

PIKEVILLE/PIKE COUNTY/ELKHORN CITY
JOINT PLANNING COMMISSION
DECEMBER 13, 2005
MINUTES

Mr. Blackburn:

Let's start with the hearing, we don't have to have a quorum to have the hearing. And what the hearing concerns is to consider discussion concerning application from Shane Hall to amend the zoning of property located at 114 Lorraine Street from R-1A to C-2. I need to swear you all in, if you're going to speak to this, either for or against, so if you're here this evening and you're here for that, you're going to speaking one way or the other, would you stand please and raise your right hand. If there's a possibility you're going to speak. Just repeat after me, do you swear or affirm, just say I do or I will, do you swear or affirm to tell the truth, the whole truth and nothing but the truth?

(Everyone)

I do.

Mr. Blackburn:

Everyone standing had their hands raise did say I do or I will. Very good. Can you all see the slide

presentation? Everyone see it? Alright, go ahead Shane.

Mr. Hall:

I'm Shane Hall and I here for purposes, I petitioned the commission's consideration a map amendment of this particular property here on Lorraine Street, which my family and I occupied for the time. Ben and his wife lives behind me and Steve lives around the corner from me, not adjacent to but, probably three or four houses over, his house is directly adjacent to my property. Here is a picture that shows really the front of the house, this is taken from across Lorraine Street, obviously everyone knows where this property is, it's right there beside the new Social Security building. In the background you can see Elliott's and those buildings as well. But this is taken obviously across the street at the welfare building there, in town. This is the side view of the property taken from across the Boulevard over in front of the Adams Building, again you can see to the right the Social Security building and the far left in the back you can see the Transportation Department. This is a land use map that is part of the City of Pikeville's Comprehensive Plan updated on April 2005 and I did want to mention that because we do have the benefit of a brand new Comprehensive Plan, I was actually fortunate enough to be a party to that. When I sat on the commission

we spent a whole lot of time trying to get a game plan together as far as development for the City of Pikeville. I have enhanced here the particular area that we're talking about, it's the end of the horseshoe the left side of the horseshoe, as it comes down this way that's Lorraine Street and then obviously the Boulevard runs the entire length of the horseshoe. And what I wanted to point out here is that what the City has attempted to do, especially on this end of town is along the major arteries of travel, the ways of ingress and egress into the City of Pikeville, they have made it a point to zone those properties commercial. And as you can see in this particular area specifically, the property that we're here on today is at the point of the arrow in the legends to this particular map shows you the green boxes do represent commercial property, so as you can see, considering the fact where this property is it is commercial essentially all around it except for behind it which is the river. The City has seen fit in the Comprehensive Plan to really move progressively towards multi-use properties on this end of town, and I'll talk a little bit more about that as we go on. This is a different map but it's the same thing really, this is the map of the City of Pikeville's left side. It is a zoning map as you can see, and the area that we're talking about is in the red

box. If you enhance that you can see the street names, Myra Barnes, obviously St. Claire, Riverview, but those are all in the same area, and the point I would like to make here is that the colors purple and green represent commercial districts, and that is essentially what you see on the streets in those districts. So, you can see the move has been away from residential alone, these major arteries of travel. I'm not referring to the streets back, St. Claire obviously and Riverview because they're insulated. This particular area, especially this property though, it does lie on a major artery of ingress and egress into the town. Lorraine Street as you all know it services the bypass, it's a major artery in between the bypass and the City of Pikeville but since I've lived there and I didn't know this before more importantly, it is the major way that people can come from the Boulevard to get on US 23. So, there is quite a bit of traffic but it is four lanes so it is a major artery there for travel. That obviously represents the house that, the property that we're here on today and what I had done is I wanted to emphasize the point, if you take a look around this property, it's essentially surrounded by commercial classifications as far as zoning goes. It's across the street any way you look and it's starting to creep in behind as well. So, you know, most of these

classifications are in the last ten years and I know that from looking at the prior Comprehensive Plans and comparing those to this Comprehensive Plan. This is the same map and again there is the house and what I wanted to do here was to give you a perspective of exactly what I'm talking about in regards to the house being surrounded, or the property being surrounded by commercial property. C-2 across the street that represents obviously the welfare building and the Kentucky Governmental Building. C-1 up to, if you're standing on my front porch it would be to my right and that's opposite of the Transportation Cabinet. C-2 to my direct left is the Adams Building. C-2 across really to my left as well there are two office buildings there that you can't really see that have, have been occupied and vacant back and forth, but all these are commercial properties and all these, and the point, I think it's important to recognize, to realize, that they all lie, they all have one thing in common with this property that we're here on tonight is that they all lie on major artery of travel. I really do feel like that this house is a business, a commercial property already for purposes, everything beside living there, you know, it is what it is, it's surrounded, essentially it's landlocked at this point. This is an overview or an aerial and what I did, I took, I boxed in the

