

Transcription of tape from City Council Meeting, 4/7/03

(Jim Tolbert) The property is surrounded to the southwest and east by industrial uses, to the north the property is adjoined by a vacant lot followed by residential uses along Burgess Lane.

The proposed M1 zoning is consistent with the land use plan, in the comprehensive plan, which calls for industrial uses on the site.

The 1972 plan is the earliest that we found that goes back that and actually designates this property for Industrial use. And it has remained consistent from '72 on through the current comprehensive plan and the land use plan, a portion of that comp plan.

The Planning Commission heard this, again as I said, on November 12th of 2002, and voted unanimously to recommend denial of this application to the City Council.

(Maurice Cox) Thank you very much. We will open the public hearing.

(Bill Emory) My name is Bill Emory, I live at 1604 East Market Street. I think it is sort of fitting that this discussion is taking place during Fair Housing Month.

One of the strengths of the Woolen Mills Neighborhood is its diversity.

This is a letter I sent to you guys, I am just reading it out loud.

We are a heterogeneous neighborhood made up of all kinds of people, rich and poor, Democrat and Republican, professional and blue collar.

The neighborhood has a long history of working with business. In Charlottesville's early history, the port of Pireus, located in at the east end of our neighborhood, was Charlottesville's freight terminal. To this day, muscular industry lines our entire southern border, from the Rivanna River to Meade Avenue.

These include Security Storage and Van Lines, VA Land CO, Isotemp, Festive Fare, Yves deLorme, Roadway, Overhead Door, Data Viz, H.T. Ferron, Lexis Nexis, Worksource, Carlton Business Park, Martin Horn Construction.

As a neighborhood we do our part bearing the industrial burden for the City of Charlottesville.

In the twentieth century, the industrial development and more intense use of land on our southern border began to build into the residential/pastoral part of the neighborhood .

I am sorry that the maps up here aren't bigger. They are sort of like the embedded reporters, that's just a teeny little slice. But if you could see the whole neighborhood at once there is essentially a flood of what is variously represented as black or grey on the city maps coming up into the neighborhood from the underbelly, from the south.

So during the 20th Century this industrial development has started to build into the residential part of

the neighborhood. These things include- and some of the things are great uses and I don't mean to complain about these people.

They include JABA, Harry A. Wright INC., Artisan Construction, Waste Management, Tiger Fuel, the National Linen building, Woolen Mills Mini-Storage, and Virginia Locating Service, although I think they are moving out and a new tenant is moving in.

Developable land in the city of Charlottesville is in short supply and affordable housing in the City of Charlottesville is in short supply.

As a neighborhood we'd like to see the 2025 comprehensive plan brought in line with the current residential zoning on Burgess Lane, there are six lots that would be affected.. Again, that is shown up there on your map.

My fear is that one by one, houses on the south side of Market Street will be destroyed or converted for business use. And that this process will continue unabated until there is little residential stock left south of Market street.

The residential housing south of Market is affordable housing, once it is taken out of the inventory and put to commercial use, it won't be coming back.

Being a mixed use neighborhood is a balancing act. The proposed facility at 1417 Burgess is simply too much. The Lane is narrow, it has only one point of ingress and egress. Installing another heavy business use on Burgess will break the back of the residential community on this Lane and also impact the rest of the neighborhood.

The Woolen Mills neighborhood does its fair share for Charlottesville. Perhaps the facility proposed for Burgess Lane could be located in an area that would be more fitting than a residential neighborhood

Maybe let somewhere else in Charlottesville "share the load".

One other thing, the Planning Commission, who so wisely decided to recommend a denial of this, I submitted this petition to them, and this is a partial copy. It was taken in one day, back in November. I think that 96% of the people I approached to sign it did.

I am going to give that and a copy of my letter to Jeannie.

Thank you

(Victoria Dunham) My name is Victoria Dunham, I reside at 2000 Market Street. I am taking part in this process because I represent the future of rezoning, I live it everyday.

I've lived in the Woolen Mills neighborhood for the past twenty years. I started out living in the historic downtown section of Charlottesville.

My house, which is the former mill-owner's mansion, is located in the County, right over the line.

In the late seventies Albemarle County decided to rezone our portion of the Woolen Mills Neighborhood as light-industrial. This rezoning encompassed family homes, the majority of which were built

in the 19th century This was done without regard to the wishes of the families living there, they were not given a choice in the matter.

As a result of this decision my historic home is now almost completely surrounded by an industrial park.

If Burgess Lane is rezoned to M2 the residents there won't need a crystal ball to see what their future holds, they only need to come to the top of the hill and see how our quality of life has degraded as a result of our rezoning. They can see what we live with 24 hours a day, the floodlights and signs that burn all night, the constant roar of heavy equipment, the trees that have been replaced by concrete and cheap metal frame buildings.

One of these buildings was constructed right on my property line, it's enormous. Because of loss of sunlight, the row of evergreens that were planted to block the view are dying off.

There is nothing we can do to change this because it all falls under the fair-usage in light-industrial zoning.

I am here because I don't want the eastern end to suffer the same fate that has befallen the southern end. Once you go down that path there is no going back, the domino effect. The nice folks living on Burgess Lane deserve far better than that.

It's always been a neighborhood of families and it should remain so.

Thank you very much.

(Fran Lawrence) Mayor Cox, members of Council, I am Fran Lawrence, I live at 1729 Chesapeake Street and have for almost twenty-eight years.

First, let me read again Bill's language because it resonates with my family.

"Being a mixed-use neighborhood is a balancing act. The proposed facility at 1417 Burgess Lane is simply too much. The lane is narrow, it only has one point of ingress and egress. Installing another heavy business use on Burgess will break the back of the residential community on this lane."

We are a wonderfully mixed neighborhood, you can get your electrical-line fixed. If your toilet get stuck we have plumbers, we have electricians, we have bookbinders, we have lawyers, we have low-income housing, we have moderate income housing, we probably have high-end housing.

We have absorbed, we've said to you on occasion over the last twenty-five years, a lot. Not only the muscle-industry that Bill has talked to you about that runs up and down the railroad tracks, that's to some extent a historical accident, but also, we have the community's sewer processing plant and we have the community's primary pump-station for the sewage processing plant and we worry that what we are being asked to do is too much.

Finally, although I share your view Mr. Mayor for seeking win-win solutions to problems, you can't make this use on this property look like a house, and you can't make this use on this property act like a house.

Thank you

(Allison Ewing) Mayor Cox, members of the Council, Allison Ewing, I live at 1900 Chesapeake Street. I'm the president of the Woolen Mills Association. We've had two meetings where we have discussed this issue and at both meetings, one of which the applicant presented his plans, the neighborhood unanimously opposed the development. So, I speak for the neighborhood before you.

In reviewing the application for rezoning at Burgess Lane from R2 to M1, I ask you consider the interests of the Woolen Mills' residents. The Woolen Mills' residents oppose the expanded industrialization of our neighborhood.

