this gets changed then maybe it's a moot point.

Service said she didn't think you were asking owners to get together. You send these things out to them individually and then they send their responses back, and the department counts them. Sherman said that they see something from the City they throw it in the wastebasket. He said he probably would. Service said she thought the Legal Department's approach is probably right; that we are more likely to get their attention if it's a negative thing. A lot of people really don't care. Flory said he thought this was basically a policy decision that you have to make. It seems like there are enough due process protections, we review step by step [inaudible] take affirmative reaction that aren't normally required. Just how much of a burden do you want to put on yourself to take these kind of actions [inaudible] go knock on people's doors what their opinions is of this.

White said he thought this proposal would be better the way it was initially worded. I have respect for the Council having sat here eight years, but I'm not convinced we know what's best for every neighborhood. And, therefore, I'd much rather let the neighbors and property owners respond. As it says 'do not respond unfavorably in writing to such a conversion', I think that's the way it should stay. So there's nine of us and a lot of other people in a neighborhood and I think we ought to let them vote.

Bonnell asked Flory how this definition correspond with the establishment of the historic district back in 8.08.10. Do we have to take action either way? Let's say we don't change this and the majority of the landowners do not respond unfavorably means that if the majority of the landowners say I do not want to be in it, what happens? Does the Commission at that point still make the recommendation to us and say 'we think they're wrong' and we still decide to go from conservation to historic. What's the import of the majority of the landowners saying that we don't want to be part of this historic district? Or we don't want it to be a historic district at all? Flory said that if the majority of the property owners said that they do not want elevation to historic district status, then as I read the state enabling legislation you could not impose historic district status on that conservation district. Bonnell said then if you have a historic district of one house, and it's been established as a conservation district, and after three years the landowner says no, then it continues to be a conservation

district unless we take action to remove the conservation district status? Flory said correct. So, Bonnell said, we can never elevate a single house or we could never elevate two houses because one is not the majority of two. I don't think that was the intent of the state enabling legislation. I don't think that they intended to allow one homeowner to stop designation of a historic district on one or two house historic designation districts. And that's what this does if we don't change it.

Kiesling asked if the language of the proposed ordinance is the language in the statute or the language on our amendment? What is in the statute? Bonnell said that he thought what was in the statute was probably the majority of the homeowners. Hiestand said that doesn't entail another Common Council hearing. Service said, so we are adding this on top of that. Hiestand said yes, we did that in response to some concerns about what [inaudible] if there were owners against it. Service said it seems like we're doing nothing but making it more public and giving elected officials a chance [inaudible.] Bonnell said the equivalent would be a PUD.

Flory said that under the statute you could impose historic district status on a single property even if the owner objected. Bonnell asked how. Flory said by a majority vote of the Council. Bonnell said that this says it doesn't allow the transition from a conservation district to a historic district if the majority of the landowners say no. Flory said it's a strange situation and he saw Bonnell's point, but the statute allows for the Council to start off with a conservation district for an area if they want to and then it's automatically historic if the 50% don't object, but the state enabling legislation doesn't address the issue of involuntary imposition of a district on property owners. Bonnell said he thought Amendment 11 was a responsible way of dealing with this issue.

Swain asked Hiestand what a Certificate of Appropriateness confers on or takes away from property owners. Hiestand said a Certificate of Appropriateness is a method of approval for exterior modification to historic structures, or in the case of a Conservation District, the three things that we discussed. In a conservation district you wouldn't need one to, say, do an addition to an existing historic structure, but major new construction, demolition or moving would require a certificate. In that case, the owner approaches the commission. There is a review against the criteria of the appropriateness of the modification and then the commission would either approve or deny and issue the certificate of appropriateness that would be attached to the building permit. This is something that has been going on a long time. Swain asked where the certificate of appropriateness fit in with the two-step process of conservation district and historic designation. Hiestand said the first phase of a historic district is an option that the Council, the commission or the owner could consider during the designation process and would be less regulatory than the historic districting steps that we have currently. Under that particular phase, only demolition, moving and construction of principal structures or accessory buildings [inaudible] for a certificate. Therefore a property owner who just wanted to do an addition or make a modification on his lot that under historic district would require a certificate, would not require one under conservation. It's less regulatory. But it does ensure the retention of [inaudible] fabric and the appropriateness of new construction in the district. It also might make people more comfortable with the idea of regulation, to be able to approach the commission and understand how the system works. If they're uncomfortable after three years, we wanted to make that they had adequate public process, some additional hearings so they could convey [inaudible] to the Council and you could make use of it.

Amendment 11 passed in a roll call vote 8-1 (Nay: White)

It was moved and seconded that Amendment 12 be adopted. Sherman, the amendment's sponsor, said the amendment amends the ordinance to state that any ordinance to establish a historic or conservation district shall require a two-thirds vote of the Common Council. That is a form of super-majority rather than a normal majority. Sherman said it is an unhappy fact of life that we have a whole lot of mistrust in the city. It's between people walking the streets and the police, the police and people walking the streets; it's between the people who own the houses in these districts not trusting fully the historic commission, the city council, the neighborhood organizations and vice versa. It really puts you in a position where we are dealing mostly with mistrust. And they say 'well, if they really want to do that, then why do they need to do that?' And the other people say 'yeah, but we don't really trust them to do this.' And that's what this is all about. These are all issues of trust. It's sad to have to sit here and say who should really be trusted out there. That's what I think we are being asked to do in a sense. And the purpose of this amendment is that I understand that the homeowners are uncomfortable with this and I would like to do something to give them a little more comfort. And that's my purpose in this and I understand the discomfort. I could suggest going all the way with what Jim Bohrer and Jeff Brantley and others have suggested and that is 'let's make it all voluntary.' But in my heart and in my mind I've told people I am no libertarian. And that refers to property, it refers to bodies. If we're going to be libertarian about property, we might as well not have a zoning ordinance at all. And I can't go that far. And then with your own body, well, let's be libertarian about your body and make all drugs legal because that's a libertarian position; just as your house is your castle, your body's your castle. I'm no libertarian so I can't go all the way, but I'm trying to get something to give people a little more comfort who own properties in the neighborhood and it's the best I can do. So that's the purpose behind the amendment.

Hopkins said he would have to speak strongly against this proposed amendment. He said he was not aware that one of our duties is to make people feel more comfortable about what we do on this Council. Here we are voting a sweeping zoning ordinance which we worked on for years, which involves all kinds of very, very uncomfortable actions for a number of people in this community. And all of the sudden historic designation becomes so important that we say we've got to have a super-majority in order to pass it. I don't think this is at all consistent. And I strongly oppose it.

Jim Bohrer, speaking for the Monroe County Apartment Owners Association, said obviously if you had made the designation voluntary, then Mr. Sherman's amendment would be unnecessary. Apparently that will not happen. As has been pointed out by your staff here this evening you're taking away very important rights and in answer to Mr. Swain's question if you have to get a certificate from the city to do things which you are entitled to do today with your property such as expand it, and such as changing the exterior of the property, to upgrade the property, you have to come down to city hall and ask for permission to do it and then another group decides whether or not you should be allowed to do what you want to do with your property. The zoning ordinance clearly does impose some regulation on property. This imposes much stricter regulations and takes away many more rights that owners presently possess. So requiring a two-thirds majority is in my mind a step in the right direction. It says to you as a deliberative body this is very important, we're dealing with people's property rights here, we're dealing with the right to maintain their property, use the property as they wish and it requires something more than just a majority. It also keeps the city and protects them from possible damage suits in saying it's going to take six or seven of you to get this done and not just a 5-4 decision. And obviously in taking these rights away and making such a sweeping change, you could open the city up to damage suits. I've also been asked by several

property owners that are a part of the Association that if in fact you pass this and say that involuntary designations are appropriate and that they can be involuntarily drawn into a historic district, that they be allowed to give you their property address and that you exempt them from this ordinance so that they cannot in fact be drawn in since they have been told at the last meeting that in fact the commission would not exercise the power... Again, I'd be happy to give you their address if you would care to sponsor an amendment of that nature.

[end of tape 2, side 1]

Chris Sturbaum: ...We're thinking about it all the time. And it isn't until we start talking to the general public that we realize that we're kind of operating at a different speed. We're thinking about it all the time so we use terms and phrases and have ideas that aren't commonly held. This was so more true a few years ago when properties were being pushed over and torn down and people were saying this wasn't worth saving. [Sturbaum showed pictures of properties in Prospect Hill which he said might have seemed worth saving but had been restored with much benefit to the community.] Sturbaum said that a super-majority might not have had the foresight to see what now is obvious to everyone who drives by: that this was in the interest of the city of Bloomington. The people who owned these properties were going to stop the historic district and the right of people to save this for the future time of Bloomington. This thing [house] is locked up now and I think years from now it's going to be. But it would have been a completely different picture if people on the council had made the wrong decision.

Jeff Brantley for Positive Progress: I thought we were talking about historic preservation. Are we talking about dealing with ugly houses? I mean, that's not the debate here. If there is a single property owner within a district who doesn't wish to be part of this process, the proper way to do it is the other owners in that area buy them out, similar to what happened, in my understanding, to Prospect Hill were only a couple of property owners objected and the neighbors came together and... those properties after negotiation. If your going to have a mandatory, compulsory process, at a minimum you need a super-majority. Two-thirds is only reasonable. It will encourage everything to be conservative. When the historical commission is drawing its district lines it's not going to get out of hand. It knows it has to get two-thirds of the council. I would encourage you to support this amendment.

Norman Deckard: It's only reasonable that this amendment be put in there. You've taken away legal notice, you've taken away majority, you put the onus on the property owner to research the facts every three years to see if its going to go [inaudible.] It's only reasonable that you have a two-thirds majority. You've taken everything away from the property owner and you just designate any way you want [inaudible.]

Dee McIntyre: The two-thirds majority approval of a historic district is I think a very bad idea. These restrictions prevent the council from hearing the arguments, [inaudible] evidence for and against designation. That's what our system is all about. Historic designation of any kind is by nature site specific. It is not something where you can say 'well, two-thirds want it that's find', or 50%, 100%... It's a decision for the council to make judging in terms of the entire city's interest [inaudible.] Designation does not prevent alteration, demolition, house movement, new construction. It means that a certificate of appropriateness would be required. That is a review. It is very similar to the zoning plan approvals. There is nothing mysterious about historic designation that makes it tougher or anything else. What happens is, we work with them if

they have a proposal like for an addition on the back to make it compatible. We've been very successful at doing that. The Historic Commission will not have the power of designation. That issue keeps coming up again and again. We do not designate. The Council designates. That's the tough decision for you guys. But I would also bring up this point. We have a representative democracy in the city of Bloomington and in the United States. That's what we're about. We do not operate on the basis of referendum or by asking for every issue to be decided by a plebescite. We elect the council as our representatives to make the tough choices. That's the toughest part of your job and I understand that. So I don't want let you off the hook. I don't want that put on people out in the districts who are misinformed and manipulated. I think those people should make their arguments to the Council pro and against and you decide.