commercial districts with red lines just for emphasizes to show again you've got the commercial classification surrounding, and this, this right here, I think, is really important to point out. My place is right there in that aerial, when you take a look, these are all commercial properties within anywhere from two to five thousand feet of that house. There's 15 of them. When they're all up here and this is kind of why I wanted to do the Power Point cause when you look at it from this, I'm sorry, when you look at it from that perspective, you really can start to see in fact that that particular piece of property is really by nature it's already commercial. It is essentially, it is an island to itself, considering all the properties around it. So, I took a look at this and I really wanted to do this not only for your all's benefit and mine but to, I do sit on the Commission and, you know, I did have part in that Comprehensive Plan and I just wanted to make sure that everyone knows that what I'm asking for is really, it's legal under the statutes, it's legal under the existing case law, and that's the only reason I did this, I really went above and beyond, probably what I normally would've done just for the sake of the fact that I do sit on the Commission, I did not want, you know, to be any type of feeling one way or the other on that. KRS 156.172 sets

forth what's necessary for a map amendment and I highlighted area bottom right hand corner, Pikeville has adopted that and that's law here within City limits. So, you know, the law is uniform between state and city. And when you take a look at the statute this phrase right here is the most important part of that statute. A map amendment is appropriate according to state law and city law when it's in agreement with community's Comprehensive Plan. If it meets, if it's consistent with the Comprehensive Plan you can stop there, if it's not it provides a second avenue that you can go about this includes a "or phrase" which most statutes do. It can also be appropriate, re-zoning can also be appropriate when, it's inappropriate in the way it is, or it's improper, and I think when you take a look at that aerial photo and you take a look at the zoning plats, and you consider the fact that in five thousand feet of that house you've got 15 commercial properties. I think the conditioning zoning is inappropriate but and also there has to have been a major change in economical nature within the area involved and the City of Pikeville has really adopted that as it's industrial and it's commercial area, really, I mean, you've got industrial warehouses up there, you've got the bank, you've got all these buildings so, there has been a major change in that area since we were kids, it's been, I

played tackle football in the yard that's no longer there, when I was a kid. And the City is moving away from that, that is not the residential neighborhood it used to be, it's just not. But it's my position that you really don't have to go to the "or" really the back door, because I think what I'm asking for is entirely consistent with the Comprehensive Plan and I went, I took the liberty, I went and got a copy of the Comprehensive Plan from Robert Smith, and I've highlighted here what the City has seem to do and really make important is and it's set forth on page 1 of chapter 7, which deals with land use, summaries, goals and objectives, right off the bat the City has seen fit to make it a goal to create more multi-use areas, to include residential, commercial, industrial, etc. And I listed here three particular areas, really two areas, Marions Branch really has nothing to do with this particular property, but Kentucky Avenue and Poor Farm as you all know are both within a close proximity, especially Poor Farm, and what the City has seen fit to make a goal is to make multi-use development a priority, and it will need to be zoned. It will need to be re-zoned, so when you're talking about the Comprehensive Plan and whether or not this map amendment is appropriate, you have to really take a look at whether or not it would be consistent with what the City has seen fit

to make a goal, an objective, and I think it's entirely consistent and I'm going to go on and elaborate a little bit, there's a section on page 1 on, in chapter 7 also deals with land use and growth built and objectives and again it addresses Poor Farm, it says, Sidney thinks that Poor Farm needs to be commercial at Hambley Boulevard end and I wanted to make sure and point out to you guys that because that goes along with the goal of, what the City has done as making commercial along with the major arteries, Hambley Boulevard, and in my position Lorraine Street as well, so, and again it's allowed for commercial building only. Cedar Creek's already zoned multi-use so.

Mr. Blackburn:

Come on up Phinis, come on up and have a seat. We're talking about highly decorated veterans earlier and here comes one up the steps. Lost his leg in a bomb in World War II. Come in, sir, take a seat.

