

**CITY OF WASHINGTON, MISSOURI**  
**PLANNING & ZONING COMMISSION MEETING MINUTES**  
Monday, September 14, 2015 @ 7:00 P.M.

The regular meeting of the Planning & Zoning Commission was held on the aforementioned date and time in the Council Chambers of City Hall, located at 405 Jefferson Street in Washington, Missouri.

- 1) The meeting was called to order, Pledge of Allegiance, and the following roll call was taken:  
**Present:** Tony Gokenbach, Carolyn Witt, Greg Skornia, Kevin Cundiff, Tom Holdmeier, Mayor Sandy Lucy, John Borgmann, Samantha Cerutti Wacker  
**Also Present:** Dan Boyce, Mark Piontek, Rick Rohlffing-BFA, Mark Frankenberg-BFA
- 2) Approval of the Minutes from June 15<sup>th</sup>, 2015  
**Motion to approve the minutes from the Monday 10<sup>th</sup>, 2015 meeting of the Planning & Zoning Commission, motion made by John Borgmann and seconded by Kevin Cundiff, passed without dissent.**
- 3) **File No. 15-0901-Michael Tolksdorf-Applicant is seeking to rezone a portion of 426 Cedar Street from R-1B, Single Family Residence to C-20, General Commercial Overlay.**  
Dan Boyce-#3 & #4 go hand in hand. The existing property line, they want relocate northward so that about 1,300 sq. ft. of the R-1B property would become part of the C-20 Overlay. On the application the reason is the sanitary sewer lateral traverses thru the ground to this property connects to Cedar Street. They want the lateral to be on the same property as the home it serves. The existing Tolksdorf Addition and the existing lot. They want to rezone so one lot has the same zoning.  
**John Borgmann-Does applicant own both lots?**  
**Michael Tolksdorf-Yes**  
**Dan Boyce-We need to make the zoning request contingent on the Final Plat being approved.**  
**Kevin Cundiff-Is the second request contingent on the rezoning being approved?**  
**Dan Boyce-No.**  
**Greg Skornia-Would this be considered a two frontage lots?**  
**Dan Boyce-Yes**  
  
**Motion to approve, motion made by Greg Skornia, seconded by Sandy Lucy, passed without dissent.**
- 4) **File No. 15-0902-Michael Tolksdorf-Applicant is seeking Preliminary Plat approval for 426 Cedar Street.**  
**Motion to approve, motion made by Greg Skornia, seconded by John Borgmann, passed without dissent.**
- 5) **File No. 15-0903-Linda Brandt. Applicant is seeking a Special Use Permit for 1106 East Third Street.**  
**Dan Boyce-R-1B zoning. Corner of Third & Washington. Commercial property to south. Applicant is requesting a vacation rental property. The code says we don't have a designation for this but we do have a code for a bed and breakfast which is similar in effects on the neighborhood.**  
**John Borgmann-Is this a two-family residence?**  
**Dan Boyce-Yes**  
**Linda Brandt-Owner of property. I will continue to use it as a two-family home.**  
**John Borgmann-Will you continue to use it as a two-family vacation rental?**  
**Linda Brandt-Yes**  
**Samantha Cerutti Wacker-Is this basically a bed & breakfast?**  
**Linda Brandt-I do it on VRBO.com. I don't cook. No services provided.**  
**Kevin Cundiff-Why is this a Special Use Permit?**  
**Mark Piontek-Because a bed and breakfast requires it in the zoning district that this will be in.**  
**Tony Gokenbach-Does bed and breakfast require an occupancy inspection on an annual basis?**  
**Mark Piontek-Yes**  
**Sandy Lucy-How does this fall under the Tourism Tax?**  
**Mark Piontek-It does fall under the lodging tax. An additional 5%.**  
**Samantha Cerutti Wacker-Do you have a business license?**  
**Linda Brandt-Not yet but if I am approved I will be getting one.**

Motion to approve, motion to approve by John Borgmann, seconded by Samantha Cerutti Wacker, passed without dissent.

- 6) **File No. 15-0904-Cynthia Harris.** Applicant is seeking a Special Use Permit for 205 Locust Street.  
**Dan Boyce-Similar usage as above.**  
**Cindy Harris-Mine is a 4 bedroom and I will be looking towards more of families coming to town for events.**  
**John Borgmann-The property looks a little in disarray. Do you plan on finishing it?**  
**Cindy Harris-Yes.**

Motion to approve, motion made by Samantha Cerutti Wacker, seconded by John Borgmann, passed without dissent.

- 7) **File No. 15-0511, Daryl L. Duncan.** Applicant is seeking to rezone 1000 Duncan Heights Drive from "R-1A", Single Family Residence District to "C-4" Planned Commercial District. See minutes below File No. 8. 05-0512 Kathleen W. Duncan.
- 8) **File No. 15-0512, Kathleen W. Duncan.** Applicant is seeking to rezone from "R-1A", Single Family Residence District to "C-4" Planned Commercial District:

A parcel of land in the Southeast Quarter of Section 22, Township 44 North, Range 1 West, in the City of Washington, Franklin County, Missouri, described as follows:

The point of beginning being an aluminum pipe in concrete in the Southwest corner of Lot 14 of Aluminum City Subdivision, thence South 66° 00' 04" East 89.81 feet to a point, thence along an arc having a radius of 218.30 feet a bearing of South 73° 44' 50" East and a distance of 61.97 feet to a point in the Southeast corner of Lot 15 of Aluminum City Subdivision, thence South 2° 55' 46" West 86.91 feet, thence South 87° 46' 02" East 194.43 feet to an iron rod, thence South 8° 17' 40" West to a point, thence North 18° 56' 48" East 37.97 feet to a point, thence North 77° 07' 28" East 32.57 feet to the point of beginning, containing 0.49 acres more or less.

