

Memo

To: Mayor Brodell
From: Jeff Hawkins *JH*
Date: April 15, 1999
Subject: 1997 Rezoning of 4114 Forest Hill Road

Attached is a proposed ordinance repealing a previous rezoning in the 4100 block of Forest Hill Road. This is the location of Crowley Ridge Machine Works, and an adjacent structure; Mr. John Ellis, owner.

In August of 1997, a gentleman named James Lackey, and his surveyor, George Hamman, filed applications for the property to be rezoned (R-1 to C-3) and platted. Mr. Lackey was purported to be the owner. At their September 9, 1997 meeting, the MAPC approved the plat, and recommended that the City Council approve the rezoning. The Council approved the rezoning by passage of Ordinance No. 3006 on October 6, 1997.

A few weeks ago, Doug Little worked a complaint regarding the accumulation of junk on the property, and contacted Mr. Lackey regarding the necessity for compliance with City codes. He informed Doug that he didn't own, and never had owned the property. Mr. Lackey had apparently considered purchasing the property, but decided against it when he learned of substantial liens against the property. In short, he made requests he was not entitled nor had the standing to make, and received platting and rezoning approval.

Upon learning of this situation, and the circumstances involved, the MAPC appropriately rescinded actions taken at their September 9, 1997 meeting regarding this property, and requested that the City Council repeal the C-3 rezoning (Ordinance No. 3006). Section 14.04.11 of the City Code limits the initiation of zoning district changes to "the City Council, city planning commission or by one or more owners or lessees of property within the area proposed to be changed." Neither Mr. Lackey, nor his surveyor possessed the ownership or proprietary interest in the property needed for platting or rezoning consideration.

Rescinding plat approval need only be reflected in the MAPC's minutes, because the plat had never been recorded. However, un-doing the rezoning, even though it was based on an invalid filing, requires City Council action. If passed, the property's zoning classification would automatically revert to R-1 residential, and it would again be considered a non-conforming use. As such, future uses of the property, and expansion of the existing establishment would again be

limited. Also, with regard to the junk, Doug has indicated that code enforcement efforts would likely be more effective if the zoning classification was R-1.

I believe the MAPC took the proper action in rescinding their previous approval, and asking that Ordinance No. 3006 be repealed. Should additional information be required, please advise.