Mr. Potter:

Sorry, traffic's heavy.

Bill Blackburn:

That's alright, we're glad to have you. That's unbelievable coming down 23. Where's all that coming from? Kenny Rogers was in town last week. I was coming back from Lexington and I thought where are all these people coming

from? Let me update you here real quick. This is Shane Hall; you probably know him, one of the commissioners and he's here this evening, attorney here in town, owns the old Spence house down there, Dr. Spence's house, down there on Lorraine Street going up by the Highway Department. If you know where I'm talking about there, the street that runs from Hambley back to the old bypass there where the Highway Department building is. He owns right there on the right, Dr. Mann's next door neighbor and you go on up the street a little bit and you come to the pond there on your right. John Steven's there, he's wanting to change that, you probably got in the packet in the mail.

Mr. Potter:

I received that.

Mr. Blackburn:

You received that, that you had the map on. He's wanting to change that from residential to C-2.

Mr. Hall:

Actually I think C-1, Bill, it's probably what, it may say C-2, but C-1 is my understanding is the reason it's difficult for that particular property but whatever you guys think _____.

Mr. Blackburn:

Well, didn't I see on most of those earlier

plats that you showed us, wasn't most of those around there C-2's or were they C-1's?

Mr. Hall:

No, you're exactly right, most of them, not all, but most of them are C-2's and I think what you get into on the C-2's is, they are, they're the ones bordering Hambley, which Hambley obviously is all commercial.

Mr. Tackett:

The difference probably is C-2 is everything C-1 is plus you're allowed to have more units within one structure.

Mr. Hall:

Right, and you still, if you're C-1 you're still, I think that's important, use that as a residence too, you're still able to use it as rental, and I'm living in that house so, you know, I think C-1 is appropriate. That's what I conclude for purposes of this land.

Mr. Blackburn:

How was it advertised in the paper, Karen?

Ms. Harris:

Shane, it's partly -- well it is my fault that it's C-2, I was under the impression that it had to be what the adjacent properties were and that if it was C-2 then

that's the only designation you can change it to, I will refer to you all because I'm not positive.

Mr. Blackburn:

We'll have to check back with Rusty on that.

Ms. Harris:

But I did advertise that as a C-2.

Mr. Tackett:

But if he's wanting something less than what it was advertised as, there shouldn't be any problem.

Mr. Blackburn:

But I think in a way though, the C-1 is more open than the C-2 isn't it?

Mr. Tackett:

No, no, C-2 is more open than C-1.

Mr. Blackburn:

Which one has the zero setback line?

Mr. Tackett:

C-3.

Mr. Blackburn:

C-3 is the only one has that? Alright, so you're saying you're actually wanting a less restrictive than the C-2.

Mr. Hall:

Yeah, I actually have a slight, yeah it's C-1 I

think, and for purposes of where we are right now, I think C-1 is really more appropriate.

Mr. Tackett:

C-1 permits offices within a residence.

Mr. Hall:

Exactly.

Mr. Blackburn:

Did you all have any questions about that before we go on, anybody? Alright, go ahead and then we'll come back.

Mr. Hall:

You know, this is another map, these are proposed map revisions, and again, this just shows that the city is moving along those arteries, major arteries, they're moving towards making these properties multi-use as entirely consistent with what the Comprehensive Plan says. And this is the slide where I put in for C-1, neighborhood commercial districts, and I highlighted the reason I thought that was appropriate because it does deal with land located in residential neighborhoods, it does deal with businesses that are established, that front arterial or collector major streets and finally like I pointed out, you know, it allows residents that are existing there prior the adoption of different zoning classifications to remain or be permitted

to continue former restrictions, so, you know, that's really what I had in mind when I was considering this, I threw in for purposes, just for your all's benefit, I researched the case law in regards to map amendments, what the Supreme Court, what the Court of Appeals had held to be appropriate and for the purposes of map, you know, and again, right off the bat, this is, our Supreme Court is the highest court of Kentucky, you know, these amendments has to be consistent with the Comprehensive Zoning Plan and, you know I think, it certainly is, I'm not asking for anything that's not consistent with the Comprehensive Plan, because everything is moving toward these multi-use properties anyway. Kind of skip down there, Court of Appeals has held that it's appropriate to take into consideration whether exist evidence supporting the position of that property, existing zoning classifications is inappropriate, that's a mouthful, but that particular case is actually on point, and what that case said, what the Court of Appeals said, in that case there was an area that was actually backward, they were asking to re-zone from commercial to residential. And the evidence that the Court of Appeals looked at was this is an area that there had been relatively zero commercial growth since it had been classified commercial. But you take a look at this area, there hasn't been any residential growth,