**Dan Boyce-File #7 & #8 are same request, different applicants. I will explain how we got here. The Duncan's came to us with a C-2 zoning request. After discussion at the meeting they decided to table it and pursue C4 zoning. So they subsequently withdrew the C-2 request and came forward with the C-4 zoning request. During our discussion of that it was decided that it would be better to see some type of a conceptual site plan about how the property might be developed commercially. There were different questions about the grade and the terrain and how it would be done. So that is what the Duncan's have done. They have engaged an engineer, BFA. They have concepts on how the property may be developed as commercial. With that I would hand it over to them.**

**Sandy Lucy-Just to clarify. This is the conceptual idea. When this property eventually is developed the developer would have to come back to this board one more time? Right because of this C-4 zoning? The zoning stays with, this all has to be approved tonight, but if C-4 zoning is approved tonight then when the real plan comes forward it will come back to P&Z one more time. That is when stormwater, etc. is looked at?**

**Dan Boyce-Correct. With C-4 zoning, that is what the code says, the plan can follow that so that all the engineering dollars don't have to be spent upfront until the owner is sure that he has the proper zoning. They have come forward to show us a concept of what could be done. By no means is this their plan at this point.**

**Sandy Lucy-This is a conceptual type drawing....**

**Dan Boyce-Right now the way I understand that there is no property, they want to sell it and eventually an owner would come forward and bring his own plan. No one knows what is going to happen.**

**Samantha C Wacker-So if it is not developed within 2 years it will revert back to the original zoning?**

**Dan Boyce-Yes.**

**Rick Rohlifng-Engineer with BFA-Powerpoint Presentation-Duncan Conceptual Plan.- Good evening members of the commission. I have handed out a short outline for you to help you follow along. I have a question on the 2 years that was just discussed. Is that actually 2 years to pull a building permit or is that 2 years to break ground or submit a site plan to start the process here with P&Z?**

**Mark Piontek-Looking thru codes.**

**Samantha C. Wacker-I thought that they said to have a plan approved in 2 years?**

**Mark Piontek-I don't recall, I will let you know in a minute.**

**Dan Boyce-I know at the other end of Madison that piece of property Eshragi, they have C-4 and we have been through several extensions. So I believe...**

**Samantha C. Wacker-I thought they have never actually come forth with a plan.**

**Dan Boyce-Right.**

**Rick Rohlfig**-We are here to night to represent Mr. Daryl Duncan who is traveling this evening. The purpose of our request is for the rezoning only that was discussed and Dan has mentioned that it is only the zoning tonight. Given the location of the lot it would have direct access off of Duncan Avenue with a signal immediately adjacent on Hwy 47 (having 5 NB lanes and 6 SB lanes at the signal). We all know that Hwy 47 is the second major thoroughfare through our city. Where else would we want commercial fronting in our city. The city's 2013 Comprehensive Plan depicts this property as Commercial. The city recently just rezoned Jeff Wilson's property, which is adjacent to this property also to C-4. Mayor Lucy hit on this a little before I came up here, why C-4? By rezoning to C4, it limits how the site can be developed in that the City maintains control of site plan approval through both the P&Z and City Council. (Buffer yard widths, screening, stormwater, lighting, etc.). The residences would have more input. We are not here for site plan approval. I have conversations with Dan Boyce on what to possibly show, what might portray what this site could be developed as, just to give you an idea. On this site plan it has a 13,000 sq. ft. building. What I tried to do is maximize this site out. So that I used the maximum square footage, which could go up a little, but I have put enough parking in here, this is 5-0 parking ratio. Parking is another aspect that you would say you don't want as much parking, you might want a 4-0 ratio. I tried maximizing the best without going too far to the west. I have a possible layout here that would maximize and still provide an abundance screen yards, meeting and exceeding the codes as they are currently requiring. I added my direct access off of Duncan. I show closing the church access. It is a secondary access and we would propose, if this access were connected, there could be a joint access cross-shared easement through our property. I know it was mentioned in the minutes what about a cross access with the C4 property to the north? This layout is not conducive to make that connection due to maximizing the property. There is quite of bit of relief from this site from the church, which is about 583 elevation. This building as we graded it, it is about 539, about 44 ft. lower. Right now BFA is preparing the sketch plans on the Wilson property. It is currently at a 521 lower floor and a 535 upper floor. The drive climbs in grade. It is difficult with this layout to make that connection. That is not to say going forward that could be a stipulation, we want this to connect or maybe we work out with Jeff now to have a shared access. Those are things you can do. So with our access drive we are below required grade that the City requires at 14%, there is quite a bit of relief differences from the church to this site continuing to the north. Again, if this is a smaller building and we don't need this much parking you can extend the drive further to the north and lesson those grades. It is shown at 20%. I wanted to maximize the layout and make the roads fit.

Buffer yards and initial setbacks are 25 ft. assuming the City and staff would determine this as the front yard, my closest point is 105 ft. versus this layout which is 25 ft. The side yards, the closest point that any of those are is 100 ft. versus the City requirement of 5 ft. The rear yard, the City requires 25 ft. and this layout is showing 100+ ft. away from the building. **Samantha C. Wacker**-Also, the significant drop-off from the residential properties.