Sherman asked if McIntyre understood that this amendment referred to two-thirds of the council, not two-thirds of the people. McIntyre said the point was well-taken. He said you could use a referendum or petition as part of argument to the council. And if they came up with a petition that was not, in your opinion, convincing enough either pro or against, then that's up to you to take into account. Also, we don't require zoning restrictions to be determined by a super-majority. We don't even ask the people in zoning areas to vote on the required thing. And again, I think it comes back to the council's decision. Also I would suggest that if there is any discomfort about this sort of thing we could schedule a hearing prior to a decision being made to inform the people in that affected district that they can come to us and talk about it before going any farther with it.

Kathy ? (citizen): I want the council to ask itself a couple of questions. How many other issues does this Council require a super-majority for? And my second question is why then are we voting tonight on this massive zoning legislation. That requires merely a simple majority. I think that that makes life and death decisions on property owners with as many implications as historic preservation, yet that does not require a super-majority. So I feel that it's inconsistent to have two standards on these two pieces of legislation.

? (citizen): I think the super-majority is important. I think voluntary would be better. But if you're not going to go with voluntary, we got to have super-majority. This is different that everything else because somebody else can propose your property into a conservation district, and then into a historic district without your approval. Somebody else can propose standards on you that you can't control. So you need a super majority to say, okay this is going to be done. I really feel very strongly about this. First of all, if it does becomes a conservation district and then goes into a historic district then it's got to be very difficult to take. And I like the idea that if a conservation district is proposed, if one property owner does not want to be included that that one property owner should be excluded and the rest of the people can have their historic district.

Rick Zabriskie: Two points should be made. With a fifty year cutoff, you're probably including in this group 90-95% of the homes in the city of Bloomington. So 90% of the homes in Bloomington are potentially going to be subject to this new regulation. The other problem is this in not a general zoning vote. This is like saying everybody over 40 has to do this, that or the other thing. This is a subset that you're dealing with and has already been pointed out this is quite a set of rights that you are taking away from this subset. It's not a general zoning type of thing. And I wish you'd consider that in your deliberation.

Bob Dunn: It seems to me that every item in the zoning ordinance is dealing with a subset. I think that it is terribly important to understand that there is

nothing in the zoning ordinance that isn't taking rights away from people. And I see nothing so pernicious about preservation of our culture and our heritage, our community as we know it. After all, the revitalization of downtown Bloomington is a function of preservation and nobody [inaudible.] I don't see anybody losing by the creation of historic districts. In fact, in my business I do encourage it and I see that property values [inaudible] are the fastest increasing values, percentage-wise. And that's a function of historic preservation. I certainly cannot understand the need to moderate established democratic procedures by imposing on this one particular subset a requirement for a two-thirds majority. That is only required I think in [inaudible] or a mayoral veto. It seems to be wholly inappropriate and is in itself much more pernicious in its possible long-term implications.

Bonnell: Let me try and describe the differences I see between this and other zoning issues, and this and the entire zoning ordinance which we are going to vote on later. In the normal situation of a zoning issue a landowner is coming to us asking that his or her land be used in a certain way. Adjacent landowners are notified but they have no right to veto, they come and remonstrate. But it is the landowner who is initiating that and saying 'I want to do this. Let me do it.' Here, that's not the case. Here it's us, our collective community conscious, saying 'we want to save the Paris-Dunning house. And Mr. Landowner, whether you care or whether you want us to do that or not, we have legislation which allows us to do it.' And I think that's a significant difference in the way we do business. Secondly, the difference between this and the entire zoning ordinance is that, yes, the zoning ordinance and most of the provisions in it are adopted by simple majority. But it's taken years of compromise. People may be unhappy with that compromise or not, but it's taken years of compromise. And no one is going to walk out of here tonight, hopefully before midnight, with everything they want. But interestingly enough, most of the amendment votes -- not all, but most of them -- were 8/9 - 0. Of the amendments that passed only a very few, out of 60 amendments, wouldn't have met this standard first of all, and secondly, when there is an existing use on the land, we grandfathered that use. So in that sense we're not taking. Now we changing a zone where there is no use, e.g. from agricultural to industrial, yes. But there's no use. In places where there's a use -- I don't mean to say that farming is not a use but a land development use -- we grandfathered that because we realize the significance of taking away something that somebody has had every right to believe would last as a part of their property rights. I think there are qualitative differences between this process and the comparisons that people are making. I also think that it's a compromise that I can support. I'm not happy about it just as Jim said. The zoning ordinance has created a lot of mistrust and I think this at least gives a sense of security to those who might be distrustful.

Service: First, I have a question for staff. What does the state statute say about super-majorities, does it at all?

Hiestand said that the original sections as drafted are directly out of state statute. She said she would also like to put this context. This is what we have been doing for 20 years. It has been a committee courtesy to accept the concerns of property owners, but we have in fact had this power for 20 years. So tonight we will decide whether we will modify how we've been doing it.

Flory said a super-majority is like a legislative silver bullet. You use it in drastic situations. To override a mayoral veto in your case. If an ordinance is introduced and you want to consider and have it take effect on the day it was introduced, you can do that with a two-thirds, super-majority vote. But it's very rare.

Kiesling said that if her memory served her correctly the general assembly legislature in about 1980 had some home rule legislation that took away a lot of our super-majority that we had prior to that time and only gave it to very

specific areas such as over a veto. I think it's moved away from that. Service said there were several points she'd like to make: I live in the North Washington area and there was a move some time ago to make that district a local district and a number of the property owners opposed it. I don't know if it actually made a majority but there were enough that opposed it that the committee decided not to pursue it, voluntarily decided not to pursue because there was a significant amount of vehement opposition. Even though it was not a requirement that they get everybody's approval. They decided it would cause too much ruction and unhappiness, so they decided not to do it even though it wasn't required. So I think that's a good point. Now we've got state legislation telling us a procedure that we followed voluntarily anyway. And I do think that it is a valid observation that this is nothing we use for any other process that we have that controls property. And some of them are really big things that we do; major things that have big impact on the property owners, on the community. And we don't use a super-majority, we just use a straight majority. That's the way government works and I don't think it's appropriate to apply it for just this particular one. Someone else is always imposing standards on folks. That's one thing that government does. We impose housing code on people who don't want it. We impose trash stickers on people who don't want it. And we do that with a majority. And I don't see that this is that much more onerous. And again it's not taking away notice, it's actually adding a notice provision that is not being required, that hasn't been required before, but which was done voluntarily and which the state statute does not require but we have actually inserted in here. Property changes hands a lot, but the buildings, if we're fortunate, remain. And the idea of a historic district is to have those buildings remain for centuries even after the owners have changed hands again and again and again. One particular person who might not have been particularly interested in the historic designation, they're long out of the picture. And if that property is preserved it's there to enhance the community for years afterwards. And the idea of having properties opt out does not really work in a district, because often times the district is valid as a unit. And if you take little chunks here and there and take them out then its coherence as a historic district is gone, it doesn't have the same meaning, the reason it was proposed in the first place. I think we really have to go with it as it is and that this amendment would not improve it but harm it.

White: I want to say as well that I believe there are some differences that warrant supporting this amendment. In our zoning ordinance we may change a zone. In fact, we're going to be voting here soon to downzone. When we downzone from RL to RS4.5 we're not telling you that you can't put a different house there on that RS4.5. We're telling you with this ordinance that what is there is going to stay there and that's locked in place. We grandfathered things in the zoning ordinance that we're going to be talking about, and so that's why I think there is a distinct difference here and it does warrant a further majority. Not all of the owners are going to have a choice. It's going to be 100% involvement here. We just decided that. We're saying it's required for the right thing for everyone to do, then it wouldn't be out of line to say, if you look at in that perspective, that it ought to be a unanimous vote of the council. So I want to call upon and appeal to your sense of compromise this evening. There are differing opinions. We've looked at all these issues in the spirit of compromise. And I think this is another area where it would be quite appropriate.

Cole: I am sorry but I can't support this amendment. I can think of so few things in our procedures where we require a super-majority it would really be out of keeping and I absolutely cannot vote for that. And also I'm really struck by some of things that Bob Dunn has said. The price of historic properties generally goes up. It's a really good investment. It's kind of strange that people are so nervous about it. I've always thought it was really fascinating to look at

buildings, to try to look through like the clothes that they're wearing and see what is really the basic structure of that building, what's really underneath in terms of its form and its style and so on. I don't think we should be so afraid of this. I know people won't feel this way, but if anything look at those guidelines as just additional information. It's like educating yourself even more, so that you're getting good guidelines as to the way that the properties should be maintained.

Swain: Dee, I want to thank you for the remarks and the presentation that you gave when we were first talking about this. I believe it was the 29th and we had a representative from Indianapolis. And I think for the people who said they had gone back and reviewed the tape maybe they should go review it again, because I was satisfied that as a result of that presentation that we're not going to be wholesale pinpointing properties that we're just going to take from people here, there and everywhere around Bloomington. I'm satisfied that we built in sufficient protection for property owners given the tradeoff, and given what we as a community get as a benefit. And I am not going to be able to vote in favor of this amendment because I think it's superfluous and I don't think it's justified given the extent of what the fears are that have been raised here tonight.

Sherman: I had two things to say and one of them was to point out why I think this is unique and could sustain an amendment that would require a two-thirds majority, but I think Michael and Kirk spoke to the uniqueness issues very well and I don't want to repeat it. The one other thing I want to say is I guess respectfully I want to disagree with Jack as much as he disagreed with me. You said that the purpose of the Council is not to make our constituents feel good. I'm sorry. The people who are there, who own the houses, are my constituents as well as the neighborhood groups, as well as the people out there on commissions, and I always thought my job was to listen to the constituents and to try to make them feel better about holes in the road, about what's being done to their property, and if I can't do that then there's no sense in sitting here. To me the best part of the job has been talking to the people and these people are not aliens from a planet. They're our constituents and they have concerns and fears and unhappinesses and I think it's up to us to respond to them.

