ORDINANCE 94-17

TO AMEND THE BLOOMINGTON ZONING MAPS FROM RS to RH, GRANT PUD DESIGNATION, AND APPROVE OUTLINE PLAN
Re: 838 and 840 E. Miller Drive
(Tim Henke, Petitioner)

WHEREAS, the Common Council passed a Zoning Ordinance amendment and adopted new incorporated zoning maps on June 7, 1978 which are now incorporated in Title 20 of the Bloomington Municipal Code; and

WHEREAS, the Plan Commission has considered this case, RH/PUD-12-94 and recommended that the petitioner, Tim Henke, be granted an amendment to the Bloomington zoning maps, PUD designation, and outline plan approval and request that the Common Council consider his petition;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. Through the authority of IC 36-7-4 that the zoning be changed from RS to RH for the property located at 838 and 840 E. Miller Dr. That property is further described as follows:

> A part of Lots 104 and 105 in Barclay Gardens, a subdivision to the City of Bloomington, Monroe County, Indiana. **BEGINNING** at a 1" pipe found at Southeast corner of said Lot 105; thence SOUTH 88 degrees 07 minutes 33 seconds West 183.35 feet along the south lines of said Lots 104 and 105 to a 5/8" rebar found at the Southwest corner of said Lot 104; thence NORTH 00 degrees 41 minutes 30 seconds West 447.34 feet along the West line of said lot 104 to a set 5/8" rebar; thence NORTH 89 degrees 20 minutes 01 seconds East 183.64 feet along the South line of a tract of land conveyed by Cecil Sasser et. al. to the Redevelopment Department, City of Bloomington, in Deed Book 294, Page 406, in the office of the Recorder, to a set 5/8" rebar; thence SOUTH 00 degrees 38 minutes 59 seconds East 443.48 feet along the East line of said Lot 105, to the Point of Beginning, containing 1.88 acres, more or less.

SECTION II. Through the authority of IC 36-7-4 and pursuant to Chapter 20.13 of the Bloomington Municipal Code, that an outline plan be approved and that the property described be designated a PUD.

SECTION III. The Outline Plan shall be attached and made a part of this ordinance.

SECTION IV. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 18 day of MAY, 1994.

JIM SHERMAN, President
Bloomington Common Council

ATTEST:

D.C.C.

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this 19 day of MAY, 1994.

Michael F. Shoy D.C.C.
PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED AND APPROVED by me upon this 19 day of May, 1994.

Tomilea Allison
TOMILEA ALLISON, Mayor
City of Bloomington

SYNOPSIS

This ordinance grants the rezoning from RS to RH/PUD and approves an outline plan for a development with 32 one-bedroom units and an existing single family house on approximately two acres located at 838 and 840 E. Miller Dr.

Signed copies:
Planning
Petitioner

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 94-17 is a true and complete copy of Plan Commission Case Number RH/PUD-12-94 which was given a recommendation of approval by a vote of 9 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on April 4, 1994.

Timothy A. Mueller

Date: April 5, 1994

Tim Mueller, Secretary
Plan Commission

Received by the Common Council Office this 5th day of April, 1994,

Patricia Williams

Patricia Williams, City Clerk

Appropriation Ordinance #_____ Fiscal Impact Statement Ordinance #_____ Resolution #_____

Type of Legislation:

Appropriation	End of Program	Penal Ordinance
Budget Transfer	New Program	Grant Approval
Salary Change	Bonding	Administrative Change
Zoning Change	Investments	Short-Term Borrowing
New Fees	Annexation	Other_____

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure_____ Emergency_____
Unforseen Need _____ Other_____

Funds Affected by Request:

Fund(s) Affected		
Fund Balance as of January 1	$	$
Revenue to Date		
Revenue Expected for Rest of year		
Appropriations to Date		
Unappropriated Balance		
Effect of Proposed Legislation (+/-)		
Projected Balance	$	$

Signature of Controller_____

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues? Yes_____ No_____

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

City of
Bloomington
Indiana

Post Office Box 100
Municipal Building
Bloomington, Indiana 47402

Planning Department

812-331-6423

Tomilea Allison
Mayor

MEMO

To: The members of the Council:
From: Tim Mueller and Tim Henke
Date: May 18, 1994
Re: RH/PUD-12-94 - Tim Henke

This memo confirms that the planning department and petitioner both understand that certain variances - the 20' buffer and 37 parking spaces - were granted based on the particular characteristics of the petitioner's proposal. Fundamental to the variance findings was participation in the Low Income Housing tax credit program and the special population with fewer cars.

In the event that the project is revised before the development plan approval or permits, the variance would not apply.