**Rick Rohlfig**-Stormwater retention was discussed and we also know we have to control the storm water anytime you add an impervious area to any development. The city codes require storm water detention. This site the way it would be laid out, it could be either underground detention maybe on the north side. Could be some above ground. It will depend on the site layout itself. That too would be discussed at a later date.

I have cross sections A, B, and C. C which goes from the south up to the north. Actually, the north to the south. Profile "A", which comes up to Duncan along the main drive to cross the front of the building and it hits the rear drive and then goes on to the residence. This profile shows a lot of information. This is the west property limits. The east property limits is there. Same thing on the bottom one is the two property limits. We said that we were coming up the drive that is the gradual slope, we had some parking to the building. We had and 18 ft. tall building which can be discussed at a later time. Staff can dictate what those might be.

**Sandy Lucy**- Isn't the maximum building height 3 stories?

**Rick Rohlfig**-Yes you are right. No, it is 6 stories, And then we have the rear drive which is well below maximize.

**Samantha C. Wacker**-Just because that is in place you don't have to have it that tall.

**Rick Rohlfig**-That is correct. You can limit it to one story if you wanted.

The rear yard, I did show a delivery truck to show size relation. I think there were some comments about walls. There is a lot of rock out there, so there would be a lot of blasting or cutting of rock. Perhaps rock natural surface walls or some retaining walls and discussion of not wanting a large drop of a wall. What I did I am showing a couple different scenarios. We could on profile "A", this layout we could eliminate the wall and slope back to the property line on the east side and do a slope. Might be a 2 to 1 slope but that would eliminate the retaining wall. In my opinion, I think I would prefer the retaining wall and put extra screening up which would build that up which would allow and permit for that screening rather than have that slope down at an angle and your screening would work out better. That will be a design discussion at a later date.

Profile "B"- This one is right off of Duncan. We have a short distance of green area into the parking. Not hitting a building in this view. Then I am going to the buffer yard in the back over to the residence. Here we are on this one at Duncan, the existing grade line, it is not as noticeable. There is quite of a big hill where we will be doing some grading and some

earthwork, which actually aids in screening this development from the residences to the east. We have the small green area off of Duncan, we have the parking lot with a delivery truck at the back of the building. If we don't want a wall I can put in a 2 to 1 reinforced slope up to the property line if it were not desired to not have a wall. Again I would recommend putting in a retaining wall. More screening, landscaping or fencing. If we step the wall that is what the profile shows.

**Sandy Lucy**-How does the height of this to the Schnucks development.

**Rick Rohlfsing**-The tallest wall in this profile is 24 ft.

**Greg Skornia**-Have you done any calculations on how many yards of rock you might need?

**Rick Rohlfsing**-We have not done any calculations on this.

**Kevin Cundiff**-Do you have the distance of the property line to the neighbor where that wall stops?

**Rick Rohlfsing**-64 ft. on top and 54 ft. at the bottom. The buffer yard is required to be 25 ft.

**Kevin Cundiff**-So that is cut pretty far into the grade?

**Rick Rohlfsing**-yes

**Samantha C. Wacker**-So anything with the development, there is going to be a lot of "stuff" that comes out?

**Rick Rohlfsing**-There is. The main reason, the grades on Duncan are set. What isn't set is where you are going to tie into Duncan. The lines shown are proposed contours that are 1 ft. intervals falling down in this case falling down at 1 ft, 1 ft, 1 ft. all the way down. This is about at grade that they City codes would allow at this location at this drive. Now you could put it up here. You can see there are no contours in there, that is almost at grade right across. There would be a 1 ft. fall difference. It just depends on where this driveway ends up being. As you go further to the north, because we talked about sharing one possibly with Mr. Wilson and showing a cross connection it continues to fall another couple of feet. I would say, now it may not be this large because the building blueprint and the overall curb, paving input may not be this big. I wanted to try and go as big as I could to show a more realistic picture for hopefully a worst case scenario. I am still getting double or over for the required buffer yards.

**John Borgmann**-So based on that comment you couldn't go any bigger with the parking lot and go minimums on the setbacks? What was your constraint there? Parking spaces?

**Rick Rohlfsing**-Yes, if the City required the 5.0. You could go two stories and put in straight parking all around. There are a variety of things and that is why the beauty of the C-4 zoning is that it can be done at staff level but it would have to come back to this commission for approval to move on to City Council and the public hearing that the public will have input at that time.

**Samantha C. Wacker**-Eventually though what you presented here, based on your knowledge and experience, would present the largest footprint building that you could put there?

**Rick Rohlfsing**-I wouldn't say the largest but it is pushing the upper limits. I don't think the City is going to allow only a 25 ft. buffer. I wouldn't recommend it either. We could go bigger but not favorable or realistic for neighbors.

**Profile "C"**-This is the one that goes north and south. There is a house on the left as I said which is the north in this case, it is going to go thru the parking lot on the south side of it, another retaining wall comes up to the church property. With this layout we cannot do away with this wall on that south side. Showing what excavation would be to install the wall. This wall is 86 ft. from the edge of the parking lot to the wall and that distance from the property to the wall is 35 ft. Any questions on the profiles?

In summary:

1. Here tonight for rezoning request only from RIA to C4 Planned Commercial, not for a site plan approval.
2. With the frontage roads and access, and based on the City's 2013 Comprehensive Plan, this lot's best use is a commercial zoned lot.
3. The site plans provided and briefly discussed, give an idea of how the property could be developed.
4. The P&Z and City Council maintain control of how the site is developed commercially. Including items concerning building materials, screening, LS, buffer yards, lighting, height of building, stormwater detention, etc.
5. What is the highest and best use of the property. Is it commercial due to its proximity to a traffic signal and major highway immediately in front of it; also with property zoned C4 to the north? Or can you see this property being developed into a residential home?