it's all been commercial, so that case is a little bit backwards, but it's directly on point with what we're talking about here tonight. Whether there's been substantial change of conditions, you all have lived here your whole life, you know that area from when the bridge was there, you know, it has changed considerably. Since it was classified residential. And the most important thing for Ben and Elizabeth is, you know, it's appropriate when nothing is going to happen that will change their use of it, and I'm living in that house, and I'm not asking for anything that will change the usage of their properties. All I'm asking really is to protect myself because I feel like I have been consumed by commercial property and I think that map shows it pretty clearly. I included here the City Ordinance solely for, the whole purpose of the zoning for part of the ordinance is to secure the most appropriate use of the land to facilitate adequate economic provisions for public improvement in accordance with the Comprehensive Plan that keeps coming up because that's really the standard, and then for the desire of the future development of the City, so I feel like what I've asked for is entirely consistent with the purpose of the City of Pikeville's ordinances. You know, and I've set through here why I think it's appropriate and really and truly this just goes along with what we've

already talked about, it's not, I don't feel going to alter Elizabeth's and Ben's use of their property or Dr. Mann's, you know, and quite frankly the character of that particular property has changed over the years, it's not, it's no longer, in my opinion, it's no longer a residential lot, it's really, it's landlocked and it's more commercial than it's residential, especially since the Social Security Building came in. 40 feet from my right or upper left there's garbage, there's a parking lot, there's no yard there for kids to play in anymore, it's not the same place as when I grew up, so, you know, essentially, you know, that's what I have and I'd be happy to field questions that you guys, you know, I obviously would like to hear any concerns that they have and I'll try my best to answer any questions anybody here has.

Mr. Blackburn:

Alright, thank you for that presentation. You did an excellent job by the way and that was very impressive with the Power Point. Anyone else have comments from the floor?

Ms. Powell:

I just have a question.

Mr. Blackburn:

Go right ahead.

Ms. Coleman:

I'm sorry, if you'll tell me what your name is and if you'll stand up so I can hear you.

Mr. Blackburn:

Yeah, if you'll stand up and speak out, cause she's needs to get everything down.

Ms. Powell:

Elizabeth Powell. Simply, I know you said that a C-1 can put an office within a structure. What exactly could C-1 be developed as? What are all the things allowed on C-1?

Mr. Blackburn:

I'd have to get those statutes out, there's a list of things.

Mr. Hall:

I looked at it, it can't be anything that would require, you'd have to be able to use within the residence.

Mr. Tackett:

It cannot be an additional structure.

Mr. Hall:

Right, it can't be a drive thru. You can't, it couldn't be a nightclub, you can't come over in the night and put a nightclub in, no, it can't be anything like that.

Mr. Tackett:

If you go to C-2 you could put in different things, but in C-1 you cannot.

Mr. Hall:

It really...

Mr. Hogg:

Retail establishments or ...

Mr. Powell:

I'm Ben Powell and I'm Elizabeth's husband. I live right behind Shane, and my family's been in real estate business and so has Elizabeth's and doing a weekly before this area board, you know, a month from now asking for a change and you know, we're certainly for progress and I have no reason to think that Mr. Hall is misleading us in anything he presented here and stating that he wants to continue to live in the residence, you know, my main concern would be some of the restrictions that Elizabeth brought up would be, you know, any sort of transfer of the property to the next guy and plus forcibility that they may have. Office buildings, something like that, you know is one thing, an after hours business or something like that is something I would have a problem with, if I'm trying to put my daughter to bed and I hear a bunch of people, you know, rattling around outside, having all kinds of...

Mr. Tackett:

That would not be permitted as a C-1.

Mr. Powell:

That would be my major concern, there would be something that could actually be an after hours or weekends and I think that's basically what we were trying to say.

Mr. Blackburn:

We appreciate it. Other comments or questions?

Mr. Hogg:

Steve Hogg. My only concern, and I understand the need and is where Mr. Hall's house and Dr. Mann's house and then a house that doesn't. The front about three in a row there, you have Mr. Hall's house, Dr. Mann's house and then you have Riverview Drive, which I live on and from Dr. Mann's house it exits right out to...