Hopkins: I must say that there's a great deal of difference between listening to constituents and making them feel good. If you compare what you're proposing here tonight with typical legislative behavior, this goes far beyond normal practice. The state legislature can impose the death penalty with a majority vote. They can impose lethal injections with a majority vote. We can control drinking in bars. We can control smoking in bars. We can take away property rights. About the only thing you find, if you look at the experience of the American Congress that requires a super-majority is to amend the constitution of the United States. They can even declare war, if I remember correctly, without a super-majority vote. Here we're saying, simply because we're trying to establish a historic district we've got to have a super-majority. I really hope we'll defeat this amendment.

Kiesling: I just want to ask if the public good is being served with this kind of motion.

Amendment 12 was defeated 3-6 (Yea: Sherman, Bonnell, White)

It was moved and seconded that Amendment 13 be adopted. Swain said that the amendment merely clarified some language in the ordinance. Kiesling read the amendment which adds the phrase "each day" to certain sections of the ordinance.



Jim Bohrer: I would like some clarification. By definition to demolish something is to completely destroy it. And there is a penalty here of \$2500 a day for demolition. Does that mean if the building is demolished that penalty is continued ad infinitum, indefinitely into the future or where does the penalty stop if it happens to be demolished in violation of the statute? I think that's something that needs to be clarified [inaudible] by saying each day it is demolished [inaudible] obviously it cannot be reconstructed as a historic structure so there needs to be some cutoff point or some limitation on the penalty.

Flory: .... [inaudible] ...9 month limit.... the state statute allows you to go up to one year

Bonnell asked if the historic preservation penalty language matched what is in the proposed zoning ordinance. Flory said yes.

Amendment 13 passed 8-0 (White out of chambers.)

It was moved and seconded that Amendment 14 be adopted. Bonnell said the amendment clarifies the section that deals with the ability of the Common Council to have members sit ex-officio on the Historic Preservation Commission. Bonnell continued: This an unusual ordinance in that the Council does not appoint an equal number of people along with the mayor. The mayor makes all the appointments and we have advise and consent authority. In other words, she makes all the appointments and we say okay. But this specific section here in the state statute talks about us being able to appoint an advisory member to the Historic Preservation Commission if we feel that would be useful to us. And I read that to mean that we would make that appointment just in the normal course like we do with Plan Commission, without having to go through the other process of having the Mayor appoint. If we need someone to sit on there as an ex-officio member it seems to we should be the one doing that. So that's what this amendment does.

Duncan Campbell: Just one minor clarification. I don't know Michael if your interpretation is entirely correct. The intention as I read it in the landmarking legislation for this usually involves a situation in which the community is typically small or may not be able to access the sort of expertise necessary to make certain decisions or get advice on an ordinance or something like that. It gives them the ability either through council approval or appointment to appoint an adviser to the commission to increase the expertise. It isn't, as I understand it, the intention to do anything other than that. It isn't the intention to create an ex-officio council representative per se, although it is allowed. I don't have any objective to it. But I think it's necessary to understand that it's a fairly innocent gesture on the part the state enabling to make sure some expertise can be provided...

Bonnell: This is a non-voting member. It's unlike the plan commission because councilmember on the plan commission has a vote. But if another large district was coming up, for instance, would it not be beneficial to have an ex-officio member of the Council who watched the process and was able to report back to us: here's what they...

Campbell: I don't know. Because actually the intention is to provide an expert in preservation, not an expert in council-representing. It might behoove you at their public meetings that if you need to be represented to come to the meeting or something. I'm not saying you shouldn't do this. I'm just suggesting that the intention was to provide a preservation expert, not somebody to represent the Council.

Jim Bohrer: This is a comment on Amendment 14 as well as your original

composition of the Historic Commission. Your ordinance reads that to the extent available... [Bohrer read from the ordinance.] As we've been talking this evening it's obvious that property rights would be affected by whatever this commission recommends and whatever this commission does. It seems appropriate to me that since they're being called upon to make decisions about reasonable return on assets and what economic return there would be or what economic impact there could be as the result of the imposition involuntarily of a historic district that there be some representation on your commission for someone from the disciplines of either real estate appraisal or real estate sales or the apartment owners association or the building association or someone who brings an economic viewpoint, be it a banker or an insurance agent or someone else that brings the economic viewpoint to this commission. Otherwise, it seems to me, they're being called to make decisions on things for which there is no representation on the commission. I would put forth that that person should be a voting member but if you don't agree there should at least be an advisory member that has those qualifications and can serve in that capacity.

Jeff Brantley: I agree with Jim. If we're going to have expertise on historical and architectural and those issues already in this draft, it makes perfect sense to also have someone there who also has expertise in mortgage and finance and real estate. It would only make this process more effective.

Hopkins raised a question as to the germaneness of this discussion. The amendment is about who appoints them, not who's on there.

Bonnell: He's [Jack] absolutely right. The original language said the appointment of the advisory person shall be made in the same manner as voting members. This just says no, we don't have to go through that process. If we think that an advisory member is necessary, we can't appoint one.

Service: Because we're having to do this according to state statute rather created according to our own wishes, I think if we were doing this we would have, as we do with our other commissions, some by the council and some by the mayor. And since we can't do that here, I think this is the very least we can do to give the Council some involvement. And it could be a Realtor for all I know but it's at least possible to have someone else serve.

Amendment 14 passed 7-0. (White and Sherman out of chambers.)

It was moved and seconded that Amendment 15 be adopted. Bonnell explained that the amendment requires that standards for architectural review and design guidelines promulgated by the commission must be approved by the Council. Bonnell said the amendment is made in an effort to acknowledge the level of paranoia, perceived or real. He has recently come to understand that these guidelines are so well established by the Department of Interior or other things that there's not that flexibility, so he is willing to be convinced that this is not necessary.

Hiestand (City Planning): One of the concerns of the committee with this process of council approval would kick in with the process of amendments to the guidelines which might be cumbersome. Guidelines are specific to the district so we might have multiple sets of guidelines. It becomes something that perhaps you don't want to do housekeeping on. That was one element of it. It is not customary nor in the state statute that the guidelines would be reviewed and approved by the Council.

[end of tape 2, side 2]

Jim Bohrer: If you adopt these by reference to the state guidelines obviously you have something. It's apparent from the discussion here this evening, you've got one person saying that they're so well established that everybody knows what they are. Staff, on the other hand, is saying that they're site specific and they change with the varying historic districts within the City of Bloomington. I think it is that type of confusion that is why you need to review these as a Council and why this amendment should be adopted. Because there obviously is some confusion over what the architectural design compatibility guidelines that we're talking about. Which ones are they? They're obviously many out here.

Chris Sturbaum: Prospect Hills has been operating on a state or national guidelines. And strictly interpreted they can be kind of strict. So what Prospect Hill is doing, to lessen the burden of such a strict interpretation on our neighborhood, we're developing our own guidelines which will say something like 'in the event of something in the backyard, we want less attention paid to, say fences [inaudible] we're actually doing this to get a certain amount of relief for the residents. And what this will do, each district will be able to develop their own guidelines subject to approval and compliance with the state guidelines. That's what these plans are. Not to add things on, add bells and whistles, make them more complicated or more onerous but to make them more people friendly to people who living in the district and that's where this came from and that's why we're going to be the first district [inaudible] pioneering this idea of getting our own guidelines so that when it comes before the commission, whoever is sitting on it, they'll go 'okay, this is Prospect Hill, look at this overlay...' it's like overlays '...we'll look at this page and see how we should interpret this particular request.' It's actually kind of a relief, somewhat from the mandated historic guidelines.

Dee McIntyre: This amendment, I'm afraid, puts the Council in the role of making decisions that properly belong to the Historic Commission. Regardless whatever qualifications or lack of qualifications the members of the historic council have, and I'm sure that will shift over time... if we approve this amendment we would make the Council the Historic Commission in effect. And I think that would be contrary to the state enabling legislation. I would ask why bother having a Historic Commission if the Council is going to review design review. That's what the commission is designed to do because it keeps up with the information and the latest interpretation and also it is the judgment of the experts on the commission that is essential to interpreting the standards for designation or changes, alterations to property. And I must say that in general you follow the Secretary of Interior's standards, those standards are meaningless unless they are interpreted and applied to the specific project. What we will do is use common sense to make that judgment call work for the petitioner. So if they want to put a fence up or build an addition we've have some wiggle room to try and meet their needs. We need that ability to be flexible. Also, in general, sticking to the U.S. Department of Interior guidelines for rehabilitation is important as a base in order to give some assurance to people who want to do that project and get the tax credits. If we say 'okay you can go ahead and do this thing on the back or do this thing to the porch' and we're stretching the rules, then they rely upon that and come back to get the tax credits for rehab, we have let them down. So we want to keep them informed on the correctness of that. Also, we need to generally follow those guidelines, for one thing just for respectability, because if we don't do our job we'll be the laughing stock in the state of Indiana.

Bonnell asked McIntyre to explain what is meant by standards for architectural review. McIntyre did so and said it can involve great detail that the Commission would have to investigate anyway and would be ridiculous for the Council to review.

Hiestand said the committee voted about a year ago to adopt the federal standards. She said we also have guidelines that are specific to districts and that they may cover different types of standards. She showed examples from guidelines used in Fort Wayne.

Jeff Brantley: The commission may promulgate standards for architectural review subject to approval by the Common Council. If the commission wants to develop standards, all we're saying here is that they are subject to Council approval. You can accept them outright or you can make some changes you are more comfortable with. This isn't micromanaging the commission or taking architectural standards out of their purview. It's simply giving the Council some input. My guess is that the Council is going to accept pretty much any standards or guidelines that the commission accepts. It's reasonable. I urge you to support the amendment.

Cynthia Brubaker: I'm concerned about one issue about achieving certified local government status that would allow the city or the commission to get grant money from the state for various types of projects. And this was the reason we put in the language about what types of professionals we have in the makeup of the commission. And I'm a little concerned that if we say that Council is going to approve guidelines we are taking away [inaudible] professionally setup to do things like [inaudible] there might be a conflict there with getting [inaudible.] As far as the Secretary's standards go, they're very simple and they're very vague. And one thing that local guidelines does is that it helps the property owners understand the specifics of what they are suppose to do...

Bonnell asked if the guidelines are established before the Council would vote on a historic district. Brubaker said they could be, but she didn't think they had to be.