The City holds control with the C4 zoning, which is important to remember.

**John Borgmann**-Does Mr. Duncan know how water is serviced to that property with a commercial building is going to be difficult.

**Rick Rohlfsing**-I am not sure if he is. Waterlines though wherever it is, that would be initially discovered at the time when the property is properly TOPO'd.

**John Borgmann**-There is an 8" main that runs basically about 5 ft. from the church building and runs east to west down to 47. So that would be the main that would have to be tapped into if the building going to be sprinklered it would have to be

tapped into with an 8" main or a 6" main with a 2" service main for water. The other issue is the 5 requirements for having the hydrant spacing. Five within a thousand ft. If they are considerable distant away at any of the other locations.

**Rick Rohlfiing**-I know we have done this at other projects here in town. This site may require 2 hydrants on it. And if that still didn't meet it maybe a hydrant is required on the just north Wilson property.

**John Borgmann**-Just wanted to make sure he knew it would be a big cost going through rock.

**Samantha C. Wacker**-Based on what you see is this going to be cost effective development?

**Rick Rohlfiing**-That is one part that we don't get into. I am sure this project will cause a lot of new traffic. A Traffic Study can be requested by the City.

**Samantha C. Wacker**-Do you think that this would perhaps be leaning to healthcare or do you see it maybe being retail?

**Rick Rohlfiing**-That would be up to the developer.

**John Borgmann**-I know with our last discussion when Mr. Duncan was here, he mentioned the church access but that would not be allowed according to City code. Doesn't meet grade and it is not near enough wide enough unless the church is going to give an easement.

**Rick Rohlfiing**-I think there has been some preliminary discussions with the church and they were open to an easement. At the same time we would have to give them an easement. I am fully aware of the grades of it.

**John Borgmann**-If it was going to be required for public access it would have to meet the street widths of 26 ft. minimum.

**Rick Rohlfiing**-I don't believe that this is not there main entrance; this would be a secondary entrance.

**Greg Skornia**-When the church asked for that access they agreed that there would be a chain on it except for Sundays but it is open all the time.

**Dan Boyce**-We did a mailing within 185 ft. from the property and we received a petition that is greater than 30% of those 185 ft. of that mailing. So we will need a 6 out of 8 vote when it goes to City Council.

#### **Comments from neighbors:**

**Charlie Hart-Fieldstone Court**-Me and my wife Lynn live adjacent to the Duncan property. We have 136 ft. of back yard that we spend all of our time enjoying and relaxing. One comment I would like to make is that the site views look good but I have a story and ½ home which puts me looking right down at the parking lot and the building itself. This is going to destroy the value of my property and that of the neighbors. When you say at 25 ft. setback or 100 ft. setback, my home is 60 to 70 ft. long and so you are telling me that it is going to put it right within one home's length on my property. We have lived in this house for more than 20 years and some of the neighbors have been there a lifetime. We are a very close knit community and we pride ourselves in knowing and associating with each other. If you take a good look at the zoning map you will see that the area we live in is a large residential area in the heart of Washington, MO. Washington, as we all know, is looking for new lands to spread out but I ask that we look inward and keep the people where they are instead of driving them out because one person or one family wants to develop in our backyards. In the last meeting Greg I thought you said that the dot at the end of Fieldstone Court was not the way zoning usually takes place. I think it was you, it was in the minutes as you saying it but I am not sure if you were the one that said it. But anyway, you said that is not the typical way you rezone properties with this commission. What I am asking, please consider the people here and the neighborhood around us and I know there is not a whole lot and I know if I would ask you that if there was anything that we could do to stop it, I would be told no but if there is I would love to hear it.

**Tom Holdmeier**-If you could give us some overwhelming, we are talking buffer areas and things like that.

**Dan Boyce**-Sir, where is your home?

**Charlie Hart**-I am property B on the site plan. I go up to the fence, the fence is right by my property line. I see the whole thing. Just because you have a site distance, if one person was standing right there sure. But we use the yard. Our yard is our home and we will see the whole thing. If you cut the trees down it will devastate my comfort and my family life for sure and the neighbors and community at large. If you look at the zoning there is nothing else you can do with it, it is land locked. Basically we are talking about satisfying one home owner financial means at the cost of the neighbors. To me I don't feel right about that and I hope you don't feel right about it either. That is about all I have to say. If all the people against the development stand up so we can see how this community is supporting this-we have been at every meeting from the start of this. Everyone in audience stood up. I hope all of you will consider this when making your decisions. Thank you.

**Joe Wildt**-Me and my wife live at 4 Fieldstone Court-Thanks for giving me the opportunity to express my opinion against the rezoning of the Duncan property. First, it is my opinion that there is no need for commercial property at this location that would benefit the community or the neighborhood. Second, it is my opinion that rezoning the property will decrease the value of nearby residential property. It is obvious that it exists an overabundance of commercial property in the City of Washington. This is supported by the amount of commercial properties presently for sale or lease. And at the same time there appears to be a need for additional residential properties within the City. If the City has excess of commercial property and needs residential property, is it logical to convert existing residential property to unneeded commercial property. I am a certified appraiser and have testified in court many times regarding value of real estate. I have read various studies with how