If you asked us if we preferred asphalt to lawns, gardens and habitat we would say no. The appellant proposes to consume two lots with building and asphalt. With a neighborhood like to see an over-scaled industrial building side by side with a single family residence to a neighborhood where low income families can find affordable housing? No. The appellant's building is 5,000 square feet, its immediate neighbor is 1,500 square feet.

Would the neighborhood prefer noise of traffic to the lively sounds of kids playing safely in their yards? Would we feel safe having our children play in our yards with vehicles driving past? Would we prefer to smell truck fumes to fresh air? The answer to this question is no.

The appellant's project will bring considerable traffic to the neighborhood.

Would the neighborhood prefer M1 zoning allowing such uses as beverage or food processing, packaging and bottling plants, assembly plants, dry-cleaning establishments, manufacturing and processing establishments and amusement arcades to two-family affordable residences? No.

A rezoning from R2 to M1 will allow the future potential of all the above mentioned uses.

At the heart of the matter is the incompatibility of the proposed use with the family oriented, historic and semi-rural character of the Woolen Mills.

I'd like to briefly address the notion of a compromise.

Numerous discussions, negotiations and agreements with the City have taken place over the years in which the neighborhood has understood developments would only be accepted under certain conditions. I sent you an email earlier today, I'll only note the most egregious example, the pumping station, that was to be eighteen inches above ground and now, of course, the reality is quite different.

There is a pattern of unwitting however progressive compromising of compromises. A Burgess Lane compromise based on proffers will be both an unsatisfactory solution from the neighborhood's perspective and like other agreements lead to further degradation and compromising of compromises.

There is a solution.

Bill McDonough has said, "The question isn't growth—no growth but what you want to grow."

The Charlottesville Zoning Map shows a large chunk of industrial use, in fact junk-yards, not one mile from downtown. Elsewhere in the City the new zoning ordinances proposes a mixed-use approach. The neighborhood is very interested in growth appropriate to the neighborhood, such as a mixed use approach to the area currently zoned as M1. We would rejoice at the transition from Industrial to mixed use..

As the City continues to grow, we imagine this area becoming its own small center with shops, apartments and offices. This is a solution that will not only bring additional business potential to within the City, with its associated revenue but add diversity consistent with the neighborhood character of the Woolen Mills. This is good growth.

We ask you to consider the future of the Woolen Mills and the highest and best use of this property but a mile from downtown. We ask you to deny this petition. Thank you.

(Bill Lankford) Good evening, my name is Bill Lankford, I live at 1404 East Market Street. I own the house next door, at the corner of Burgess Lane and East Market.

I come before you to ask you to vote to deny Mr. Kerley's rezoning petition for the 1417 Burgess Lane property.

I appreciate the long hours and dedication of City Council members that is so evident tonight as in many nights that we have been here, but I ask that you respect the unanimous vote-recommendation of the Planning council who also investigated this issue very thoroughly and spent long hours reaching, I think, a very wise recommendation. The Woolen Mills Committee Association has overwhelmingly gone on record to oppose this and I feel, as others have said, that this would seriously degrade the residential neighborhood that exists on Burgess Lane.

The rest of my remarks have already been covered so I just want to add one personal note.

I was born and grew up in Charlottesville, just off Rugby Road on Winston Avenue. I chose to move to Woolen Mills five years ago because of the diversity, because of the vibrance of the neighborhood.

I knew the railroad track was there, I knew the junk-yard was there, I knew the recycling plant was there, but I didn't expect that to expand to include a massive heating and air-conditioning plant right on the end of the street. And I think that this is not a reasonable change for this neighborhood, it puts more industrial use, more degradation of quality of life on the backs of working people.

There were a number of people that I spoke to tonight and the last few weeks who vehemently oppose this rezoning but couldn't be here tonight because they work night jobs, they work on night shifts, they have obligations that are not the kind of life that I knew off of Rugby Road but is the life of people that are living in the affordable housing that exists now in the Woolen Mills and I urge you, please, to try to preserve that, thank you.

(Michele Mattioli) Mr. Mayor, Council members, my name is Michele Mattioli, I live at 1404 East Market Street and I am here to respectfully ask that you deny the application for rezoning also.

I speak not only as a citizen whose quality of life would be negatively impacted by this proposed industrial use on a residential street but I, like Mr. Kerley, once had to relocate the business that I owned. I had seven employees, I felt very responsible for, and we had to move from the place that we were. Appropriate parcels were hard to find and I looked diligently, I finally found what I thought was the perfect location, but the neighbors didn't want us there, so I resumed the search, and eventually we found a better and more suitable location, and I wish Mr. Kerley the same result.

I was going to recap the history of this application, because it has been quite long, there have been

two votes in the Neighborhood against this proposal. The Planning Commission recommended against it unanimously. We did meet with Mr. Kerley, several of us, were at a preliminary meeting before the Planning Commission so we could try to work things out before it even got to this point, and we expressed our opposition, and tried to find some common ground even at that point.

Some of my major concerns with this application are that rezoning changes the future use regardless of owner, and I've been concerned from the beginning that Mr. Kerley doesn't even own this property, and so I am a little confused about why he's asking for a rezoning and I am concerned about whatever uses that the owners might have in mind if a rezoning were to take place. And, as Allison said, I also have the list of things that could be put there, by right, even in a B3 classification which is all that an HVAC business needs, much less the M1 that is being requested.

The other point that hasn't been made yet is that quite a few owners of properties on Burgess Lane have, just in this last year while we've been going through this process, have renovated their properties, either as their own residence or for rental housing and have invested an awful lot of money and care into those residences and people are concerned about what's going to happen to the marketability of those homes once the industrial creep starts down the street.

And then, moving to some even more specific things, Burgess Lane is 21 feet wide as you know and there are lots of kids who live on that street and there is not room for box trucks and vans and pickup trucks and children on that street, it's inappropriate and unsafe.

I also am concerned about the large parking lot and the large footprint of the building, especially from an environmental perspective, being so close to the river, that's not going to help the quality of the Rivanna River. And, one other concern is that fabricating sheet-metal I understand is a very noisy proposition, and even though there has been some proposed soundproofing of the building I don't feel assured considering that I can see this property off of my back deck that I am not going to be hearing sheet metal being fabricated in addition to all the industrial noise that we already have which I also accepted when I moved in but didn't anticipate having more.

So, we don't want anymore noise, commercial traffic or pollution in our neighborhood, and we have come out time and time again as a neighborhood on this issue and we hope that you will respect our concerns. Thank you.

(Pat Deane) Hi, I am Pat Deane and I live on Burgess Lane, I am a little nervous, I don't usually speak... But I've lived on Burgess Lane for twenty-three years and I've raised three girls, and I have a grand daughter that is there alot. It's a nice quiet place and if you put another business at the end it's going to totally change Burgess Lane. It's a family street, we care about our neighbors, we check on our neighbors, we help each other, it's like, what do you call it? We watch out.