Mr. Blackburn:

You've got Jimmy Parson's on the other side, that's Wayne's nephew.

Mr. Hogg:

Jimmy's house doesn't face.

Mr. Blackburn:

No, it faces your street.

Mr. Hogg:

I'm impressed that people know the name of Lorraine Street, I would've never known the name of that

street: I thought the street was the Highway Department, that's what I know, so. But that, we've always heard rumors, Dr. Mann spread rumors that we're getting a fire station across from us or a gas station across from us, I don't know.

Mr. Hall:

I can tell you, you ain't getting a fire station so don't worry about a fire station.

Mr. Hogg:

Well he mentioned that, so I don't know, but that's my concern, where doctor, if this one goes, and again I understand, to me it's a domino effect all the way through there and the main problem I would have, if we have a, I mean it's hard to believe people would drive up and down Riverview at 60 miles an hour, well 60 may be a slight exaggeration, but not over, they will, they drive through there. I was going to ask James to see if the city could put us some speed bumps up there, we've had some problems with people driving fast. Dr. Mann's house and you live, Mr. Tackett lives back there and Mr. Parsons, and that's the main concern that Dr. Mann's house and then that and then Mr. Parson's house would be facing the other way would be the same as it would be.

Mr. Hall:

Exactly.

Mr. Hogg:

And I can, I see that, I understand that, main artery is that street, the Highway Department Street, and I do understand that. I always wanted to put a river boat behind my house. I don't know that may be a C-3, it maybe like a C-5. The Plan would have across the street, we would have something, I don't even know the hours; I know they wanted to put a TV station over there at one time.

Mr. Hall:

The state owned that.

Mr. Hogg:

The state owned that. They may never put it there.

Mr. Powell:

I have another question, outside business applying for permits to operate in city limits, any, if Mr. Hall ever decides to sell his property and then someone bought it, is there another screening process that person would have to go through, even with city ordinances now, would they be able to change the zoning.

Mr. Tackett:

They'd have to apply for a permit, yeah.

Mr. Blackburn:

But other than they wouldn't have, it would still be zoned C-1, they'd have to go through the regular permitting process for a business, I guess.

Mr. Powell:

I guess that would be my question, would there be an appropriate forum for me to bring those concerns to order at a later date if a person came in and applied for a business license for something that would be open of the evening and weekends, would there be any, you know, central...

Mr. Elliott:

There's a list here showing what businesses there could be.

Mr. Tackett:

Yeah, let him read that list so that everybody will know what that is.

Mr. Blackburn:

C-1 neighborhood commercial district, the purpose of this district is to encourage development for commercial purposes of small areas of land located in largely residential neighborhoods where such purposes are compatible with residential uses. Principal permitted uses in this district are any retail businesses or services

establishments which supply services for primarily for residents of the neighborhood or which general small traffic volume which is not disruptive to the neighborhood. Such businesses or establishments must front on arterial collector or major streets, uses include the following: Apparel and accessories, clothing, bridal, shoes, etc., apparel or accessories stores, clothing, bridal, shoes, and etc., banks, bicycle shops, book stores or newsstands, business offices, churches, credit agencies, drug stores, eating and drinking places without drive-in windows or drive-thru service, floor shops, food stores, that is grocery or bakery with less than 4,500 sq. ft. of usable space, gift shops, coin shops and art supply stores, jewelry stores, laundry, musical equipment and supply stores, photo studios, shoe repair shops, travel services, a watch and clock repair facilities, and then these are conditionally permitted uses, conditionally permitted uses shall be as follows: agriculture uses, automobile repair, minor that is, filling stations for other uses compatible with characters surrounding residential districts as authorized by the Board of Zoning Adjustment including any use permitted in or C-2 districts which would not over burden the street on which the use fronts. Let's see what else, it goes on, prohibited uses shall include eating and drinking

places with drive-in windows or drive-thru service, required conditions, these are required conditions, all businesses, services or processes shall be conducted wholly within a completely enclosed building except in filling station a conditional use, all providence process shall be sold primarily on the premises. Process equipment use shall be limited to those which are not objectionable by reason of odor, dust, smoke, gas fumes, noise, vibration, refuse matter or water carry waste. Residential uses: all residences existing before the adoption of this chapter shall be permitted to continue as conforming structures. All future residential development within this district shall perform to R-3 requirements. Height and yard regulations: No principal structure shall exceed two and one half stories or 30 feet in height, lot size shall be no less than 50 feet. Front yard depth shall be at least ten feet, so these are the setbacks. Just out of curiosity, before I, there's just two or three more lines, what is your dimensions?