rezoning affects properties. These studies indicate that the value increases, remains the same or decreases depending upon the facts and circumstances in each situation. The studies show that to change the values nearby residential properties depends primarily on two factors, the need and the want for commercial property. The studies are evidence that the nearby property owners need or want commercial property. Then there is likelihood that rezoning will increase the value but there is no need or want for commercial property in the area, the value of the nearby residential areas decreases due to the rezoning. Can I have permission to ask surrounding neighbors that live on Rainbow, Madison, Fieldstone and Scenic Drive? If you feel that you need or you want a liquor store, gas station, pharmacy or similar on the Duncan property please continue standing. If you don't feel or you don't want these on the property please take a seat. Thank you. The facts and circumstances in this situation indicate that there is no commercial property wanted or needed on the Duncan property. Therefore the rezoning in all likelihood would reduce the value of nearby residents. A basic principal in the value of real estate is that demand creates value. If the Duncan property is rezoned would a home buyer demand for property rezoning demand increase or decrease? It is my opinion that very few prospective buyers would want the uncertainty created by rezoning the property from residential to commercial. One last observation, I have been a professional registered engineer in the State of Missouri for over 40 years. During this period of time I have reviewed numerous site plans for proposed and existing properties. After reviewing the site plan prepared by BFA for the Duncan's property, it is my professional opinion that serious drainage and water retention problems could result if the property was developed as commercial. In conclusion, it is my opinion that the rezoning of the Duncan property is not needed, not wanted or desirable for the general benefit of the community and neighborhood. Thanks for allowing me to express my concerns.

**Lloyd Miesner-#3 Fieldstone Court-** We are opposed to rezoning. This is an upscale residential area and should remain that way. I know that some of you have taken the time to look at the area around the Duncan property to see firsthand what pride in ownership is all about, and how rezoning would affect us, especially the ones that border this property. We don't need a rock quarry in this area with a 30 plus drop off and a 4 foot chain link fence around it.

At times the street in front of this property is already congested with traffic from Mercy(Patients First) and Our Lady of Lourdes Church and School. Several times I have waited for the light to change twice before I could get to the Highway from Rainbow, and where I came from two cars at a stop light is a traffic jam. Adding another parking lot between Rainbow and the Hwy 4y would not be practical, it would be downright stupid.

A good way for you to approach this is to visualize your home in place of Tom Smith, Charlie Hart and John Hillermann and look out over a rock bluff at the roof top of a commercial building. Their back yard would sit on the edge of this man made bluff.

I will close with regarding to you the responsibilities of a Planning and Zoning board:

"The segregation of residential and business districts and the convenience and safety of persons and property in any way dependent on city planning and zoning."

Thank you for your time.

**Tom Dunlavy-**My wife and I live at 8 Fieldstone Court-First of all I would like to say that the C4 planning is in the eye of the beholder. It depends on what side of the fence you are on. Secondly, the representative from BFA asked "What better place to have a commercial development?" Well 3 places come to mind right off the top of my head. Fifth Street would be a better place for a development. Heritage Hills and Phoenix Place. The primary purpose at the last meeting and the request for Mr. Duncan was that he brings in elevations. In my study of the site plan, what I see in the potential of that site plan is the creation of a rock quarry with a 30 ft. wall of rock. Are we that desperate for commercial space that we are going to do that to our landscape? We still question what is to be gained by this development. And we have been told by the approval of Mr. Duncan's request are not to be based on the potential taxing that the City may reap. It is based of having right of way onto Duncan Avenue. Mr. Wilson and the development of his property is not based upon this rezoning. We also understand that the future use plan is for guidance only. The most compelling argument that was made at the last meeting was that Mr. Duncan has the right to develop this property. He has the right to develop his property but it is not unconditional right. If it were Mr. Duncan would have already received a C2 rezoning last May. We have no problem developing his land as residential property to maximize its real sell value for residential purposes. By our calculations the only true winner is this rezoning is Mr. Duncan gaining a windfall from a commercial designation. We respectfully request that you vote no. Thank you very much.

**Pastor Aimee Appell-Peace Lutheran Church-5 Scenic Drive.** As the church, main focus is the well-being of the entire community. We have worked for the good of the community in several ways, particularly in the use of our property. Our neighbors are afraid of not only their well-being and comfort, but their investments for the future/retirement are threatened.

Mr. Duncan is afraid for his own financial well-being. Our wish is for our community to be well-served, but an intrusive commercial property in the middle of it will not serve. It will cause destruction of land, property values, and quality of life. Thank you.

**Tom Holdmeier**-It is a planned development and you can say the hours of operation etc. and you can put limits on it.

**Samantha C. Wacker**-What if another church wanted to build there?

**Pastor**- It would have to be based on the feeling of the neighborhood. I would not be opposed to having a church on the property next door. Hopefully we would have to negotiate and work together. If the neighborhood was feeling anxious about 30 ft. drop walls and excavating massively into the side of the landscape.

**Samantha C. Wacker**-Would you be opposed to a multi-level apartment building or an office building?

**Pastor**-I think that would be something that our council would have to discuss. I would feel much better if it were used in some residential manner. Again with issues of access, traffic, safety and security. Thank you.

**Randall Ridenhauer**-A member of the Peace Lutheran Church-To reiterate some of the things that Pastor brought up. Our building is used extensively by our community. We have civic organizations that are extensively using the downstairs of our church. The traffic issue is not the best off of Duncan Drive. It was mentioned a while ago that we agreed to put up the chain but I do not think that was part of the agreement when the City offered us in exchange for our property to put an access to Duncan Avenue. We did at times chain that property but it turned out that the people using the access came in from Scenic Drive or they came off of Duncan represented a problem so we elected to move the chain which opened it up for lower traffic through our property and it has limited that. Our neighbors have pretty good about using their judgment on using our driveway as a street. We respect their kindness. I am concerned that this if this is brought in as a commercial development it would greatly increase the traffic through our property. That could pose danger due to the fact we have children that use the lower parking lot to play. It's just doesn't seem that this would a viable thing for a commercial development to cause more traffic off our property. It looks like an exit to me versus going down on Duncan going through the stop light at Patients First and trying to make a left or right. What our concerns are, we don't want this to affect the people that people are using this as a thorough fair for a building open to public and the people that use our property in a manner that is respectful. Thank you.