So my kids play in the field, we call it a field but it's the backyard to all of the properties, they can go behind, one house to another house to another house without ever having to go into the road. And if you build, if they took this house and you build it into a business that's going to take away this little roadway for the kids and this means they would have to go into the road, and if we have more traffic that's going to place more danger to the kids.

We have increased a lot of... my next door neighbor bought her house, shes done a lot of landscaping

and we are doing a lot of landscaping for our house. We own what is called a Homestead home, it was built in 1910, it's the oldest house on the street. We don't want to move but if they keep rezoning and more businesses keep moving in on Burgess Lane, I mean we are not going to live there, we are going to move and my neighbors are saying the same thing, because we hear Wright's Junk-yard every morning, about 6:30 to 7:00 a-banging banging banging banging. Then we hear the recycling plant/center over there dumping stuff in and we have got the vehicles for the business across from us, they start coming in about 6:30, 7:00. And then in the summer time we deal with the mosquitoes from Wright's Junk-yard and then we've got concerns ourselves that if you put another business in it's going to have materials in the parking lot it's going to hold water and that's going to be more mosquitoes. I just want you to really think about it because it's home.

(Steve Holsapple) Thank you, I am Steve Holsapple, 1611 Cherry Avenue, and I am a small business owner here in Charlottesville and I am thinking about the small businesses, you know where they are going to go and what change we need to make to help the small businesses instead of you know I know the residential area is important but I think about the businesses too. We live our dreams trying to grow within ourselves, to prosper and to make a change in our lives, to better ourselves, and then we look and we find ways to do it and then we look at the prospects sometimes to give away.

I've done some research on the location, and what I came here tonight to say was that the lot is on the end of Burgess Lane. You got a junk-yard behind you, you got a fastener place beside you, you got a construction company in front of you and you've got a scrap yard on the right-hand side. So, what I am trying to say, is then on the left side you have a vacant lot. And I think that JLK Incorporated Plumbing and Heating should have a chance to build his building there and I think he should have a chance to grow within his company. He has been in business around fifty years. I think that we was talking about several things tonight and I just think that I don't know where the small businesses are going, if you are a medium-sized business or a large business you got things to look forward to to help you but if you are small it's like everything caves in on you, you need some help. And it looks like it's getting worse and worse like that.

Like I said, I've done some research on that lot and we was talking about breaking the back, breaking the horse's back and that lot has already been approved for four duplexes. And we are talking about traffic up and down that road, we're talking about four duplexes, three bedrooms each. We are probably talking about two cars each and we're probably talking about four people or five people in each apartment.

Permits has already been gotten on them.

We talking about people. He's got between, I checked with the Company and he's got between twelve and fourteen people. Now, I know for a fact that in these duplexes we'll have probably around sixteen people. His twelve to fourteen people will be running on that road probably five days and the people that will be living there will be sixteen people seven days and that's not counting their visitors that they are going to have.

So all I am asking tonight is to be fair, and you know, we was talking about the appraisal of the home and the work they done and the value. If you put another industrial building back there that's going to make the value go up that's not going to make it go down.

Commercial property is it's far fetched to enrich the neighborhood instead of throwing negativity into it.

I just think that sometimes the small businessman don't have a chance. I think that, I think that we need to give Mr. Kerley and his crew a chance to grow.

And the building, you know, it ain't going to be just an old metal building. I think that he'd work with you, I think the building would be, he could make a brick front on it or a brick side or whatever you had to do to make it more homey. You know, it ain't got to be just some old metal building you throw up.

If it takes shrubs to please you all I think he'd work with you, I don't think he's the type of guy not to. He's a very caring person, I've met him myself and dealt with him a few times and I think that you ought to think strongly about giving him a chance to build on that site. Thank you all very much.

(Rosemary Johnson) Thank you, my name is Rosemary Johnson, I have a home at 1407 Burgess Lane. And it's a lovely home, it was owned by the family that originally was named parts of, the street to be named Burgess Lane. And it's got oak floors and it's got a porch and it's got a basement, it's just really lovely. The windows are huge, and the property is lovely, it's landscaped and it's got a large yard with a humungous maple tree that turns red in the fall and I love the house.

I also know it's got a lot of mosquitoes. One morning I went over there and I could hear this humungous amount of noise from the recycling center where they were dumping glass, it sounded like, into another container. The dust that is brought up by the trucks that come back and forth on the road, it's horrible, I need to wash the front of the house at least probably twice a week to keep it clean because there is just dust all over the place, which makes it hard then to keep the windows open too because then you are just dragging dust in all the time.

We already mentioned the mosquitoes.

I really stand opposed to having this rezoned, I really want it to stay a neighborhood where there are children and families and where the income can be affordable by people such as me. And I would just ask that you consider not approving this proposal that the zoning be changed. Thank you

(Pete Syme) My name is Pete Syme, I live at 1600 East Market. And each time this has come up, I think this is like the fifth time now, I have sent you guys an email, sent one to the Planning Commission. But I didn't want to sit here this long and not say something.

I would like to add my voice to those of the rest of us in the neighborhood who are opposed to this use.

I feel for the small business guy, you know, I wish there were some way to make this work out, but this is just not a reasonable use for this property. It's just not where this business belongs. Thank you.

(Kerry Goodman) My name is Kerry Goodman, I live at 1401 Burgess Lane. We moved there three years ago because it was affordable. I guess, if you think about it, if you add an extra business and the quality of life gets worse then maybe we should ask our landlord to reduce the rent so objectively it might even be more affordable if they make a change but personally, my wife and I also moved there with our two kids, Tess age twelve and Maggie age nine. At that age they are old enough to stay out of the road, they should be old enough to stay out of the road, but at the same time they are old enough to be a little bit adventurous, and they do play ball and ride their bikes and skate and they do go out in the road and there would be I think a significant increase in traffic which would make it a less desirable place to be and there are other kids in the neighborhood as well but I think mostly about my two. So it's not objective reasons that I would ask you to oppose the petition but personal and selfish reasons cause it's a better place to live without the increased traffic and its noise and congestion and thank you very much for your time.

(Preston Coiner) My name is Preston Coiner, I live at 411 Second Street Northeast. I am not here to speak in support or opposition but rather to clarify a couple of things.

The petition really is not for 1417 Burgess Lane, it's for two parcels of property that had been assigned the number 1417, I think because someone simply stuck that number on the house.

The recycling center which I do own does not use Burgess Lane for its truck traffic, the Meade Avenue entrance is used.

I think that's my... and we are responsible for the noise of the City's glass being dumped at our facility, so, I think we have as many mosquitoes on 2nd ST. NE as we have in the Woolen Mills. I think standing water is a breeding ground for mosquitoes but our mosquito problem, as I pointed out in my email to you, is not unique to the Woolen Mills area. I think we have a City-wide problem, so I don't know where the breeding grounds for the mosquitoes in the Woolen Mills are.