Peter Dvorak said that there are general standards but when it comes down to specific districts it's not just the commission but potentially the neighborhood associations who can help draw up the architectural standards. Dvorak showed transparencies of property he owns in Indianapolis and described how a neighborhood association prevented him from putting chain link fence around the property and that after many meetings the process is still not resolved. He said this was a good example of why we need oversight to ensure that we do not have inconsistent or overly burdensome requirements. He said that the Historic Commission there listened very closely to what the neighborhood associations say, so that depending on where your buildings are you can have different sets of standards. He supported the amendment.

Sherman addressed a remark to Jeff Brantley of Positive Progress suggesting the amendment represents another level of bureaucracy we just don't need.

Service expressed her fear of micromanaging the process by subjecting it to council approval and suggested that all councilmembers might not have the required expertise to make judgments about the issues involved.

Pizzo said this was micromanagement at its worst.

White suggested that Council doesn't want to micromanage with some groups but does with others using the zoning ordinance as an example of the latter. He said it seemed appropriate to him to let the public have a public hearing on what these standards are going to be because they're going to be mandatory for these property owners and suggested we give everybody a chance to talk about it.

Swain said he was glad Bloomington finally got compared favorably to

Indianapolis.

Kiesling suggested that if the amendment fails, that the Historic Commission reports to the Council at some point and lets it know what it has done so that at least there is some public knowledge, not to vote on it but to at least let the Council know what has happened.

Amendment 15 was defeated 2-7 (Yea: Bonnell, White)

Council Administrator/Attorney Sherman put the Council on record as intending to reconcile any conflicts that may be discovered between the ordinance and state statute.

Service said in reference to the ordinance this isn't an area over which we have a lot options since we are redoing the zoning ordinance and that we are now forbidden to deal with historic designation as part of the zoning process. The process has been streamlined and made more predictable with specific standards, and notice has been added. If people don't like this ordinance they should be talking to their state legislators. Service said she wanted to point out that it has been shown again and again that historic designation enhances property values. And she had personal experience with this. She added that experience with other properties on North Washington demonstrated that certificates of appropriateness were not inhibitions to modifications.

Bonnell said he wanted to make it clear that the one interpretation of state statute that the Council did not adopt means that we would have the opt out rule. That for one or two properties one property owner could stop designation of a historic district. He wanted to make that clarification on the Council Administrator/Attorney's point.

Council Administrator/Attorney Sherman: What I want is that if it comes to you for a historic designation you should have on record that those objections have been recognized. You can see at that point whether a majority of the property owners have in fact objected to this elevation from conservation to historic district. I wouldn't want it to come to you without information before you. I'm not going to render an interpretation. I just want that step to have been followed.

White: I'll probably be the only negative vote. Up to this point on the Council usually I follow the Lloyd Olcott theory and that was don't lay down in front of a speeding train because it's not worth the pain and suffering. You're not likely to get back up or it will certainly affect your effectiveness down the road. But I think tonight that we've had some legitimate proposals and folks that put some thought into making some changes none of which were adopted. There have been other times when we've had significant concerns brought forth and we still had a unanimous vote of the Council. Tonight I think I'll be the lone negative vote just to show that there were some folks that had some concerns about this and it's not a perfect ordinance.

Ordinance 95-20 passed 8-1. (Nay: White)

It was moved and seconded that Resolution 95-13 be adopted. [not on tape] Bonnell explained that the resolution was in response to two items not making it into the proposed new zoning ordinance: accessory apartments and co-op housing. He said the resolution also demonstrated the necessity and value of the Affordable Housing Task Force.

Hopkins said both the accessory apartments and co-op housing topics warranted further discussion and that the resolution encouraged that discussion to take

RESOLUTION  
95-13

place.

Pizzo said that affordable housing for low income citizens was one of the more serious problems we are facing and that we must make some compromises with other interests forces in the community.

Tim Mueller, City Planning Director, said we shouldn't lose sight of the fact that the Plan Commission has to make recommendations on anything that is done in the zoning ordinance and that we want to be careful that the Task Force works with the Plan Commission rather than separately from. The Task Force is of course going to be focusing on affordability whereas the Plan Commission has a broad base of experience and a little bit more of a total world view. He said he would hate to see a situation come up where the Task Force forwards something to the Plan Commission which for one reason or another is unpalatable to the Plan Commission in terms other policy objectives and create a conflict where we're trying to reach consensus.

Service mentioned that there was no longer representation on the Task Force from the neighborhood associations and that such representation was important. She said that concern from some of the core neighborhoods was why the topics included in the resolution were not included in the zoning ordinance.

Cheryl Damron: I'm serving on the Affordable Housing Task Force and I would be happy to be the liaison between Planning and the Task Force if that's what you're looking for. I would also like to add that we have a lot of subcommittees working on the Task Force and there are opportunities for neighborhood association people to join the those subcommittees and that would be a perfect opportunity for them. I guess the last thing that I want to say is that as some of us in the community have been doing this work, it's very clear that often we give a lot of lip service and we talk a lot about these grand ideas about what we want to do but when it gets down to it there's a lot of resistance. But I a lot of times that comes from misunderstanding. I think that once some of us talk to the neighborhood associations about what it is we want to do, I think that there are a lot of things that we agree on and I think that we'll come away realizing that. I think that a lot of us in the community do want the same things, it's just a matter of how we get there. But I do think we are at a very critical point right now. There's a chance that we could lose a lot of our housing that is federally subsidized, that is privately owned, that's up for pre-payment right now and that it would very seriously affect this community and we're going to have to start dealing with this problem in a lot of different ways and we're going to have to be serious about it and we need to start putting our money where our mouth is. If it means going back and going through the zoning ordinance line by line and dealing with some of the issues that we're talking about -- density and those kind of things -- we're going to have to do that, we're going to have to make some concessions, I think, if we want people to have a decent, safe, affordable place to live and I think we do.

Tim Sutherlin: Thank you Jack, Tony and Michael for bring this resolution forward. I think it's a good resolution. I remember when the Housing Affordability Task Force was formed and I sit on it now and actually at that time I remember that my original proposal actually included a neighborhood representative. At this point in the composition I'm not sure how necessary that is. I think maybe the committee structure would be appropriate when you consider the fact that everything we do in the zoning ordinance is going to go through the filter of the Plan Commission anyways. The time when we passed this I also pointed out that this entire process has been backwards, that the Housing Affordability Task Force should have been empaneled and created a long time ago so that it could have input into the zoning ordinance as it was being drafted. I think we're seeing now in the form of a resolution an admission of that fact. A lot of people perceive the zoning ordinance as essentially an attempt to reconcile the interests of upper-middle class and middle class families

and people like that with developers and folks like that and somewhere the low-income people who comprise, depending on what standards you set, the majority of the people, somehow got lost in the shuffle. I have some words of caution. One is that we're going to vote tonight on the zoning ordinance and if the zoning ordinance passes tonight and the plan commission approves it, that's going to be it for this adoption of the zoning ordinance and I'm afraid that we're going to come up with some ideas beyond simply the two things that are being handed to us explicitly, then we'll be told 'we've already voted on the ordinance, it's over, please don't open up this can of worms like that'. Please do not say that. Please tell the people on the Plan Commission not to say that to us, because as I've said the process would have better had we created the Task Force earlier, but since we didn't we are going to have to reopen some things. The other thing is I don't want to be told is this is piecemeal because the Council is asking us to separate out a particular set of questions which are land use questions and address you separately at an earlier time than our overall set of recommendations that will incorporate funding, tax abatements and all kinds of stuff like that. Please don't anybody accuse us of being piecemeal. You're asking for us to do this and we'll do it but I don't want to hear that either. The other thing is a word of caution about zoning. Zoning by its nature is not a public policy tool that will create anything. Growth management, by its nature, limits the supply of things. It does not build buildings. It says your building has to be this tall, your building has to have this setback, your building has to have this particular shrub in front of it. But it does not tell you to build buildings and make you build a building. What we can do with the Task Force is look at the way this zoning ordinance adversely affects the supply of affordable housing and come up with ways to mitigate that. That's the best we can do unless we were to come forward with a recommendation mandating the creation of affordable housing in certain kinds of developments, which Jack proposed something very similar to that. That would be the only instance and even in that instance people would argue they'll find a way around the mandate by simply not building things [inaudible]. So you don't zone housing creation. All we can do is figure out a way of mitigating what we're doing. That's the best we can do. Later on we'll come to you and we'll say we want you adopt some policies with regard to funding, tax abatements and so on. Those may be as politically unpalatable and unpopular and difficult as making changes to the zoning ordinance. And this last thing I don't want to hear, I don't want to hear '... [inaudible] we approved those zoning ordinance changes and that was politically difficult, please don't ask don't ask us to do any more politically difficult things, because if I had my druthers between land use changes and funding, I'd pick funding, because land use changes don't make houses.

Michael Conner: I live on the near Westside and I'm secretary of the near Westside neighborhood association. We look forward as a neighborhood association to working closely with the Affordable Housing Task Force. Our housing stock is perhaps the only affordable housing stock left if you want to own your own home, in the downtown area certainly. And it seems that recently that there's been some confusion over what affordability is. Affordability in our neighborhood is an affordable home, an owner-occupied home, a home that you can buy. It is not more rental property, it is not investor. We want to see our housing stock kept affordable for those who want to get a start in the community.

Bonnell: I want to clarify a couple of things. I think Tim's concern about the Plan Commission's role in this is well-taken, but I want to make sure that my colleagues understand that this requires the Affordable Housing Task Force to report back to this Council by July 4th. State statute specifically allows that in 36.7.4.6.07.b which says 'Advisory area: If the proposal is initiated by a participating legislative body instead of the Plan Commission, the proposal must

be referred to the Commission for consideration and recommendation before any final action is taken by the legislative body.' So what this resolution envisions is the Affordable Housing Task Force reporting back to this body, us, in a public hearing, accepting their recommendations and deciding to send all or part of those recommendations to the Plan Commission for review, and then whether it's a denial or an approval by the Plan Commission, come back to this body for approval. So I wanted to make sure that the Plan Commission will be involved, but it will be subject to 36.7.4.6.07. I also want to make clear that although the two specific affordable housing land use questions which are addressed in here are mentioned by name it also includes '...and other land use based concepts that would promote affordable housing.' So it is an open door to come up with some things we haven't even thought of and maybe they have.