**Marilyn Whitworth**-810 Marilyn Court- First I'd like to say that we are **NOT** opposed to progress! In fact, when people from out-of-town visit, we are proud to show and tell about the various new facilities, industries, shopping opportunities and dining areas we have. However, we've all heard the expression "there's a time and place for everything". We do not feel this is the place for another commercial development. It is a residential neighborhood. We ask you to please keep our neighborhood residential. Thank you!

**Bill Stewart**-Member of Peace Lutheran Church-Having been active in the original discussions about the transfer of our property to our church. The City to complete the 14<sup>th</sup> Street intersection. At that point the agreement was in exchange for 1,300 to 1,500 sq. ft. of our property down there we received the paved access to Duncan Avenue. I can't imagine a change for us to give us our access off of a commercial parking lot. First of all, that makes our access completely dependent on their snow clearing or the maintenance of their lot. If that business folds up and there is no one responsible for that, we will lose our access. Secondly, it has been referred to as a secondary access to our church. At this point it may be true but it may not be true in the future. We might go into a building project in a year from now and decide that that is going to be our main access. We certainly don't want to limit our options regarding that. I would like for you to take that into consideration that with the tremendous work that our think our church is doing for God and our community we would like to ask that you maintain the agreement that was made 10 years ago to make that transfer to give us that access and to fulfill that promise. Thank you.

**Tom Smith**-4 Scenic Drive-The statements made this evening and in the past were based upon our expectation this commission came to this meeting with an open mind. We hope by talking, walking, and seeing our neighborhood, this commission understands why we citizens are concerned and are directly affected by Mr. Duncan's rezoning request. We thank the commission members for taking the time to walk our neighborhood. Some of you were impressed by the solidarity of our neighborhood to question and stand together about these proposed zonings from Mr. Wilson and Duncan. Our neighborhood expresses this community's effort to maintain quality neighborhoods and the values stated in our city charter: Washington provides a welcoming community with good quality neighborhoods that make up Washington. We stand, because our neighborhood is residential zoning at its best.

Therefore mentioned gentleman, wish to convince this board the need to remove residential zoning from a section of our neighborhood to C4 Commercial Development. Tonight's meeting and the meetings previous, we have heard among other points: Increase traffic thru the church property, Scenic Drive, Rainbow Drive, how does rezoning this this property as commercial, serve the best interest of the entire community in Washington? Or is this request simple a benefit for just a few

individuals. But there is another point: was due diligence achieved by the commission and City Council in the revised master plan of commercial corridors and the granting of C4 to Mr. Wilson and maybe now to Mr. Duncan? Deeming only the Duncan property in our neighborhood to be commercial for future use seems to have been arbitrary. I say arbitrary, because the properties surrounding Mr. Duncan's, as one looks at the plan, are still residential. No definitive explanation was given to the neighborhood surrounding the Duncan properties about this potential commercial designation. Because of the decision in the revised master plan, enter Mr. Wilson's speculative adventure to request and succeed before this commission and City Council to rezone one of the adjacent residential properties next to Mr. Duncan's to C4. In the June meeting, questions from members of this commission regarding Mr. Duncan's request for C4 were not asked of Mr. Wilson in this request for rezoning. In Mr. Duncan's rezoning request a statement from a commission member was made to the Chair and Council of the P&Z that in the past, there were steps to rezone a residential R1 to the next category of residential rather than going straight to a C4 zoning. This request was not presented or considered in Mr. Wilson's request. We feel that due diligence in matters of this import, which potentially involve drastic changes in a neighborhood, should be adhered to and equally applied to in all situations.

If Mr. Duncan's request is approved this evening, Messer's Wilson and Duncan will stand hand in hand, co-joining their respective properties for commercial development and we neighbors, are left with the beginning of neighborhood deterioration. Joe Wildt succinctly pointed out the results of such a decision.

My wife and I, our neighbors, are appealing to the better nature in all of use as a community striving to maintain quality residential life and ask you to vote no on this rezoning request. We feel, and hope this committee continues to promote quality neighborhoods that help all of Washington; and realize, that in the aggregate, quality neighborhoods provide a more sustainable long term revenue base than any small commercial speculation

Several citizens came here to show their opposition to the rezoning. I'd ask everyone in the audience who is opposed to the Duncan rezoning request to stand and be recognized by the P&Z and counted.

**John Hillermann**-I do find it pretty powerful on our side, I call it that, and we have about 40 people here. BFA is here representing the Duncan's because he is traveling. I find that a pretty powerful statement. These people here live all over our neighborhood and up and down the streets. This has been the third or fourth meeting that we have been to and they have all hung in there. There is a lot of opposition to what is going on. I am sure you realize that we would like for you to take that into consideration how many people have shown up, the opposition to it. They have had a couple people come here that were actually related to them and these are people that have genuine concerns. Someone brought up, not sure who, about the fact that they wanted to retire in their house and have this for their retirement. They have put in a lot of time, work and money. I am one of those people that is going to retire and I didn't want to retire in a rock quarry. I have said this before and I know on a C4 they have to go through you as far as buffer zones. I have said before that when you say 25 or 30 ft. I think is the minimum. I have said it before and I will say it again that 25 ft. is from here to the wall and I know none of you would want a rock quarry in your backyard that is 25 ft. from your house. It is unacceptable. It would be devastating. It is not something you would want in your backyard with the type of development it is. Thanks for walking the property and that is all I have. Just think about it if it was yours and what you would want. Thank you.