(Louis Schultz) I am Louis Schultz I live at 1809 East Market Street. And the thing that I am most concerned about doesn't actually show up on this map, it's sort of chopped off by the upper edge of it there. But, from Burgess to the corner of Market Street there is quite a bit of land that's wide open right now, it's vacant, and there are a number of things that are actually on the corner of Meade and Market that I am concerned about the future of. There is a place there that sells gravestones, and I don't know about the economics of gravestone selling, people will, of course, always die. But, I think at some point, that land is going to be a lot more valuable to develop as something else and what I'm afraid of is that that change on Burgess is going to send things in the wrong direction, rather than being an interesting entry corridor to our neighborhood I think it's going to scare people off Burgess Lane and who knows what happens around that corner from Burgess to Market, I'm afraid that the industrial thing "Well hey, it's next to industrial anyway" is going to be the argument and that that's going to pull itself forward from Mr. Coiner's business and the Wright's business and then encroach upon Market Street there and that's just my main concern is that the decision you are making today isn't just a decision about that little piece of land, it's a decision about that whole corner there and I don't think that approving his appeal is the right choice for now or the future. Thank you.

(Laura Covert) My name is Laura Covert and I live at 1809 East Market Street and I think that I've emailed all of you a number of times on this issue but I stand firm in my opposition. I suggested in my email that if you all were in the neighborhood you might stop by and take a look at Burgess Lane and I hope that you did and I hope that you try to make that corner, just in a regular vehicle because it's very tight and I just imagine, I mean I said this in front of the Planning Commission, that Burgess Lane is one of the few places in that neighborhood where you actually see kids playing, you see them playing in the street the way I used to play in the street when I was a kid and the thought of having an extra twelve trucks down that street, down our street every single day, several times a day. We are talking about box trucks, we are talking about BFI trucks emptying the dumpsters, we are talking about people racing to get back to work at 5:00 to punch the time and get out. I think Mr. Kerley would like us to believe that his employees are not really even going to be in there, they don't need to come in, he's told us that before but I can't really imagine a whole lot of situations where you can go out and do a major installation of heating and air-conditioning without stopping by and picking up a day's worth of supplies of ducting and equipment. Maybe these people take this stuff home, I sort of doubt it.

The thought of the traffic on that street is what concerns me most. We already have eighteen wheelers coming down the street for the storage facility at the end of the street, we have the cement trucks, we already bear our burden of industrial traffic in that neighborhood. I don't think that we need to add on top of that, the delivery trucks and extra BFI trucks.

We live on Market Street and we hear them over across the train tracks when they are dumping stuff from those storage facilities in the middle of the night, at 4:00 A.M., you know, that will wake you up when the trucks come through and I can just imagine if that was right next door to me and I hope that you all can stop that when you make this decision.

(Maurice Cox) Is there anyone else who would like to speak to the issue? Mr. Kerley would you like to speak

(Kevin Lynch?) Should we close the public hearing?

(Maurice Cox) Yeah, If you like to speak outside of the context of the public hearing. (gavel) We've certainly heard an earful tonight.

(Joe Kerley) Just several things to rebut I guess. And one thing to read in because the lady that the property was purchased from couldn't actually come tonight so she wrote a letter and gave it to us to give to you guys and basically, I'll read it to you if you would like.

Actually, it's the third page in that packet I just handed you.

"My name is Doris Ritchie, I lived on 1417 Burgess Lane for sixty-eight years and it's my opinion that the property on Burgess Lane is completely unsuitable for residential purposes. The constant noise from Waste Management, Coiner's, and Alex Wright's is unbearable. The dust generated from the same businesses and the traffic in and around those businesses is so bad I wash my house and outside furniture and two days later we have to do it again. I could not sit out on my front porch or my deck and not get covered with dust and that was only if I could stand the noise in the first place.

I always thought that my property was commercial and don't see what the big deal is about moving Mr. Kerley's business to Burgess Lane. That property is perfect for business use and not residential. Any of my former neighbors who are against the business being relocated to the property on Burgess Lane, I challenge them to try to live there for 68 years. I guarantee that all of them would be ready to move out in six months tops.

Thank you,

Doris Ritchie"

Who now lives in Belmont.

I would also like to point out that the staff recommended this and still recommends it and they recommended it to us when we questioned them about purchasing the property and possibly moving the building there. The staff recommended it. The staff recommended that the Planning Commission consider an alternative less intense rezoning, for this property, to B3 instead of just M1. A B3 business zoning would allow Mr. Kerley to use the property for the intended purpose but would not allow industrial uses permitted in an M1 district. A B3 zoning designation would move the property closer to compliance with the land-use plan designation of industrial and would create a buffer between the existing industrial zoning uses and the residential zoning uses on other parts of Burgess Lane.

This property—we didn't just go after somebody's house and some neighborhood and just hope that it, that the property would be zoned M1. We came to the City and presented where the property was and they told us it was in the land use plan to be rezoned to M1 which we don't need anymore we just need B3, M1 covered what we need and we proceeded along that basis because of staff recommendations. And then it comes to the Planning Commission and I am not sure what research the Planning Commission did because they never contacted anybody with us to discuss what the building would look like or anything about our business at all, they never once called so I am not sure what intense research they put into their decision.

Staff recommended, they overruled staff. We talked to several people at the City before the land was purchased from Mrs. Ritchie and, Heidi Misselbeck, I am not sure how you say the last name, and Mr. Higgins and the economic department. But we have been working with about two and a half to three years to try and find a piece of property that we could purchase in the City, there is none available at a reasonable price that they are not already putting strip malls on or some small businessman, who can't relocate anywhere else, owns it and is happy being there, such as Alex Wright or the people on River Road like S.L. Williamson, most people, they are not interested in selling anything they have because there is no place to relocate either.

Our major reason for moving down there, it would make our business more viable, it would be better suited to handle economic problems if we had a building that was ours. We'd be able to withstand economic hard times and have some type of collateral, collateral for loans or whatever to help to grow our business and weather hard times, and that would keep the twenty employees and their families supported and I'd say probably 50% of those are City residents.

Our business also makes a concerted effort to do all our business and purchasing with businesses in the City limits. Which, for our last fiscal year wound up being over \$400,000, spent just in the City limits.

We are already on an incredibly busy road, Monticello Road, we are right next to Clark School and in that area of Belmont on Monticello Road goes business, residence, business, residence, heavy industrial then a house, then apartments.

There has been no problem with children getting run over anywhere at Clark Elementary School. And we are also right down the road from Virginia Industries for the Blind. I know of no incidents of where anyone from our company, W.E. Brown, or any other major business on that street has hit anybody or caused any major traffic problem, it just doesn't happen because everybody realizes that the City streets, especially the older City streets, are narrow, you got to take your time to get through there. I think those businesses in those areas are very conscious of that and we try very hard to be, to fit in well with our neighbors. We are not trying to bully anyone, or be in anybody's way or be a thorn in anyone's side.

The only question about as far as the rest of the...

(side one of tape ends)

...doesn't plan on rezoning that property at all he just finished renovating a house and put it out for rental use and he has other uses planned for the area also, to develop the, nothing for M1. We don't have to have M1, B3 is fine with us, but we need something to stay in the City.