Mr. Hall:

I have to look at the deed. I know for sure I have ten feet from...

Mr. Blackburn:

Yeah, ten feet on the front setback.

Mr. Hall:

I don't think there's any problems with that and those conditional uses, that's a different issue.

Mr. Tackett:

They'd have to be approved by the Commission, or actually by the Zoning Adjustment Board.

Mr. Hall:

I mean, it's as restricted as you can get.

Mr. Blackburn:

Rear yard depths shall not be less than 20 feet by, what this pertains to is if you're just going a vacant lot and they go on there and build, they have to conform to these things. No side lawn of this establishes adjacent to any R district shall be the same as those of the adjacent R district otherwise no sidewalk requirement shall apply. Accessory uses, any accessory use of buildings, customarily incidental above mentioned permitted uses shall be permitted.

Mr. Tackett:

That's sheds and garages and that kinds of stuff.

Mr. Blackburn:

Parking and turning, and then it says see the performance standards in another clause and that's pretty

much the entirety of it. Do you all have any questions or comments about that?

Mr. Powell:

The only one that's concerning to me within that list is restaurant. Would there be any other event, any other forum than this if at a later date someone decided they were going to open a restaurant?

Mr. Elliott:

One thing that was in here, I picked up on, and I'm figuring your concerns are the noise, but if I understood it right the restaurant would have to be enclosed within a house, it couldn't be outside dining area, so that would probably take care of any noise level that you would be concerned about, it would have to be contained inside.

Mr. Hall:

There's no way you could put a restaurant on it, you'd just have to really look at the structure of the house and knock down a wall, it's a house, the only thing you could probably put there is an office, really and truly.

Mr. Blackburn:

I think their point, if I understand it, is if you should, if the property should change hands and even though your intentions right now is such as not to put anything, or it might not be suitable for anything but an

office is it would have that zoning designation, then someone, what you're asking, is could put a restaurant in there?

Mr. Powell:

Correct.

Mr. Blackburn:

Let me ask something here, Karen, and we probably need to check with Rusty, we're not going to be able to take a vote on this tonight because we're one short anyway. What will be done this will come out in the minutes and the other members before the next meeting will be able to read this and know what went on here and what we've discussed and so forth, this is first time in quite a while we haven't had a quorum. But we don't and so we'll have to take action on this at the next meeting unless we have a special called meeting, but this meeting's not a waste cause it will all be down and they can read over it and that will save us some time in that respect. Do we have the power on these, if we did grant something like this, do we have the power to put exceptions in there to say that, I guess, what someone could do is one way around that, and Steve and Shane being attorneys could help us with that, maybe, is you could probably put a private deed restriction in your deed. And say that this could not be used for anything but it'd have

to be done and that would be something you attorneys to work out in a way that the next party could not change that to allow there being any use of that late hours, or that would effect the quality of the neighborhood, which it sounds like to me you wouldn't object to something like that?

Mr. Hall:

Not at all, I mean, I'm still living there, you know, I mean, I'm just really trying to protect myself, but I feel like I'm living in a commercial district anyway, I mean, any way out of my yard I'm in a parking lot or a street, you know, that's the only reason I'm here, there are no other ways to explain it. That's why, really and truly, that's why I took so much time to give you all the law on that deal and everything, is because I did not want them to think there was anything other than ..?.. motives for all of us here, really and truly.

Mr. Blackburn:

Other questions or comments?

Mr. Powell:

When would the next zoning meeting be?

Mr. Blackburn:

They're scheduled every other month. Second Tuesday at 5:00. Now sometimes when there's a pressing

issue, we'll call a special.

Mr. Tackett:

But that would be post...

Mr. Blackburn:

Meeting. Steve and Ben, this is Ernie Powell's, you knew Ernie Powell's grandson, down here. Do you all, you all expressed your concerns tonight and I can understand that, where you're coming from and I'm sure Shane can. If there was some way or some manner to put in a private deed restriction or deed covenant that would restrict that from being used, I think what we're finding here and the statutes have good purposes and good reasons for them to protect property value, protect the City's property base, property is suppose to be zoned at their highest and best use. And he's certainly made some strong points being on a major thoroughfare and so forth and fronting it and what's going on around him. I mean, his position and I think you all made some very strong points being in that neighborhood and not wanting the quality of your neighborhood affected. But these are general zones and it sounds like to me that a hybrid here is sort of called on. Am I understanding you all probably wouldn't object to that maybe being used as an office or certain professional uses? Am I understanding that right?