**Tom Holdmeier**-I think that everyone on the board is concerned about the development otherwise we would not be here. We know it is tough and emotional on you. We don't take it lightly.

**Samantha C. Wacker**-I am struggling with the vagueness of the plan and with the Duncan's not here to speak about it.

**John Borgmann**-If we deny the zoning request change will the Duncan's have any recourse?

**Mark Piontek**-It still goes to City Council for the final decision.

**Rick Rohlfling**-And they already required a super majority?

**Mark Piontek**-Yes it is 6 out of the 8.

**Samantha C. Wacker**-Can we leave this tabled?

**Tom Holdmeier**-I don't think so anymore. We are at a point where we could go on for years. We wanted to see some site plans that might work.

**Samantha C. Wacker**-My concern is just that it is very vague. That is the concern I have.

**Rick Rohlfling with BFA**-Mark, you might be able to help me is that a request to rezone to C4, per the ordinances, does not require a development plan be submitted at the time of rezoning. We understand that is vague but that is the idea of the C4.

**Tom Holdmeier**-Correct.

**Chuck Dockrey**-Peace Lutheran Church-As the developer said it, it doesn't require a plan, it is just a request to rezone the property to C4 which would allow Mr. Duncan to potentially sell it to someone with a desire to make it commercial. This shows an 18 ft. building and which I understand from you is that it could be a 3 story building.

**Tom Holdmeier**-We get to determine that. Height, setbacks and all those things.

**Chuck Dockrey**-Is that put in the C4 zoning that they have to have it approved first?

**Tom Holdmeier**-Yes, they have to show trees, landscaping and everything. People that develop don't like the C4 because we dictate what can and can't be done. It goes on forever.

**Chuck Dockrey**-I applied Washington and its desire to increase its tax base and I know that this is not that purpose here. This is a residential area and it is just a concern that providing a developer with a C4 zoning is open ended.

**Tom Holdmeier**-The neighbors would also have an input. It would be ongoing.

**Chuck Dockrey**-It doesn't seem to serve a purpose for the community other than providing Mr. Duncan away of selling it.

**Kevin Cundiff**-Can we talk about how actually the C4 zoning works and how the developer has to come back with a development plan? Dan, help me out please.

**Carolyn Witt**-I think that the problem with the neighbors that if it is zoned C4 that it is going to develop into a commercial development somehow. I am assuming that is their main concern. That if we accept that, the die is cast. Again, say in 2 years and nothing happens and it reverts back. When I was on Council we were working on one in front Eshragi and that has been back several times so nothing and nothing has happened there. And if they are not home and don't have a case to present a reason for it to be tabled. The whole thing is upsetting. If it C4 and the die is cast it is going to be commercial. Do we need that commercial in that spot is their concern. It is my interpretation and no matter how much protection we give them, that is what is going to happen.

**Samantha C. Wacker**-I would look at it, and this goes back to the question for Mark, you may have the die being cast but I don't think the die is cast if we were, let's assume that this is approved a C4 and two years out and we still don't have an acceptable development plan and even if we are in the process of reviewing a plan, Mark would it revert to, what would happen?

**Mark Piontek**-What the code says that if there is an approved development plan that is substantially completed within 2 years of the date of the rezoning, unless extended by the Council, the property automatically reverts back to zoning that existed prior to the rezoning. So the two year clock, if you will, doesn't begin to run until the development plan is approved. Once it is approved it substantially be complete within 2 years.

**Sandy Lucy**-If nothing happens and if we zone it C4? Would they have to come back again?

**Mark Piontek**-It will remain C4. They just will have to get approval for a development plan. The code says that if they don't substantially complete it within 2 years of rezoning, unless extended by the Council, the property automatically reverts to the prior zoning.

**Sandy Lucy**-Like the Eshragi, they had to come back?

**Mark Piontek**-Actually, I think they did have a development plan for an office building so that was approved.

**Samantha C Wacker**-So the approval of the development plan to completion is the two year window? Not approval of a development plan?

**Mark Piontek**-It has to be substantially completed within 2 years of approval.

**John Bormann**-Counsel, if we as a Commission haven't seen a revised zoning code that hasn't been reviewed in its entirety yet, does the zoning code address this situation in the same way that the old one does because I would envision it hopefully within 2 years we are going to have the new zoning code in place. Are there any areas, and I think you and Dan have reviewed it somewhat, are we going to run into a situation where we are going to be dealing with the old now and the new later in the new has different criteria?

**Mark Piontek**-I wish I could tell you that. I don't think we changed anything regarding that. There were some changes but mostly clean up things or things that had been addressed from time to time. I don't recall, other than I think we got rid of the Planned Unit Development and the Planned Development and sort of combined them all into one.

**Charlie Hart**-I have quick question. If it was approved to go to C4 could site preparations start just by leveling the ground, starting the blasting...?

**Tom Holdmeier**-It is my understanding all they would have to do is get a grading permit from City Hall. You don't have to see anything. He could start tomorrow as long as he could provide City Hall with water runoff, stormwater and those things that would cause runoff.

**Charlie Hart**-What about all the surrounding properties and the house within the blasting zone or is it just tough luck?