If you tell us "no" you know, we've worked with your economic development committee for three years, they've found nothing, they've told us "there's nothing left" and they've searched hard, Mr. Watson and Mr. ? have searched pretty hard for three years.

When we've attempted to buy property on two other occasions, and one we were told it was already B2 and could not ever possibly be rezoned to B3 because that's what the land use plan was. And then we presented this to those same people and they said "no problem, no brainer", that was the statements that we got from the staff and from the City employees, that this would be rezoned because of where it's located and the fact that it has no residential value.

If you were to sell, or to build a home there, there is nobody that would want to live in that, those two lots in particular, the rest of them probably aren't effected as bad as those two lots because those two lots are circled on all three sides by heavy industrial use, the rest, when you get further out there have residences on both sides of them, but these two lots in particular are ringed by heavy industrial use and the noise from Allied, Coiners and et cetera.

The noise from our building, we don't generate noise. I know that certain Council Members have been to my facility and there is no noise there. We don't fabricate our metal on site, maybe one percent of the actual metal we install is made on site, most of it is bought from the Noland Company, here in Charlottesville, and that is why we don't have to make too many truck trips to get our supplies, we go by Noland's to get it. We try to keep as little the deliveries down, low as possible, and it also helps with storage. They are talking about the footprint of the building being 5,000 square feet, it was about 3,000 that was planned on being underground, and complete storage so there wouldn't be things sitting out in the lot to be an eyesore, to be collections for debris and things of that nature.

The building was going to be vinyl siding, the shingles- I am sure you all have seen the plans, so it

couple of years, we plan on being there for a long, long time, as long as we are in business.

We don't intend to run anybody out of the neighborhood, we are there to help. Every neighborhood that we've been in we do we actually do a lot of work in the Woolen Mills area. Before this was pretty friendly to most of the people in the Woolen Mills and it just seems that the issue of us moving down there has generated a little anger with the people that live on that street, thinking that the rest of it will go M1. But, as you can see in the Land use plan, it's not called for that and we are only asking for those two lots, and we need someplace to go in the City, otherwise, businesses of our nature, construction businesses, that are started up or trying to grow, have no place to go in the City of Charlottesville. We just don't.

We are a high tax company. We pay lots of taxes on twelve vehicles and the building et cetera, not many residences or other types of businesses that have the tax burden of a small construction business. I just ask that you take all that in mind, and you think about the burden that's placed on us to try and find a place in the first place that we can afford. And the fact that there is very little land in the City that is zoned B3 or M1 and even less of that is available, there is zero available, we've looked, like I said, with the City's help for three years and found nothing. This is the first thing we've found. Thank you.

(Maurice Cox) Council, are there any comments? I imagine also staff are available for questions that you have as well.

(Blake Caravati) I've got a couple of questions, a couple of short questions for Mr. Tolbert. Mr. Tolbert, could you read out the uses allowed in B3?

(Jim Tolbert) I am not sure I have them with me.

(Michele Mattioli) I have them.

(Blake Caravati) She does, Miz Mattioli I think has got them.

(Jim Tolbert) I don't think they are in the staff report and I don't have a copy of the ordinance with me right now.

(Maurice Cox) She has a copy of the ordinance if you want to...

(Jim Tolbert) I'll borrow it.

(Blake Caravati) Just, not the special use

(Jim Tolbert) Well, the by-right uses, the first one is anything permitted in the B2 which says anything permitted in B1. We are correcting that in the new ordinance, it makes it easier. But essentially it's a retail, well let me just go to B1. Offices, banks, art galleries, radio and TV stations, automobile parking lots, health clinics, travel agencies, pharmacies, personal service, funeral homes, private clubs, nursing homes. Then B2 adds to that, retail stores that do not exceed 3,000 square feet, bakeries, service stations, business, dance and music art and similar schools, television and household appliance repair stores, laundry mats, laundries, car-washes, dry-cleaning, theaters, restaurants, sign painting, hotels and motels. And then B3 adds to that just general retail sales, hospitals, motels and hotels without any size restrictions, wholesale establishments, auto and motorcycle farm and industrial equipment receivers and repair, frozen food lockers, parking garage, blueprint and photographic processing, drive in restaurants, drive in theaters, services stations, bakeries, mobile home sales, plumbing heating and electrical air conditioning and similar establishments, tire sales and recapping, mass transit terminals, florists, greenhouse assembly plants less than 10,000 square feet.

(Blake Caravati) Mr. Holsapple referred to a building project that has apparently been permitted of four duplexes in on this, in or near this site? Were you aware of anything like that?

(Jim Tolbert) I am not aware of any permits. I don't remember them being applied for for this site. I think what he indicated was that the size of the property would allow...

(Blake Caravati) That's all.

(Maurice Cox) Any other questions? I guess we move to comments. Would any council member like to make comments on this request, Mr. Shilling?

(Rob Schilling) I am still getting my thoughts together, if you could give me just a couple more minutes please.

(Maurice Cox) I'll go down the line, Miz Richards?

(Meredith Richards) It's almost too late to get our minds going at this point. We have had a lot of opportunity to listen and to think honestly about this appeal.

I just admire Mr. Kerley so much for his persistence and his courage and his focus on this issue and on his desire to expand his business.

I'm ... to the neighborhood association meeting that I attended when he spoke very eloquently about the needs of his small business and the interests of his employees and their families. So, I am very attuned to that and sensitive to that, but I hear from the neighborhood very universal desire not to have an additional business or industrial, light industrial use on that street and the consequences that they fear will be there for their quality of life and for the future of the neighborhood, and I can put myself into their shoes.

I think all of us have also got a large investment in our homes and the quality of life of our families and our neighborhoods, so I am going to have to weigh in in favor of the neighborhood and their desire not to have this facility there, built there.

And I wish Mr. Kerley the greatest good fortune in finding another location in this City, because I do believe you are a conscientious employer and a good business person and contributor to the community.

(Maurice Cox) Mr. Caravati?

(Blake Caravati) Before getting elected to City Council I spent eight years on the Planning Commission, many of those years with Miz Richards, and I've got to say this is the most difficult zoning decision I've ever confronted, the most, it's very wrenching.

I am not even sure I've decided this yet.

But I am just going to read through some notes that I took and then wait to hear my fellow Councilors, Mister Schilling, Cox and Lynch. I do have my feet firmly planted on both sides of the fence even at this moment so just let me read this...

Mr. Kerley and others have referred to some of these things so I am repeating somewhat.

This property fits into the land-use plan, staff recommends it, it is in the goals of this City Council and of the comprehensive plan several times that small businesses that the City should encourage small businesses to prosper and grow in the City, they already are 85% of our businesses. It fits into the City Council's vision and the comprehensive plan's vision on encouraging and facilitating minority owned businesses. It fits because, it also fits in the City because of again the that this particular business this HVA this HVAC business that Mr. Kerley runs, serves not only Charlottesville City, Citizens throughout the City but also, particularly in this neighborhood, and also employs them. Something that is quite unique actually these days as businesses move out of the City.