Mr. Hogg:

Well, I, you know, I maybe not be as much for progress as these others fellows; I'm more of an old fashioned guy. We didn't have a stop light for a long time. But, and Shane is down here, Dr. Mann's house is more my concern actually, the street that leads into where I live. And I didn't realize C-1 could be a gas station even though it's a conditional use. You know, of course, the price of gas, I don't, I can't imagine putting a Super America out there. But we don't have red lights on either end of Lorraine Street and you know that's a concern, I have a problem with that too sometimes with traffic. But, no, the main concern is that both, to me, let me, Shane, I have no question, honorable, I mean, he's doing what he thinks is right, for that, and I understand that, and, but that whole strip there is what concerns me. And it is -- and to put an office in Dr. Mann's house, do that, and Mr. Parson's house, and Mr. Parson's house is different where it faces the river, but that's my concern anyhow and offices on all three of those, I mean, that may be appropriate.

Mr. Tackett:

If you look in R-1A, that it's classified right now.

Mr. Hogg:

I live on Riverview Drive, it could be anything, I have no idea.

Mr. Tackett:

It's classified R-1A, and R1-A will allow a lawyer's office, dentist office, medical office, various offices within a residence, in your home, where you live.

Mr. Hogg:

So Mr. Hall wouldn't need to change this.

Mr. Tackett:

Not for that purpose necessarily.

Mr. Blackburn:

There's conditional uses, there's some restrictions.

Mr. Hogg:

So why, if I understand correctly then if people apply not to change the mapping to make this C-1 as applied for a conditional use under R-1 whatever Mr. Tackett, R-1A, if you made it a conditional use under R-1A as an office for that space, which is a conditional use to be permitted.

Mr. Tackett:

I think you might be able to...

Mr. Hall:

You have to live there too?

Mr. Tackett:

Yeah, you have to live there.

Mr. Hogg:

Oh, I didn't understand that part.

Mr. Blackburn:

Let me tell you what our, I think, I don't want to, you know, our position is we're a small town as you all are well aware, we want to progressive but we want to be friendly at the same time. Everybody knows everybody and that's good, I think that's a plus for a small town. There's a plus and minus to everything, but what I would like to do here is work out to where everybody's happy and have a win-win situation not a win-lose situation and address your all's, you know, concerns and if we can work it out to where Shane's happy and work it out to where you all happy and address those concerns that is what I would like to see, you know, happen here. And I understand both sides of this. I think what Steve is saying is very logical, it's only logical if we set a precedent for putting yours in the commercial classification that it would follow suit that Dr. Mann's and Jimmy's would be made into that too, and it would probably as a rule improve the value of their homes and I wouldn't blame them for that and from my position I'm not so

sure that's not the highest and best use of that because it does front the four lane there and because of some of the points.

Mr. Hall:

Well that just occurred to me, Bill, and really and truly it may address some of Steve's concerns that those three properties, really mine and those two, Dr. Mann's and mine are the only ones that are appropriate C-1 because they're the only ones that front a major artery of travel, none of the other homes do.

Mr. Blackburn:

Would Jimmy's, I mean, I've been to Jimmy's, I don't know if he'd ever be interested in that or not, but I can see him because even though it's the side of the artery, it.

Mr. Tackett:

It would not qualify for C-1.

Mr. Blackburn:

Not for...

Mr. Tackett:

Not C-1.

Mr. Blackburn:

Right.

Mr. Hogg:

Have to look at the statute.

Mr. Blackburn:

Yeah, I mean, I'm just making the point if we believe and utilize something at it's highest and best use, people should not be penalized for using their property at it's highest and best use. There's some theories that go into that as far the best tax base for the City as well as the highest and best use being respectful of the quality of life in that area. There's a number of factors that come into that, but we could not based upon if we use, I would think Rusty would back this up and you attorneys, if we set a precedent to let one party that has land fronting that to do that it would be hard pressed not to allow the other party to do that, I would think, I don't know if that would really be fair or not, but, I mean, that would be something, from what we've said here, from what you all have heard in our talk, are you all seeing any possibility here of both parties being happy? If we check with Rusty and there's a way that as the Commission that we could approve this with those restrictions in there, restaurants, gas stations, any late hours. How would you all feel about that?