Adam Krugel: I'm with the Coalition of Low Income and Homeless Citizens. I just wanted to reiterate some of the points Tim made and not to necessarily dispute the tactical decision that throws this decision to the Task Force but the Council really has done very little in terms of positive construction or preservation of affordable housing or low-cost housing in Bloomington. We're really looking at very minor adjustments. These might be removing some legal impediments to the creation and construction of affordable housing but it is vitally important both the Council and the Mayor take a more decisive role in this issue for the community. This is right now a very desperate issue and in the next five or six years will become increasingly desperate. I just want to urge you to please be more decisive and please take more of a leadership role, not only in zoning but really in the basic funding issues of how we spend our public monies.

Bonnell: Just one final comment. We spend an awful lot of time preparing ourselves for failure. I think we can have a more positive approach and outlook on our ability to succeed at what we set out to do. In business if we spent this much time preparing for failure we wouldn't be doing whatever it is we were doing. I have a lot more hope for the adoption of this resolution and the outcome of it and I encourage my colleagues to vote for it whatever their reasons.

Swain: I have a question. This third 'Whereas' clause says 'Whereas the zoning code as a land use planning tool is an appropriate means to encourage affordable housing'. What if the task force ultimately disagrees with that proposition? Any significance?

Pizzo: This is just a resolution.

Swain: I understand that.

Kiesling: The way I read it is that that is one of the items they should consider amongst others. And if it comes back with a negative, it comes back with a negative. Then we know, hopefully, that it's been given due consideration and maybe it's not viable for us today.

Hopkins: We're not assuming any particular...

Swain: My point is that it appears to be a directive that says 'This is given. Now proceed from that premise.'

Hopkins: That's not what it says at all. It says to investigate, evaluate and make recommendations. It could come in all negative, possibly.

Swain: Let me get to a couple of comments made by speakers. Call me naive, but I really have to disagree with the characterization of the zoning ordinance representing interests and those particular interests. I think that there are more than just the issues of residential land use encompassed in this zoning ordinance. We're talking about our commercial land use, we're talking about our industrial land use, we're talking about the sorts of things and concerns that hopefully will better ensure the viability of this community and will ensure that we are continuing to do the things that make Bloomington a place that all of us feel



comfortable growing up in and raising our kids in and just basically living in. So I think that I have to object to that sort of characterization. I think that it's unfair to the other residents of this city to suggest that the zoning ordinance is somehow left their welfare and their property interests out. There is one more speaker that I'd like to take issue with. This Council has done somewhat, in the passing of certain language and requests that come before us. And I think that, if nothing else, if we're making sure that this issue stays in front of the public and generating the sort of press that's been generated we may have, in spite of ourselves -- or possibly inadvertently would be a better term to use -- created a market and have created the sort of environment where particular developers have come forward with proposals that have sought to meet a need that has been identified.

Hopkins: I would simply like to encourage the Task Force to think broadly in its mission and what it recommends. As a matter of fact, an idea I'm going to bounce off of you pretty soon is to convert the Westside Industrial Fund into a community land revolving fund for affordable housing.

Sherman: I never fully understand the dynamics of social change and influence and what makes issues kind of current and hot and of import in this moment in time. But it is very clear to me as someone who ran for Council in 1991 and is running again in 1995 that, however it was done, however you managed to do it, or whoever did, or how, it is very clear that all the questionnaires that we get as candidates now have affordable housing front and center. Four years ago those two words appeared on zero questionnaires.

Service: I think the bicycle questionnaire has that...

Sherman: This is a commentary and an observation that those questions and the questionnaires from different groups I think reflect the interests and the concern of the city, and in that regard it's something that is before us and isn't going to go away between now and when the Task Force reports.

White: I want to say that I'm looking very forward to the report from this task force because there are countless examples of our -- in most cases good -- intentions that have caused enormous added costs to housing. And it can be quantified. It's easy to add up the numbers. You put this requirement on, it adds so-many thousands dollars and that's going to be passed on to the cost of somebody buying a home or renting one. It's pretty simple. Some people don't like to look at it in those terms or numbers but, believe me, I have in the last few months. And I can tell you that as an active candidate this is an issue that rises to the top of the agenda on the polls even for Republicans. I want you all to know that. Some people think that is not the case but it is the case. It is a community priority. And I'm looking forward to the work of this group and hopefully we'll be able to get around to some these problems if we put the right resources into them.

Kiesling: This is not just a local issue. When we were at the National League of Cities there were workshops on housing and affordable housing. It was the one thing every community, large and small, was having problems with and trying to address. So I think we need to take up the challenge and look at what is available, what kind of options there are around, not just for us, but throughout the United States. And I think we need to look to and talk with the Indiana Association of Cities and Towns, and Counties, to see if they have some ideas. But also what I'd like to see is networking with other communities because what might work in some communities might also work here, what state might not allow or state does not address in their code maybe we need to find a way collectively to talk to our legislators and say we need to do this. We need to look at what the creative ideas and what the options are. They were talking at National League of Cities about accessible, obtainable housing, not just

affordable, but accessible and obtainable. And I think that says a lot because that really covers a lot more. So I'm anxious to see this. I was hoping we would set the timeline a little sooner than that but I'll go with this one and I would think the challenge is not a small one.

Resolution 95-13 passed 9-0.

It was moved and seconded that Ordinance 95-21 be introduced and read by title only. The motion passed on a voice vote. The Deputy Clerk read the ordinance title and synopsis. It was moved and seconded that Ordinance 95-21 be adopted.

ORDINANCE  
95-21

Kiesling said that written comments about the ordinance had been received and read by the Council. Kiesling thanked members of the public in the council chambers wishing to comment on the ordinance for their patience. Kiesling also expressed her condolences, and those of the Council, to Tricia Bernens of the City Legal Department, who has advised the Council on the ordinance, and whose mother died the day before this meeting. Kiesling then asked for public input on the ordinance.

Lynn Coyne, on behalf of Monroe County Bank: We are aware of the lateness of the hour and we are aware of the lateness in the process. We'd like to talk to you about something that, with all that awareness in mind, is extremely important to us or we wouldn't be here talking to you about it at this stage of the proceedings. What that is is the height restriction that was placed on Kirkwood Avenue Tuesday a week ago. What happened there are two processes like ships passing in the night. You've gone through a Herculean, almost heroic, effort to accommodate an incredible amount of amendments and changes and keep the public informed at all times about what was going on. That process, to a large extent, worked and we have an extremely unusual situation. The businesses along Kirkwood which, as you know, is partially, at least, what one might think of as the financial district in Bloomington, have, under current zoning ordinance, an 80 foot height restriction. There has been a considerable amount of planning on behalf of Monroe County Bank, and others will speak for their own institutions, for the future of that area and the future of the institutions in downtown Bloomington, on that assumption. So they have been watching... [inaudible] on March 27 which I think was Monday... [inaudible] and the article said that the amendments to be dealt with on that Monday evening would be one that set the maximum height in the downtown commercial district at 80 feet except for a 40 foot limitation around the courthouse square and a 120 foot maximum in some areas of the downtown development overlay. Now that may or may not have been what was actually going on but that's what the paper reported and everybody read and thought what was to go on. So the next day they read in the paper, the Tuesday the 28th, that nothing unusual had happened, they read nothing, and then it says 'Among the proposed amendments...' [inaudible] it says nothing about height limitations in the article. You, meanwhile, are going through these great efforts to consolidate the downtown amendments in one evening and this was unknown to them at this time. So you're heading one direction and they think everything's fine and they're still having their 80 feet. They wake up Wednesday to read the paper and find out that in the end the Bloomington City Council voted to set an 80 foot height standard for downtown construction along with a 40 foot restriction along Kirkwood Avenue from Indiana Avenue to the Courthouse. Now, that was a disturbing and, to their view, radical change to what they thought would happen or they would have been in front of you to address that. Now one of the things that you might say is 'So that's okay. Come back next month, next year or whatever and talk to us about it.' I wish that were the case. What we're here to ask you to do is return us to the status quo because of the efforts that have gone into the planning to this point, and a considerable reliance that has been

place on the 80 foot height restriction. If at some future time someone wants to consider changing that, then deal with it then or have them bring [inaudible] ... or whatever. Let me show you what's going on. [Coyne projected transparencies on the screen.] ...and they have acquired this property. Why have they done that? Obviously, to commit to the future growth of the institution in downtown Bloomington. They have remodeled certain structures as you're well aware, the bank loan office and so forth to accommodate their expansion. But long term, they're obviously going to need a new building. A 40 foot limit means that they cannot build a three-story building. They may, in fact, want to build as many as five stories in elements of a design. These numbers came from the bank's architects that they've been working with for some period of time. This process has been going on. There is no reason you would know about that. It's just something they are doing based on their understanding of existing rule. The first floor would be 16 feet in height. Subsequent floors would be 13 feet. In a modern office building, particularly in a bank or a structure that might be multi-story, they're not 10 foot floors, they're 13-15 foot floors because the space between what you see, for example, here, and above that contains all the modern things now in a building: the duct work, the conduits, the electronics and so on and so forth. So, a three-story building would be a 42 feet. You go on up. Basically with five floors we're under 80 feet. That would work, under an 80 foot, if it were to go that high. The plans are not set. But what is clear is that we couldn't go to three stories the way the ordinance was amended. Now, the problem is, if it's not clear the problem that presents, the effort and planning to the point that's been done under the assumption that there would be an 80 foot height limit. Not that we're going to go out to 80. But that's the design parameters the architects have been working with. When they wake up and find out that's been cut in half they contacted the architects and the architects advised them that will not work. They cannot do the plan in that formulation. The idea that perhaps they could come back at some future time and ask for it means that they cannot plan on 80 feet. They have to plan on 40 feet. 40 feet won't work. There's been a considerable amount of money, effort and expertise committed to a [inaudible] ... based on an 80 foot limit. What we're asking you to do, very briefly, you have several amendments that are available to you this evening or alternatives, is ask that you please, in a very unusual and aberrant situation, that resulted from no fault of yours, no lack of effort on your part, certainly no fault of the people on Kirkwood Avenue, Monroe County Bank and the other financial institutions, correct the situation that is aberrant, bring us back to where we were, or where we thought we were, so that our plans can proceed. Correct the situation back to that. If in the future you want to talk about bringing it to 40 or 60 or 52.5, let us know or we'll try to be informed of when you do that so that we come and we can talk about what's going on if you do that. The short notice here prevents us from doing that. Why not come back in the future? Things change. [inaudible] ... good faith that this bank came into you tomorrow and said, 'by the way, we want to build a building that's 72.6 feet high, we need a variance or something' it would probably be favorably looked upon. But we don't know [inaudible] We don't know what the Board of Zoning Appeals will do at that time. We don't know what the bank [inaudible]. We have done a certain amount of effort, planning and acquisition, a considerable amount of investment and commitment to downtown Bloomington based on the set of standards we assumed would be there and if they were to change, we would have an opportunity to address them like we're trying to do tonight. So, in its briefest form, you were doing everything you could, they were doing what they thought was the right thing, and we did this. If the ordinance goes forward it will prohibit the planning that they need to do. It will essentially [inaudible] in the past and make it very, very contingent. We understand the long process, believe me. This is a very minor change we're asking you to make. It is certainly by no means [inaudible] So we ask that you take the time, take out language that has

been added, bring it back to the status quo and allow us to go on. If you want to change in the future, please, let's sit down and talk about it.