It does also fit in the vision set forth in the comprehensive plan on both the scale of scale and mixed use of a neighborhood business, and, in the context of this neighborhood, it actually fits. I think Mr. Kerley delineated that. Mr. Coiner, I think, wanted to but didn't, and I have heard it from others.

It also fits into the one particular thing that actually is a little troubling to me in listening to many much of the testimony has been a portrayal of this type of business, not necessarily Mr. Kerley's, as being noisy, I forget, there were three primary things, a lot of traffic, a lot of noise, I forget the third one.

But in any case, just to inform you, I am in the construction business and the nature of HVAC businesses, plumbing businesses as well as electrical businesses has changed dramatically in the last five years. It was not, it is not like Brunk Mechanical was today. Mr. Kerley spoke directly to that. W.E. Brown is speaking directly to that, which is also in a heavily residential neighborhood, completely changing the nature of their businesses where truck traffic doesn't come to the business anymore. If there is a tin-banging outfit there, it's done inside not outside. W.E. Brown is building extra storage on their site to make sure there is no longer... I think that, at least from what I have seen from Mr. Kerley's business, not existing, but his plans, it fits all those needs so.

Now, I've got a list of cons, but I am going to stop and listen to Mr. Lynch

(Kevin Lynch) OK. This is a tough decision, I agree with Blake, this is one of the more difficult has been one of the more difficult more time consuming ones trying to figure out something that would that could possibly work to keep everybody satisfied.

I think, coming from the coming from the neighborhood perspective myself, I certainly understand where the neighborhood is, before being on Council that's pretty much what I did was work with neighborhoods and make sure that they weren't being intruded on.

I think that the neighborhoods can be assured that Charlottesville City Council does take the health of neighborhoods as pretty much our top priority. In fact, it's become almost an economic necessity. If you look at the last few years of our budget, it's only because of the strong increase in residential property values that the City has been able to stay afloat, really.

And so we've really, I think, benefitted quite a bit from the investment that we have made in neighborhoods and the support that we give to neighborhoods, so, the fact that you can move into a house in Charlottesville and be fairly secure that you're not going to see any adverse use in the vicinity or that things will continue to improve, I think that is a real asset and don't want to do anything to harm that asset. And I think Woolen Mills is one of many neighborhoods which has generally benefitted from the various programs we've had in the City to sort of increase or condense our neighborhood infrastructure.

Now, on the other side of that, I think Mr. Kerley has got a good business, he's a longtime City businessman, and, like many small businessmen, we want to keep him here in the City. Want to provide a way for him to continue to provide jobs, services, for the City.

I've talked to a resident over near, across the street from where he is currently, someone I know who actually lives right across the street and can see his business, his existing business, and she's told me he is a good neighbor, it's not noisy. It, there's not a lot of people around during the day so I am very I'm sympathetic to what he's trying to do and looking for a solution that can help can help him out and not be to the detriment of the neighborhood..

I really think that the best solution in this case would be to find an access to that property besides Burgess Lane. I should also point out that I have been to that property probably four or five times since since this has started, during the daytime, during the evening.

I am sure you could live in that house, particularly if you didn't have kids there or you weren't there

during the daytime. That's a, it's a noisy place to be, I certainly wouldn't want to work out of my house there, not a good place for a tele-commuter. It's up at the top of that hill and the closest to a lot of industrial noise so you hear a lot of pounding and banging that you don't hear once you start coming down the hill where more, where most of the houses are. So as far as residences go I think it is probably, of all the lots on Burgess, its probably the least suitable for residences, that doesn't mean that it's not suitable for residences, but, I can understand where he might have gotten that initial recommendation that he could do something commercial there.

Now, having said that though, I do think that having the additional traffic on Burgess Lanes is an issue. And, as you can see from this picture back here, like someone else mentioned it would be nice if we could see a bigger picture because it doesn't quite tell the whole story.

Burgess Lane right now is a little sort of finger that goes a finger of residential that goes into this big commercial area, and there is a large commercial area of about six square blocks which really doesn't have any good transportation infrastructure in it, it's all accessed off of Market Street, and there is a lot of activity back there.

In addition there is some land that is currently zoned commercial, which I understand the property owners have some interest in perhaps going residential with that. So my take on this is if there was a way to get some additional access to that property, besides Burgess Lane, a road either going from Market Street- I am sorry from Meade Avenue to Franklin, then I would support this rezoning.

I know that the applicant has tried to do just that I think that really depends ultimately on what the commercial property owners in that area back there decide what they want to do. I think ultimately some sort of road will be needed if that area develops.

When the major property owners get together and figure out what they want to do, and I hope Mr. Kerley will still be one of those, I think it would make sense to put another road back there, maybe going from Franklin Street to Meade Street, and probably make that end of Burgess Street go commercial if we can get some additional commercial land which is east of him, possibly to go residential, so there is a net gain for the neighborhood.

Now, are we going to resolve that tonight? I don't think so. I've talked to what I think is just about all the adjacent owners, I think it's going to take awhile to pull something like that together. I would hope that Mr. Kerley would hang on to that property, get somebody in it to cover the costs of holding it, with a rental until such time that the property owners around him figure out what they want to do with that parcel.

When that happens, if there is a way they can get the traffic in and out and not use Burgess, I would support this. As it is right now, I wouldn't want to just rezone this particular single parcel without a comprehensive package of how we are going to do transportation and how we are going to do that whole neighborhood and I think, as someone else mentioned, what's going to happen to some of these other parcels, the National Linen Building, the Graveyard, I think those are good questions. We ought to resolve those, I hope we can do that soon enough so that- before Mr. Kerley's lease that he has right now runs out, because I would like to see his business there, as long as we can do it without negatively impacting the neighborhood.. We'll see if we can do that.

(Maurice Cox) Mr. Schilling?

(Rob Schilling) I think I see where this is going and it would be very easy for me to just not say anything right now but I have spent an awful lot of time researching and studying this and I ask my fellow Councilors and the people here tonight to bear with me in my comments.

First of all I'd like to thank Mr. Coiner for what I call "The Gilligan's Island Tour" of the Woolen Mills, and the reason I call it that was it was about three hours, I did get back though as you can see and it was actually very informative and I appreciate the time that you took to give me some history on the area, it was very helpful. And also to all the neighbors who have taken obviously a lot of time in sharing your concerns for the things that trouble you about this application.

I have heard and appreciated and respect the scope and depth of the concerns that have been expressed here in the past. Those are, more traffic, more noise, residential character of the neighborhood and of the area, industrial creep and affordable housing being just a few things that have come before us.

And I do recognize the validity, to some extent, of each of these concerns. I am certainly hear what you are saying and hear what your concerns are.

In making this decision we were asked to consider the following, and I'll summarize them but one was a proposed use of the property, two was the zoning history, three was the character and use of adjacent properties, four was the reasonableness and appropriateness of the current zoning, five was the reasonableness and appropriateness of the proposed zoning, six, the consistency with the comprehensive plan, and seven, potential uses of the property. Those were given to us and also to the Planning Commission.