**Tom Holdmeier**-They usually take precautions when they are blasting. It has been done several places in town where there are larger projects. It is not saying that they have to blast all the time, they may use other methods depending on what is there. Basically they can do that on their property at the setback.

**Dan Boyce**-They can come in apply for a grading permit just like you could. As far as blasting, it is not tough luck. There are procedures that have to be followed. There are instruments that are placed near homes that can't exceed certain readings and safeguards for blasting.

**Charlie Hart**-What if my basement is damaged? Every house in that area has a full basement.

**Tony Gokenbach**-If would be the liability of the blasting company.

**Dan Boyce**-If someone damages your house then they would have to fix it.

**Samantha C Wacker**-That is not even relevant to whether it is C4 or not. If he wanted to build houses along the front, he would have to blast to do it.

**Sandy Lucy**-He could start grading tomorrow.

**Tom Holdmeier**-Some people may want to develop their properties to be more user friendly and they will go ahead with that expense to do it.

**Charlie Hart**-And as long as you call dig-right.

**John Hillermann**-I am sorry but I am unclear on this one point. You said that the property owners can be involved in C4 development. If the property owner, Mr. Duncan, goes in there and gets a grading permit and grades up to 25 ft. of my property, what say did I have in that?

**Kevin Cundiff**-That is why C4 is a good deal in a property like this because you do have a say so.

**John Hillermann**-You just said that if you develop it as a C4 that he could come in tomorrow and grade within 25 ft. of the homes.

**Board**-He could come into tomorrow and start grading

**John Hillermann**-He could start a rock quarry?

**Samantha C Wacker**-Yes. As long as he is following the applicable procedures.

**John Hillermann**-Then how could I come later and have a different setback, wider? It is already done.

**Tom Holdmeier**-That is why we look at C4.

**Samantha C Wacker**-He could sell it tomorrow and the buyer could do the same thing without changing anything.

**John Hillermann**-it sounds like a conundrum. It sounds like we have a lot of say so in this but we really don't.

**Kevin Cundiff**-The only way you some say so in it is if it is a C4 for zoning. Otherwise, he can do whatever he wants to with his property as it is zoned now.

**John Hillermann**-It sounds like even if we develop it a C4...

**Tom Holdmeier**-C4, he has to have the plans before he can start. He can't grade or anything before we know the plan. If he wants to stay R1A, he can grade tomorrow.

**Bill Stuart**-If C4 were approved tonight and the property owner was not able to sell it and didn't develop it for 10 years from now, that C4 carries on until someone submits plans, is that correct?

**Mark Piontek**-Correct.

**Bill Stuart**-So it could sit there for 10 years, sitting as C4, putting everyone in this room in limbo regarding their property values for as long as it takes for them to do that. I think that is a lot to ask for people on a property that has not been developed. I was involved in the initial negotiations when the 14<sup>th</sup> Street intersection was built. At that time, for those of you that were on the commission, remember that the City asked us(the church) that the intersection was on hold to give the Duncan's time to come up with a development plan then. They weren't able to come up with a plan so we proceeded with where we were. I think they missed the boat. I think that was the opportunity to do something with it if they wanted to. So I would ask that you take that into consideration. Thank you.

**John Borgmann**-Code 470.30 If any approved development plan is not substantially completed within two (2) years from the date of the rezoning to Planned Residential, Commercial or Industrial District, unless extended by the Council, the property shall automatically revert to the same zoning classification which existed prior to the Planned Residential, Commercial or Industrial District zoning classification, and, thereupon, the district regulations in force prior to the establishment of the Planned Residential, Commercial or Industrial District shall be in full force and effect. So that date of rezoning would be from when the Council approval was made? Is that correct?

**Mark Piontek**-Yes, that is correct, I stand corrected.

**John Borgmann**-If that would be the case, then the date of the Council meeting they would have to have a substantially completed development plan within 2 years of that date.

**Mark Piontek**-You are correct.

**Tom Holdmeier**-So we are changing it. Did everybody get that? So it is 2 years that you have to get a development plan in action otherwise it reverts back to the original zoning.

**Carolyn Witt**-I don't think the Eshragi property ever had a plan.

**Board**-We think they did.

**Tom Holdmeier**-So if it does get approved they have 2 years to get a plan in here and approved. If they don't it reverts back to the original zoning. It doesn't go forever.

**Dan Boyce**-I want to mention the 2 contingencies that accompany this. We have 2 properties, requesting zoning in the same location. So the first contingency is that both properties have to be similarly zoned. The second contingency is that the Duncan right of way from the north line of the Daryl Duncan property to Hwy 47 be established.

**Sandy Lucy**-Motion to approve.

**Carolyn Witt**-What are you motioning?

**Sandy Lucy**-Are you ready to make one?

Carolyn Witt-No

Motion made by Greg Skornia to put this to a vote for C4 rezoning, seconded by Kevin Cundiff.

Roll Call Vote for Daryl L. Duncan and Kathleen W. Duncan Properties:

Tony Gokenbach, nay, Greg Skornia, nay, Kevin Cundiff, nay, Tom Holdmeier, yes, Sandy Lucy, yes, John Borgmann, nay, Samantha C Wacker, yes, Carolyn Witt, nay.

Tom Holdmeier-By your votes they have failed. This will go to Council on September 28<sup>th</sup>, 2015, 7:00 p.m.

Motion to adjourn at 9:01 p.m. by Tony Gokenbach, seconded by Carolyn Witt, passed without dissent.

The next meeting of the Planning & Zoning Commission will be October 12<sup>th</sup>, 2015 at 7:00 p.m.

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Thomas R. Holdmeier  
Chairman