Hopkins: Lynn, are you asking also for a change in the block faces on the courthouse square or only Kirkwood?

Coyne: No sir. There's a line that was that added to this that said from Walnut to Indiana, 40 feet. We're asking that be deleted, take that back out. That's Alternative 1, I think.

It was moved and seconded that Amendment 64 [Alternative 1] to Ordinance 95-21 be adopted. Pizzo read the amendment. Kiesling asked that the other alternative versions of Amendment 64 be mentioned as available. Swain explained that Alternative 2 was a compromise between Alternative 1 -- which returned the height limit to 80 feet -- and the proposed ordinance as it now read with the 40 foot limit. Alternative 2 set the height limit at 60 feet. Bonnell explained that Alternative 3, which was drafted by staff, kept the maximum height at 40 feet and makes it a 'conditional use' to go up to a maximum of 80 feet. Pizzo said there was an amendment on the table [Alternative 1] and that the others could be discussed without being introduced. Kiesling asked for more public comment.

Coyne: I will briefly address why we prefer Alternative 1. It's fairly obvious. It puts right us back at the status quo. Alternative 2, at 60 feet, using the dimensions that I showed you [inaudible, Coyne again showed a transparency.] ... Roughly here's what happens. First floor is 16 feet, second floor is 13, third floor would be 13, which means 42 feet. We go right by the 40 foot limit. We add a fourth floor for 55, a fifth floor goes to 68. So if you were to have a building with an element of five stories, not the whole thing necessarily but an element, it would no fit in a 60 foot zone. The third alternative, which is the conditional use alternative, is where we are now. It's 'go away, come back when you're ready', which means that what we have done and the planning and the like is gone. And when we do come back, whether it's next year or the year after or the year after, we are left to the whim of whomever may be there at that time, which makes it extremely difficult for us to plan. I'd like Dave Bear, president of the bank, to speak to this.

Dave Bear, president of Monroe County Bank: I just want to echo what Lynn has said. We do appreciate your at least giving us a chance to come up and talk to you. As Lynn has indicated, we've been talking to our architect now for several years. I want to be very honest with you and forward: we have no plans at all today. But at the present time, as you may or may not know, our main branch there on Kirkwood has two stories and a lower level. In addition, as he indicated on the drawing, because we've grown and luckily been successful we had to move our entire loan department across Lincoln street into another building. We're already very crowded and obviously that's the reason we've been talking to our architect. Mr. Swain, the 60 foot just really doesn't help us enough. We already have that equivalent right now. You're not giving us any room for any growth right now, much less anything for the future. I'll try to be brief but I really feel a need to reiterate some of the things that Lynn said and that is we really have spent a great deal on Kirkwood Avenue. We've tried to plan for the future. We want stay downtown. We're a hometown bank as we advertise. We're the last independent commercial bank in Bloomington. We hope that ten years from now or forever, we're going to continue to be an independent bank, and we want to continue to grow, we want to be able to expand where we are. We supported downtown. We stayed downtown when some of the other buildings began to get boarded-up, we've continued to make an investment on Kirkwood, and we really, really desperately need the flexibility to continue to grow and to build this building. One of the other things

that's come up from time to time -- the mayor has been in my office on several occasions talking about is there some way for Monroe County Bank to cooperate with the City and provide additional parking, particularly for the library. Well, please don't get ahead of me because I don't think we could do it. But what I'm saying is we've got enough land. I suppose if we only built three stories we could. But that leaves no parking at all, much less an opportunity to provide deck parking and maybe at some point we could go in with a joint venture with the City and provide additional parking whenever this comes along. But it's desperately needed. I really need your support.

Jack Ellis: My wife and I own the property located at 314, 316 and 322 East Kirkwood Avenue. This is directly across from the new addition that's being constructed to the library. And I am concerned about the height restriction of 40 feet in the area. Our present 314-316 building is so designed to allow two or three more floors to be added. And this is also true of buildings, as Dave has mentioned, at Monroe County Bank, Workingman's, and the People's Bank. When the plans for the addition to the library were being finalized...

[end of tape 3, side 2]

Ellis: (continued)... As a taxpayer, and also an adjacent property owner, I felt it was necessary that the same mistake would not be made again. I met with the library group and they assured me that the new building would be constructed to accommodate two more floors at a reasonable length of time if needed in the future. [inaudible] I met with Dave, the director of the library, to get a few dimensions of what they have now. The present library building that they have now is 57 feet tall. The new addition, that they're getting ready to construct, is 40 feet tall with a nine foot dome added to it for a total of 49 feet. The expansion of two more floors sometime in the future, if needed, they tell me would require from 16 to 17 feet per floor. And with the glass dome, which is so constructed to be added to the top, to be changed, this would bring the total height to approximately 81 feet. If the City of Bloomington is truly interested in upgrading the area between the Courthouse and Indiana University I do not understand the thinking of reducing height restriction. Any of the structures that would be added to a second Monroe County, Workingman's, People's would certainly enhance the area and increase the property values along Kirkwood. If this restriction of 40 feet is enforced and passed and [?], the Monroe County Library would not have the option of a future expansion. A project that we're now spending \$20 million on. So I respectfully ask the Council to reconsider the issue.

Dick Haynes, president of Workingman's Federal Savings Bank: I'm not here to address only our issue. We at Workingman's have been in business since 1885. We and Monroe County Bank are the only commercially owned and locally owned and locally operated institutions in Monroe County at this stage. We're the oldest, we think, continuous operating business in the county and the city of Bloomington. I think the Monroe County Historical Society decided that a few months ago. We have served the real estate and finance, and insured investment needs in this community 110 years, primarily in our office here in Bloomington. And now we have one located in Ellettsville. In large part, we think our success has been attributed to the fact that we've been able to do the majority of our business in our present location through the foresighted thoughts of some of our previous directors, and I have to admit I was not one of them, I'd like to take credit for it but I can't. In 1955 our present building was built. It was built with the idea of adding a minimum of one more story. At the present time if you took from the street level to the very top of our building you would find it to be 42 feet high. We, in adding one more story, believe it will add another 13 feet. So we're above 50-some feet in that regard. We think it is going to be essential

as we move into the future to add this fourth story. In fact, we use the whole building now. Our only alternative would be to do away with our parking or [inaudible] ..can't economically do that. So we think that it's going to be imperative to us to add one more story to our particular building. I know the night has been very, very long. But we do believe it is imperative for us at this time to be able to increase the size of our structure as it was originally planned. It was planned, believe me, in 1955 because we think this is a very, very prime location for not only the financial world but other types of businesses also. We continue to plan to stay independent. We plan to stay and grow and be a part of community. I think that if you would ask many of our customers over the many, many years we've been in business, we have served the needs of this community. So, therefore, I would respectfully request that you would consider that at a minimum we have an 80 foot height requirement, or not less than that, for any structure that was built along Kirkwood.

Steve Howard, Chamber of Commerce: The Chamber stands in support of retaining the 80 foot restriction. It's pretty clear that, as we all know, Bloomington is growing. And we are certainly interested in a vital downtown. The only wiggle room that our financial institutions and others along the commercial strip of Kirkwood have is vertically and to unnecessarily constrain them is an attack on the vitality of downtown. So we certainly urge you to support the first option to this amendment.

Pam Lohman: I came prepared to address the zoning ordinance as a whole rather than an amendment and I find myself a little bit surprised. I'm concerned not so much with the substance of this amendment. There's a great argument to be made for it. I'm concerned however with the process. As you have all mentioned this has been a long process. Many amendments have been proposed and discussed at great length. People who have been following it have known about them and known what was coming up, not necessarily relying on the newspaper. You've been putting out lots of information on the amendments. It seems to me it's very late to be suddenly considering a change. You have deferred some issues that you felt you couldn't deal with such as affordable housing to the Task Force for later consideration. There's lots of us who think there could be lots of adjustments made in the zoning ordinance. But you start opening it up now it's going to be a Pandora's Box. It seems to me anybody ought to be able to at this point, if you're going to start reconsidering. And it seems to me there is already a remedy. There is both an opportunity as things are now to get an exception or [inaudible.]

Talisha Coppock, Commission for Bloomington Downtown: [inaudible - supported Amendment]

Lon Stevens, People's State Bank: Our building is also designed to go up an additional floor or two. Growth is important to downtown. Stifling that growth makes the financial community rethink where we want to locate, maybe pulling jobs from downtown, hurting the ability for downtown to grow.

Mayor Allison: I support the proposal to put it at 80 feet. I think this one is different than others that have come before. I think we did not have a chance to hear all the effects of the change from 80 to 40 because of the 'ships passing in the night'. [inaudible]

Tim Sutherlin: Two wrongs don't make a right. Once again, pick up the morning paper. Marc Cornett who worked very closely on this issue is not here tonight. You voted to separate the question, if I recall, so you could address the Kirkwood issue separately. A great many people appeared at that meeting. They're not here tonight. To hear the arguments being made in favor of

restoring the language to an 80 foot thing from where you already changed it, you're talking about unchanging a change that you made. It seems to me that there is an alternative here which is to say in your public comments to the folks here that you're sorry for what happened in the paper but that you have had this discussion and that maybe what we need to do is consider this at the Plan Commission level and then again back to the Council so that everybody, both sides, are both in the room at the same time. Because tonight what we're hearing is a one-sided presentation. We've heard, by some people's account, a one-sided presentation before and it seems to me you're not going to remedy this problem by doing to the people who were here at the previous meeting what was done to the people here tonight.