In addressing the reasonableness of the current zoning, we did hear a letter tonight from the former owner and resident stating that the current zoning is not reasonable for reasons that we have all heard.

In addressing the reasonableness of the proposed zoning I will note that the proposed zoning of M1 was also considered unreasonable by City staff at this time. However the applicant has stated that a B3 zoning would be acceptable.

I would like to read the staff recommendation into the record: And I think that we've actually we had a chance to hear that but: "the staff recommends that the Planning Commission consider an alternative, less intense rezoning for this property to B3 Business. A B3 business zoning would allow Mr. Kerley to use the property for the intended purpose but would not allow the industrial uses permitted in an M1 district. A B3 zoning designation would move the property closer towards compliance with the land use plan designation of Industrial and would create a buffer between the existing industrial zoning and uses and the residential zoning and uses on the northern part of Burgess Lane.'

That was our staff recommendation. I also note that this property is designated industrial in the land use plan and has been since approximately 1972. It's proposed use is specifically mentioned on page 22, chapter 8 of the comprehensive plan, which was thoroughly reviewed by each neighborhood and the Planning Commission and in fact, each member of this City Council, excluding myself, prior to its adoption in 2001.

Specifically, Chapter 8, page 4 of the comp plan references disparities in land use and zoning as follows, and I quote from the comp plan: “these differences can be explained as being what types of land use the City intends for these particular parcels in the future.”

Among the neighbors and among the councilors there should be no doubt about what the intention was for this property.

In determining what is reasonable at this location and on what basis I should derive my conclusions I contacted the City Attorney’s office and the Department of Neighborhood Services for more information.

In regard to the land use plan, the City Attorney stated and I quote: “The land use plan is an advisory guide and does not bind the locality. The land use plan represents a general vision about the appropriate future uses of the property.” He further states: “The land use plan is one significant factor to be considered when there is a request for a rezoning.” And he concludes with “an important question is, whether the existing zoning is reasonable. If the current zoning is no longer reasonable, the next question is whether the proposed classification is reasonable and appropriate for the property.”

In order to determine what is reasonable for the property I contacted the Department of Neighborhood Services for their take, and Mr. Tolbert states, and I quote: “In this case and in most we would say that residential zoning surrounded by heavy manufacturing is not appropriate. I do not know how this happened historically and have been unable to find out why it was allowed to happen at all.”

Mr. Tolbert continues: “I know of no situation where I would recommend residential zoning adjacent or surrounded by manufacturing. Our staff offered the B3 compromise as something that might be less intensive and more of a transition to the existing residences because we had difficulty with the recommendation against the zoning when our land use plan clearly anticipated manufacturing use for these properties.”

In response to the Planning Commission’s recommendation which was unanimous, and I was here, I looked at their standard of review.

The initial inquiry should be where the existing or whether the existing zoning of the property is reasonable and number 2, the Commission should then evaluate whether the proposed zoning classification is reasonable.

When I looked through the comments of the Planning Commission and looking at the minutes, and many of you were here, but I’ll just review a couple of them.

One of them said, contended that the existing R2 zoning is reasonable. One contended that this seemed to be a critical property along the business industrial versus neighborhood line, somebody else said this represented an opportunity to maintain affordable housing. Another mentioned that access to the site was an issue, and yet another mentioned that the existing zoning was, in fact, reasonable.

In reviewing the Planning Commission’s discussion and reasoning behind their denial of this rezoning and their failure to consider the staff proposed B3 alternative, I believe they have not met the appropriate standard of review.

I believe this applicant, based upon his discussions with appropriate, high ranking staff, and his investigation into the designated uses for this property, used due diligence in his acquisition of the property. And furthermore he had a reasonable expectation, based upon the land use plan, comprehensive plan, the staff recommendations, that his application would and should be approved.

It is on this basis that while acknowledging the concerns of this group of neighbors, which are valid, that I must ultimately support the rezoning of this property to B3, and I hope, that if this Council denies this applicant this rezoning to a B3 that we will go back and that we will change all these areas or that we will review the Comprehensive plan completely so that nobody is led down the primrose path of thinking that they have an opportunity to do something based on something we have said, that we were all aware of when we enacted it, and then we decide that we don't want to do it any more.

(Maurice Cox) Thank you. I think this also has been more difficult than I would have imagined., and generally it's because Mr. Kerley is a very nice man, he's got a very legitimate business, and normally the interests here are very clear. So, he can't be villainized, generally he has moved this application forward in a correct and respectful way, including the neighborhood in his deliberations.

I feel that in the end we have to weigh the interests of one business owner and ten families who live in the City versus the health of an entire neighborhood, hundreds of families. I think that, by our actions, we signal very clearly our intent for the Woolen Mills neighborhood., and I think our intent is to keep a balance in a very precarious balance that exists in that neighborhood, and if anything I think we try to signal that we would like to see that it continue to be a viable neighborhood for families to live, and not only do we want to hold onto the stock and diversity of housing but we want to increase the amount of housing. And I don't think that the neighborhood or the Council has said we want to increase the industrial use in the Woolen Mills neighborhood.

I looked over the neighborhood plans generated by the neighborhood and they did not speak about increasing that use either. So I certainly feel that we need to respect the investment of hundreds of families who have put their life investment in their homes. And moved in knowing full well what the status quo was, but did not anticipate that the quality of life that is anchored by residential use would be further eroded one parcel at a time by conversions. And so I haven't, it hasn't been difficult because I have always felt very strongly that I support the viability and future of this as a residential neighborhood. And certainly could not support this rezoning application.

I also hope that Mr. Kerley will be able to continue his business. I think the fact that the Office of Economic Development has worked with you tirelessly for the past couple of years is an indication of how valuable your business is, small businesses are to the City and I trust that that search will continue.

But I certainly feel that in this particular case, and people have spoken very very very clearly about their investment and the desire to continue to see Burgess Lane continue to have the balance which is again is very precarious but it is balanced right now and I would like to see it remain so.

So, I think we should probably entertain a motion and then we can continue to discuss it after that but I think people need to know what the motion is here this evening. Does anyone want to offer a motion? I know it's late folks but we want to...

(Blake Caravati) I move that the property be rezoned to B3.

(Maurice Cox) Could we have a second?

(Rob Schilling) I second that.

(Blake Caravati) Mr. Cox, Mr. Cox...

(Maurice Cox) Any further discussion

(Blake Caravati)...I'd just like to finish what I started earlier but I am not going to repeat, because it has been repeated a number of times, of what the disadvantages are. Certainly there will be at least a marginal increase in traffic, and probably a marginal if not negligible increase in noise just by way of use. It is a loss of two lots, two possible lots for housing. Many people have said, one person in particular has said low-income affordable housing which I think is really a stretch but certainly affordable housing. It will also commiserately reduce the amount of land, B3 land in this case now that we are talking about B3, in the City.