Mr. Hall:

That would be fine by me, that's, really and truly, that's the conditional use that you guys would have a

say so on anyway, I mean, that's really outside the C-1 usage, I would think, so...

Mr. Blackburn:

What we read in here it did say gas stations and restaurants.

Mr. Hogg:

The restaurants are a concern.

Mr. Hall:

I'm their neighbor even after we leave here, so I'm not here confrontational at all.

Mr. Blackburn:

Absolutely.

Mr. Powell:

This entire process is an education to me and that's why I wanted to hear and again I appreciate the reading of the C-1 description, and the proposition that you were making certainly would rest my major concerns.

Mr. Hall:

I mean, me personally, I mean can you put covenant on something like that? Can you restrict someone down the line how they can use the property?

Mr. Hogg:

For so long you can.

Mr. Blackburn:

Why don't I make a suggestion and..why don't you all before the next meeting get together on the phone, if it's okay with you all and maybe Shane, you can talk to Steve and he can talk with the others, you all are attorneys and talk about this, get a copy of this and get up with Rusty Davis, he's the City, let him review all this and that's what we would do anyway, to be honest with you, we would defer to him and get with him maybe and you all talk this out and maybe there's a way that we can do this and make everybody happy.

Mr. Hogg:

I would just like to say, I would've objected to the Social Security Building taking away the yards, but I didn't.

Mr. Elliott:

Were you already there, Shane, before the Social Security Building or did you buy it?

Mr. Hall:

I bought as it was being built.

Mr. Elliott:

So it was already going in.

Mr. Blackburn:

Karen, can you get them just a copy of what we read there?

Mr. Hall:

Let me ask this, does this need to be re-advertised? Since it was advertised C-2?

Mr. Tackett:

No, no, I don't think so.

Mr. Blackburn:

We better check with Rusty on that, just to make sure. I wouldn't think, this is a guess. Because the C-2 or the C-1 is more restrictive than the C-2, I think, but we better check with Rusty. It sounds like to me that you know, it's just a major, and I understand that, I know where I live there's some property there and it's planned there's development and some of it's being sold off and we were concerned in our neighborhood about what was going there, the same thing you all's talking about. And a church went in there which, then they were glad to have it but we were very concerned, so I understand both sides, I understand your side because that does seem like the highest and best use of that along Lorraine Street, so there's merit in both sides and...

Mr. Hall:

And this is the hypothetical that I propose that I was going to propose to you all anyway, if that house was burned and say you had to start from scratch, I don't

think anyone, including me, in their right mind would build a house back there, I just don't think that is appropriate, you could, under the ordinances, but that is not a residential property and I think that's the best way to point it out, if you had two small girls, like I do, I don't think anybody would build a house back there and I think that's how you tell it, that's just not, it's an outdated classification for that lot. Now I'm not speaking of anybody else's.

Mrs. Powell:

Well, but there's also houses there too; those people might, I don't know.

Mr. Blackburn:

I'm going to guess that there's a way for Rusty to do this, I'm going, you know, what's the laws, we're not made for laws, the laws made for us, and you know, to me it just comes up short there being too general of classifications and we need something a little more restrictive, so I'm going to guess that there is a way he can address this.

Mr. Hall:

Thank you all for hearing me.

Mr. Blackburn:

What will happen now we'll the next meeting

will be and if you all get with him and can work out something and then maybe at the next meeting we'll address that and everybody will be happy, how does that sound?

Mr. Hall:

That's fine, and just for clarification, what are we suppose to be talking with him about?

Mr. Blackburn:

Karen, you understand the situation here?

Ms. Harris:

Yes.

Mr. Blackburn:

And then I'll have him call me.

Mr. Hall:

She has to help me all the time anyways, cause I don't know what's going on in those meetings.

Mr. Blackburn:

You talk to Rusty and Steve, if you want to call him, and does that sound good to everybody?

Mr. Tackett:

We're scheduled on the agenda for next time, for approval or disapproval, is that right?

Mr. Blackburn:

Thank you all for coming.

Joint Planning Commission
12-13-05

Bur Blackburn

Judy Coleman

Elliot

Wagner Sackett

Bushnell

Michael Powell

Stacy

M. [unclear]

Karen Harris

Phenix Potter