Jeff Brantley, Positive Progress: This is a little bit unique in that as we've dealt with the zoning ordinance, most of those concerns have dealt with either a two-dimensional concern and this map has been out for months, or language in the ordinance. The change that's affecting the Kirkwood area is really a three-dimensional change. It was a surprise. 80 foot is the status quo. This is also unique in that all the petitioner is asking for is a return to the status quo. We support this amendment as exceedingly reasonable.

Wendy Bernstein: I hadn't really thought of myself as an obstructionist or an anti-progress kind of person. But just coming from the aesthetic point of view and the quality of life in the town of Bloomington I have noticed since 1970 there has been tremendous change. I believe in progress, I believe in development, I believe in prosperity, I love what's being built around town. I think this is a tremendous question to throw at the Council at this hour and in this way where there can't be that much debate back and forth. [inaudible] ... and I would just like to urge the planners, the Plan Commission and the Council to think about how much choice we have in what happens here and how much dialogue is needed. And this doesn't look like much of a dialogue. I would like to see much more time, a tremendous amount of time, but at least some kind of notice given so that people could state their perspective on it, and it isn't just coming from progress and [inaudible]

Eugene Fritz: I would just like to say this amendment makes sense. Sooner or later as the community develops you're going to have to go from the center of town out and increase your height. I would remind the Council to keep in mind that these banks bring quite a few employees to this community, that spend their money and make purchases and help keep the downtown area alive. It really does make sense and I hope you vote for it. If you don't do it now or later on.

Chris Sturbaum: I understand those concerns too. But I don't think the intent was to put 80 foot building around People's Park that Council talked about picturing and I pictured that block too, the block around People's Park and the block right next to Indiana University. So maybe, like Solomon, you need to divide Kirkwood and let that last section stay low and let them have their height.

Michael Conner: I feel like we don't have full representation on this issue and would request that the Council consider postponing this to a time when [inaudible].

Norman Deckard: When this change was made down to 40 feet very quickly one night it was part of the meeting I happened to miss. That's what I was told this final meeting was for, to amend and take care of problems and [inaudible] ... these people have an honest request. Downtown, if you're going to grow you're going to have to go up. Again, there's no place else to go. I urge you to support this amendment.

[an unknown speaker spoke in support of the amendment]

Bill Finch, CFC: We do support this amendment. It does not affect our properties. As Jack pointed out this not deal with the square. But we do support the proposed amendment taking it back to the status quo of 80 feet. And we harken back to 20-25 years ago when indeed downtown was in an extraordinarily precarious position. It was going downhill very, very quickly. And the banks and the churches made the commitment to downtown and they stayed. Before we were doing the Graham, before the City was doing parking garages they stayed, they made their commitment, they were good citizens, they saw a vision. This bank did it, the other institutions did it, the churches did it and for that all of us in this community owe them a debt of gratitude forever. We understand that it is also late in the process. It is a very different situation than most of the other issues that have been discussed. You have some very basic facts that have been given to you now that were not given to you a week ago. I think those are important and while it's late in the process that would not be a good reason for making a bad decision and not passing this amendment. The banks have been very important. The Kirkwood strip has been very important. They are in fact what kept any glimmer of hope [inaudible.] We would hope that you would give them that opportunity so that they do not have to choose between staying where they are or moving out of downtown. That's a choice we never want to give to them it seems to me. I understand it is late like I said. But I would ask you to think if you had heard a week ago what you have heard tonight how would you have voted. And I think that's the important question and what would be good for the community.

Tim Mueller, Director of Planning: I think I want to clarify what Planning staff's position on it is. The Plan Commission recommended the maintenance of the 80 foot height limit on Kirkwood and that's what we stick with. In developing the zoning ordinance we worked long and hard to try to build consensus on the ordinance. We started with a policy document, outlined and worked through various drafts of the ordinance. In doing that we collaborated a lot with groups of all kinds; the Chamber, the Commission for Downtown Bloomington, neighborhoods, virtually all of the interests groups. And the provisions that we were contemplating were submitted to discussion and many of them were accepted. I think, for example, of 40 feet around the square. It was given exposure and generally accepted. 40 feet on Kirkwood is something that popped into the process very late. We had previously discussed the maintenance of the 80 height limit. Late in the Plan Commission's process the idea of a 40 foot limit came up, was debated and was defeated. For that reason we do want to urge you to stick with the 80 that the Plan Commission initially recommended.

Kiesling: And what's in the proposed ordinance, before it was amended?

Mueller: 80 feet by right, 120 as a conditional use.

Kiesling: If the amendment passes what happens to the overlay?

Mueller: If the amendment alternative 1 passes it will be 80 feet by right along Kirkwood same as the rest of the CD zone...

Kiesling: The overlay is not affected?

Mueller: Let me clarify. The overlay still exists, but you took the 120 height limit out. So if you adopt alternative 1 you will have an 80 foot height limit in the CD zone except around the square.

Service: I just want to point out that this was one of the first seven amendments submitted and it has been around a long time. [Service is referring to the amendment passed earlier by the Council reducing the height limit along Kirkwood to 40 feet.] At the end there were over 60 amendments, but this was one of the very first ones to be submitted and be in the Council office and be



out and circulated around. So this is not exactly a surprise. We did it late in the process, our discussion, because we divided up the issues by chapter and issues and so on. But it was out there and in the public domain for longer than just about any of the other amendments, many of which we passed and are sticking with. And I agree that this is not the time to reopen this when we have only one side of a controversial issue being represented here. If we go with the 40 foot regulation, anyone with a credible plan can certainly come in for a variance. But if there is a by right 80 feet that means that there is no opportunity to review whatever their proposals are. If there is a standard, and if in order to change the standard you have to come for a variance, then you have an opportunity to review those proposals. And that's what is important on Kirkwood, because this is an area that people feel belongs to everybody, not just to a few businesses that happened to be located there but the entire community. It is the visual and physical and actual connection between the campus and the downtown. If you stand at Sample Gates and look up Kirkwood, what you see is the Courthouse, that is the dominant building there. If you line Kirkwood, or even scatter Kirkwood, with buildings up to 80 feet, you will no longer have that visual connection. Even dividing Kirkwood and saying 'well, the bank end can have the higher levels and the land closer to the People's Park and the University can't, that wouldn't really work because the bank end is also the higher end. So you're already talking about more elevation and if you put an 80 foot building there it's going to be a lot more damaging to skyline than if you an 80 foot at the lower end of Kirkwood. I agree we don't know who's going to be here in the future. We also don't know who is going to be in the bank in the future, who's going to be their architect in the future. And by building in this requirement to come for a variance and to present proposals and to defend those proposals we get some sort of assurance that we will be seeing development along Kirkwood that will be in the best interests of the community rather than just simply specific wish-lists of a specific business.

Kiesling pointed out that her records showed that Amendment 4 [the 40 foot restriction] was first offered on February 27th and March 11.

Pizzo: I think it is important to realize that this Amendment [64] does follow the Growth Policy Plan. And I think it is important to understand that we're doing this for the long-term development of downtown, to augment and encourage the development of a vital, economically healthy downtown Bloomington. And I think what we do with the 40 feet is make it almost impossible for this to develop. Certainly is not going to look that much different with four story buildings. It's going to look different because of the Library, and that's a big structure, and when they put another two or three floors on that, are we going to be around here to stop them because you can't see the Courthouse? I think it's a specious argument. The important thing here is what are we going to do about the health of Bloomington economically. If we don't do that we're not going to meet our responsibility to all the people of Bloomington, including the people who really need it most and those are the working class who are not making very much money.

Sherman: The reason I would like to see this voted on and passed tonight are that we've made a lot votes on this Council in my 3.5 years here, I've made a lot of votes and I've always said that when I make a mistake in a vote I'll be the first to say I've made a mistake. And voting on this I voted yes and I made a mistake. Now the reason I made a mistake, I asked the right questions but I didn't get the right answers. And if I'd had the right answers I would have voted differently. Maybe that's my fault. I asked three questions: 1. Are there any structures on Kirkwood that are now higher than 40 feet? Answer: No. Wrong. The Library is higher than 40 feet now. 2. Carmichael building, how high? Over 40 feet? Answer: no. I now see in my [?], 50 feet. 3. Are there any

existing buildings on Kirkwood that plan to go higher? Answer: no, we've had the 80 foot limits for years and no one has chosen to do it. So, if I had had the answers to the questions that I had tonight there is no doubt that I would have voted differently and I'm happy to have the opportunity to rethink. It's a matter of not having the information for me. So it's not even a reconsideration hearing from new people who weren't here. I tried to get the information and it's my fault for not getting it, not other people's. So I'm happy to have the option to reconsider.

Cole: What an interesting process this is. I mean here we are, it's 1:00 at night, and we're making very big, important judgement calls on something that has tremendous impact on the whole community. We saw so many young people in here earlier tonight talking about their involvement with Kirkwood, what they feel is their shrinking turf and how they feel they sort of only have People's Park left and are having problems there and so on, whatever discussion follows from that. I want to raise a couple of questions. This is a real tough one for me. I wasn't happy with the forty feet, but I'm not happy with 80 feet either. And what I would prefer to see would be a task force or a subarea plan or a committee or something that would look at Kirkwood as a whole, from the Sample Gates to the Courthouse. It is, it's a bow-shape. It's high on each end and it goes down in the middle. The Graham Plaza is about 80 feet. If we took the Graham Plaza and put that on certain places on Kirkwood, would it be appropriate? I think we have to keep asking ourselves these questions, over and over again. And one of the main questions I think we have to ask ourselves is height and that issue be totally separated out from everything else. Aren't there places where a taller building would really work but some places where it would be absolutely devastating, as it was suggested surrounding People's Park with 80 foot buildings? So, it's been suggested that we do things kind of in steps. That's what I think is really important. To do some lower buildings and see how we like it, see how that fits in. Ask ourselves what makes a design work on Kirkwood. Kirkwood has been changing a whole lot. And when the library takes up the entire block we're going to have an enormous structure that basically closes at 9:00 at night. So on Kirkwood, what do we have left in the evening traffic that people who are out wandering around. Well, we've got bars. We still have the Von Lee which empties out and has people who are there other than drinking and so on. But these things, I think, all need to be looked at in terms of what kind of ambiance, what kind of feeling, how does a community want to feel about Kirkwood as it walks through Kirkwood. Pedestrian issues, I think, are absolutely vital. I don't think that a tall building can't address pedestrian issues. You can look at a tall building and really be involved in the lower windows, the way that the building looks, and that sort of thing. But to me it's really much more important. These kinds of questions are much more important than exactly what the height limits are going to be. I am wondering: what's the forum in which some of these questions are answered? How can we make Kirkwood more civilized, more congenial, more humane, so that maybe we don't have guns on Kirkwood and drugs on Kirkwood and all that kind of stuff. Those are the questions that I think we really need to ask in terms of how we want Kirkwood to look in the future. I'm not sure how I'm voting on this yet.