However, the biggest thing, the biggest con for me, whup, it's not a con, the biggest argument against it is some of the things you've just said and I think Meredith alluded to earlier and that is two things, protection of neighborhoods and our concern, long term concern for that and in this case particularly, protection of neighborhoods that seem to be rather unanimously or at least a lot of people have contacted me, many more than are in this room tonight.

I don't think this is going to pass so I am going out on a limb because many of you sitting out there are my friends. But I am still going to vote for it, primarily based on what I said earlier about the pros because I don't, I am not willing to use the words that Mayor Cox just used about setting this up as a zero sum game, that it's going to unbalance the neighborhood, that it's going to deleteriously impact, deleteriously impact on the neighborhood, maybe certain houses. But I want to tell a story about my house.

I live one block from an M1 area, and I was very cognizant of it and had been very accepting of it. I did not expect a home for homeless alcoholics in my neighborhood. Nor did my neighbors expect that. I actually ended up building the thing and everyone of my neighbors was against it. And I'll tell you today, well, a lot of them have died since, but I'll tell you that the neighborhood the neighborhood gradually grew to accept it after two or three years and then after about three years it was one of the leading focuses of the neighborhood and still is today despite its change in use from homeless alcoholics to crack addicts.

So I think I take the view that although this property has some problems with it in the fact that it will bring negative impacts, it does not unbalance the neighborhood. It might have impacts on certain

people immediately adjacent to it, as a home for homeless alcoholics did on my house, so I am going to support the motion.

(Maurice Cox) I think we, I think we should probably vote, the motion instead...

(?) This will carry over to the second reading. If I could just ask for some clarification. There is an ordinance in the notebook proposing a rezoning from R2 to M1, if I could ask Mr. Caravati and Mr. Schilling if that was the ordinance they were moving and seconding although with B3 substituted for M1.

(Blake Caravati) Yes, I don't know about Mr. Schilling

(Rob Schilling) Yes.

(Maurice Cox) Well, just so that people don't sit in suspense. I couldn't support this as M1 and I can't support it as B3 either. While we won't take up the formal vote for the next two weeks you need not question where my support is on this matter. And, I think it might be helpful to the public if others feel comfortable, that they have already deliberated on this long and hard and have made up their minds.

I really think this has been grossly unfair to people to drag it out since November. And if there is no support for it, whether it be M1 or B3, I think folks should know that, they've stuck around until 11:30 at night. I don't know if other Councilors feel as strongly that whether it's M1 or B3 it doesn't change the outcome of their vote. Give folks an opportunity, Kevin, would you like to speak to it or do you want to keep people in suspense for two more weeks?

(Kevin Lynch) Well, I'll address a point that Rob made about the, whether the use of or the rezoning proposal was consistent with the land use, the existing land use. I think there is two issues there. Number one I think in the latest round of neighborhood planning of the new zoning we are about to approve I think the neighborhood has weighed in and said they would rather not have this be industrial however I do agree that as of 1972 and as we carry this forward it says that the intended use is compatible with a more commercial use.

I think that however the conditions under which that were to occur, just because that's what we want to do long term, doesn't mean we should change something on a parcel by parcel basis and it really depends on what can be done to facilitate its becoming commercial use and really I don't think my position has changed a whole lot in the last couple of weeks I tried to work through this if the applicant could figure out a way to get some access through there, off of Burgess Lane. And I was hoping that could be worked out by now, I've done what I could to try to facilitate that. You've got two

more weeks, if you can work something out, then I would support it, if not then I would just ask that you be patient and try to hold the property and see how that area develops.

(Maurice Cox) Meredith?

(Meredith Richards) I think from my point, from my part it's not the designation, it's not whether it's B3 or M1, it's the use proposed for the property. It was purchased under an R2 zoning and that is the law, the zoning is the law and the comprehensive plan does not have the force of law, although we certainly are committed to where possible and certainly historically we should always have a compatibility between the zoning and the land use plan. But if I were to purchase a property that was zoned one category on the supposition that it was going to be changed to another category I think I would not buy. I don't think that has the force of, the authority of law by any means and probably isn't an advisable way of going about buying property.

Nevertheless, I don't see that it is the designation per se so much as it is the use and the interests of the neighborhood in the neighborhood plan, in the comprehensive plan, in advancing more residential use for the entire neighborhood including Burgess Lane.

So I don't foresee myself as supporting this altered motion.

(Blake Caravati) Let me just add one thing Meredith, the reason I went for B3 and the reason I asked Mr. Tolbert to read the list of allowable uses in B3, B1, B2 and B3 was taking the footprint of this property of approximately 22,000 square feet, so a tiny bit over a half an acre, and matching that against those uses that he read out. Course one of my biggest concerns is that if this did pass, that it not be turned into a dry cleaning facility which it can't be, well which it can't be in all reality based on the square footage of the property. That's why. So if you go down the list, take the square footage of the property and the economics behind each one of those uses you'll see that the mirror, the window gets really narrow and is confined to things that would not negatively impact the balance of the neighborhood. I just wanted to say that for point of clarification.

(Maurice Cox) Mr. Shilling, would you like to speak to this?

(Rob Schilling) No, I am fine thanks.

(Maurice Cox) This will receive our vote at the next City Council meeting, I know there was a hand up, and you are more than welcome to stay with us until midnight to speak in matters by the public but there was one item that I did want to say.

I think this issue about, you probably can go all throughout the City and find properties that are, inconsistencies between the land use and comprehensive plan and I think it behooves citizens to be

alert to every single one of those fragments that are left in the City. And I think we are working overtime to try and identify them all and I think it is grossly unfair that everyone should anticipate these areas that are caught in between.

I believe though that the Woolen Mills Neighborhood has not had the benefit of a real plan for how these acres and acres of M1 and B3 uses are going to be developed over ten or twenty years and other neighborhoods have had the benefit of that and it's made a significant difference in how land will develop.

I know Ridge Street neighborhood had a neighborhood plan done for it, for properties that were zoned what we thought was inappropriate for the neighborhood. That project looked at it through another lens, it recommended down-zoning, it recommended a different kind of housing, and seven years later, the kind of housing that the City had anticipated was done because we dared imagine what a different and better use would be for those properties.

I think it is long overdue for the Woolen Mills that they have a clear signal of where their neighborhood is going, and not be done in this piecemeal fashion.

So I guess my hope would be that out of this process, given the talent that they have in their neighborhood, that they get together and decide that proactively we are going to tell you what the future of our neighborhood is going to be, and it is not going to continue to be an erosion of the things that they have come to feel anchor their neighborhood, that's the residential use and some of the mixed use strategies that they have.

So that is one thing I would hope would come out of this process, and I guess you'll have to wait to hear the outcome, for another two weeks.

(Meredith Richards) But there will not be another public hearing.

(Maurice Cox) No no, I think that we will make a decision, I think that at least two councilors have said that they cannot support this, whether it be M1 or B3 and the others, you are as good as I am at interpreting what is said.

Thank you very much, and again, thank you very very much for your patience.