Hopkins: My position is very simple. If I had known on the 28th of March what I now know tonight I would not have voted for this change, and I will support the amendment.

White: I think it's all been said and you know what I'd say any ways.

Bonnell: Ditto

Swain: I know that our action when we last looked at this was not hasty or ill-considered, I do think, a variation on a theme that Jim and Jack have started on, that if I had known the 28th what I heard tonight, would I have voted the same way? And I have to say I don't think I would. So I'm going to be supporting this amendment.

Kiesling: I have a question as to whether this 80 feet includes mechanicals and things of that sort.

Mueller: It does not. There is an exclusion for building mechanicals whether it's 40 or 80 feet.

Kiesling: I would like to see that maybe we have some kind of subarea review of that area so that we can see what goes in there because I think maybe the community that serves and lives and works on Kirkwood may want to have something there that has been started by the Sample Gates and the new construction on the corner of Indiana and Kirkwood, but also what's happening right in the downtown area and the Library. So I hope that we do take that into consideration. I'm deeply frustrated and concerned by the fact that no one saw this. I think you are all very thinking and thoughtful people and contribute a lot to the community but, I'm sorry, I tried very hard to make sure everybody was aware and I find it very frustrating that we could not have communicated earlier.

The Deputy Clerk asked for an example of an 80 foot building downtown. Cole told him Graham Plaza and reminded him that we've had an 80 feet limit in place for a long time and we don't have very many 80 foot buildings.

After an inaudible query from an audience member, Kiesling asked staff to confirm that the Library has to meet city code and Mueller confirmed this.

Amendment 64 [Alternative 1] passed 8-1 (Nay: Service)

Kiesling then asked for public input on Ordinance 95-21 as amended.

Jeff Brantley, Positive Progress: I just want to take this opportunity to thank the staff and the City Council for all your hours and hours of hard work. It's a credit to a community and we're looking forward to moving on.

Pam Lohman: I've been asked to make a statement from Quality Growth. First of all, we would like to compliment you on the tremendous amount of work that you've put into this process and your patience in listening to diverse views from our community. We'd like to be able to say that the zoning ordinance as result of the process will carry forward the vision and the purpose of the Growth Policies Plan. Unfortunately, we don't think that's the case. There have been some positive steps taken: neighborhood subarea plans, [?] sewer extensions, creating a minimum PUD size, slope restrictions in watersheds, and generally the height restrictions around the square we thought were very good. After tonight I'm not going to talk about Kirkwood. On the other hand I think the ordinance fails to carry out a number of important principles of the Growth Policies Plan. One major issue was traffic concerns. Another one was environmental concerns. We think that some of these are not adequately addressed. Let's not kid ourselves, the Lake Monroe watershed has been breached and again, there will be pressures to breach it more. Like it or not the issue of development review in the core neighborhoods is not going to disappear. We would hope that the idea of a compatibility review, we will continue to explore ways for planning and zoning techniques that protect and invigorate the neighborhoods. Affordable housing has been a hot button of discussion. There's been, I think, a misperception that there's a conflict between neighborhood protection and affordable housing. In fact much of affordable

housing probably lives in older neighborhoods, and then a older home is converted to multi-family rental, then the house is lost forever as affordable housing. So clearly what I'm saying is this [?] is just a start. I know you don't want to hear this but it does need more work. You've shown that you recognize that in referring the issue of affordable housing to a task force and then studying recommendations, and I commend you for that. I would recommend that the same process be used for addressing core neighborhoods, traffic mitigation, green space, and tree preservation. New methods need to be explored for protecting our [?] environment. And we would be happy to part of this on-going process. Another issue that is very important is enforcement and we will need the Council to set aside a special session to address the issue and look for methods to ensure adequate enforcement. It needs regular evaluation and approval. We've been concerned that there's been a progressive watering down of some of the [inaudible]. ... In the original survey, support for environmental protection is extremely high [inaudible] and we're afraid that you will have to continue to look for ways to translate some of these principles into reality. [inaudible] I hope you will consider that there is still more work to be done... [inaudible]

Steve Howard, Chamber of Commerce: Hard-working and honest people have come together to produce this document that although flawed fills a very critical need for this community. We have an understanding of what the rules are. I think we've by and large emerged with our integrity, good humor mostly, respect for one another and our ability to communicate intact. And I say to you, when someone does a good job we hoist a couple of flags, a P flag and a Z flag [?] so on behalf of our members I'd like to extend a PZ [?] to the Council, the Plan Commission, the Plan staff, and especially I'd like to single out the people on the our master plan committee who worked so extensively for their own delight and amusement I guess for trying to make this thing the best it could be. [Howard listed committee members.] Finally, it's been a very long struggle, but I heard some say earlier it's caused divisiveness and I guess tactically it has. But what I believe has happened here is that we have bolstered our ability to work together and come to a consensus, perhaps uneasy in some areas, with a very difficult subject. So I see a very positive thing coming out of this. Maybe there was some divisiveness but I think we've learned to work with one another and that's certainly going to be a very valuable commodity as we face some of the other challenges that we have in the community.

Eugene Fritz: As a former planning board chairman and having gone through this myself only a little bit easier than Tim [Mueller] has gone through it, I would like to compliment him and his staff. We declared a six month moratorium when we did our master plan and our zoning ordinance. So we didn't have to deal with approvals for six months. We spent our whole time on it. And this gentleman and his staff has not only produced these documents but has continued the approval process within the community and it's a momentous job. He deserves a lot of credit. My only concerns about the zoning ordinance is I just that with all the amendments that have come forth it hasn't weakened it to such a point where...

[end of tape 4, side 1]

Council Administrator/Attorney Sherman reiterated for the record that the Council had received written comments on the ordinance and that none that had been received by the County Auditor's office. He said that if anyone felt their comments had not been addressed that this was another opportunity for them to express their opinion. Seeing no public members wish to speak, Kiesling asked the Council for final comments.

Sherman: I've heard a lot of words and you think they're all repetitions. I did appreciate one that Steve Howard mentioned. I hadn't thought of it and it really was a nice thought and I think it's true. If there is one thing we have I think we've kept our integrity and I think that's an important work and it means a lot when I think of it in those terms. The only other comment is I know for me there's a lot of my blood, sweat and tears on this document and I'm ready to pass it.

Bonnell: I want to thank the staff and the entire City administration did an excellent job of breaking down the parts of the ordinance, came up with what seems to be a reasonable, in the short period of time they had, and well-thought-out fiscal impact statement which basically puts it at about 75% of an FTE -- I don't know what salary range that would be -- but we're talking about an estimated fiscal impact in the \$30,000 range, I guess. I'll quickly thank Iris for guiding us as chair for the month of March. I want to particularly thank Dan Sherman. I don't think people understand. I don't know how he's never gotten the employee of the year award because this doesn't work without somebody like this and those of you who call in know that. I want to thank all of you for your patience. I got into the process very late and that meant there was a lot of amendments from me and I appreciate your patience in listening to them. I think this process has been divisive. It's been particularly divisive, I think, for the Democratic party, quite frankly which you may appreciate. A city at war with itself can't grow and I think we have to embrace that and move on from here and I think adopting this and modifying this as time goes on of course, gives us the opportunity to act less as regulators and more as leaders on policy issues. So I'm glad to support the document.

Cole: I'm really impressed by the all the work that went into this document before it got to us, the Plan Commission and the Planning staff. I want to thank them for that. I really second what you say, Mike, in terms all the tremendous work that Iris has put into this and Dan Sherman and I thank everybody for all their work. It's been a tremendous learning process. And although I think there's been division like the community has taken sides on things, I'm optimistic that it's not actually going to be divisive in the long run. This is a good community and people work together and that's wonderful.

Kiesling: The one party indicated that enforcement is an issue. I think we do need to deal with that. I know the Council has been trying to deal with it and the staff has also. I think we need to continue to look at where we can collapse the process, either collapse it or at least make it concurrent so that we can make it more efficient. I would like to challenge the community to look at what we need downtown in terms of parking because I do agree with the parties who have spoken to this issue, blacktopping expensive property or blacktopping anything is not the way to go. So I think that as a community we need to come together as to how we can afford some partnerships so that we can address those issues because I think right now we're at the point of really bursting at the seams. I do see that we will be amending this ordinance in the future. I don't see that it's going to be lying dormant. And I think that we've touched on a number of issues today that I would think we need to again look at. And finally, I think we've addressed all the staff and shown our appreciation and the Council and so on. But I think the ones that we have to thank the most is the Plan Commission since they don't get paid even a penny. And I think their hours put in trying to get us a document has to be noted at this point. I think that a lot of them put in a lot of time and gave up some family and personal time just as we have but even more so. I think we need to recognize that. I hope that others will acknowledge that at some point.

Ordinance 95-21 as amended passed 9-0.

It was moved and seconded that the following legislation be introduced for first reading and read the Deputy Clerk by title only. All motions carried and the Deputy Clerk read the legislation by title only.

LEGISLATION  
FOR FIRST  
READING

Ordinance 95-13 - To Grant RS/PUD Designation and Outline Plan Approval -  
Re: 1630 S. Curry Pk. (Jill Lane, Petitioner)

Ordinance 95-22 - To Amend the 1995 Salary Ordinance for Appointed Officers  
and Employees of the City of Bloomington (Engineering)

Ordinance 95-23 - To Regulate Cable Television Late Fees

Ordinance 95-24 - Adopting Procedures for Issuing Requests for Renewal of  
Cable Franchises

Ordinance 95-26 - To Amend Title 15 of the Bloomington Municipal Code  
Entitled "Vehicles and Traffic"

The meeting adjourned at 1:30 a.m.

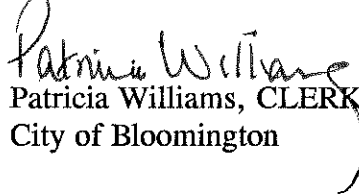
ADJOURNMENT

APPROVE;



Iris Kiesling, President  
Bloomington Common Council

ATTEST;



Patricia Williams, CLERK  
City of Bloomington