In the event that the special population is replaced with ordinary tenants in the future, then the additional parking per code would be required. Enforcement of this can be detailed by the commission in its terms of development plan approval.

Sincerely,

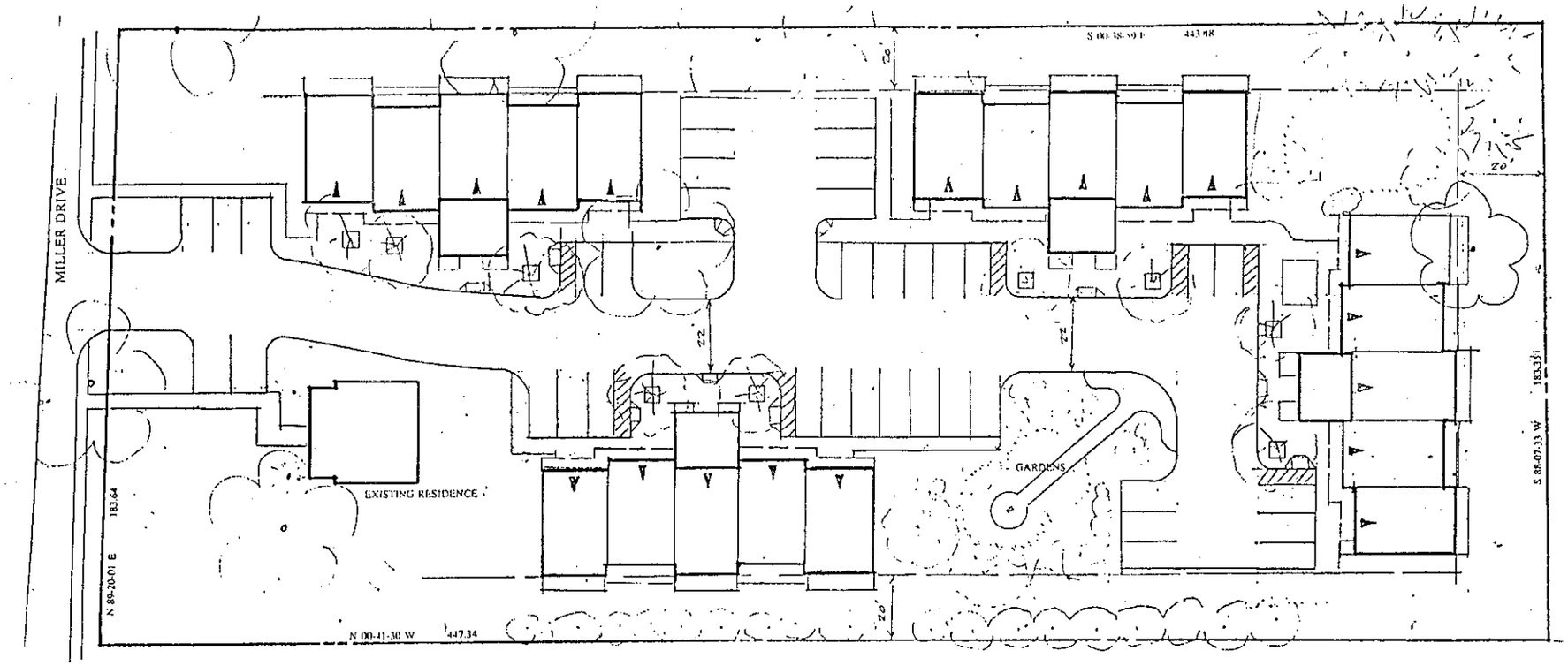
Tim Mueller

Tim Mueller, AICP
Planning Director

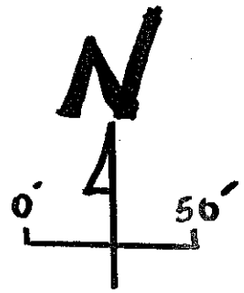
Tim Henke

Tim Henke,
Petitioner

TM/ckl



SITE PLAN



Site Plan
— RH/PUD-12-94

58

MEMO

To: Common Council
From: Planning Department
Petitioner: Tim Henke
Location: 834, 834 1/2, & 838 Miller Dr.
Case #: RH/PUD-12-94
Date: April 4, 1994

On April 4, 1994, the Bloomington Plan Commission granted approval for a rezone from RS to RH with PUD designation and outline plan approval for a two acre parcel located in the Miller Drive Neighborhood.

The site is currently occupied by the Johnson Service business, a mobile home and one single family structure. The auto repair business is located in a cement block garage. As a result of this use and concern about the disposal of pollutants, the petitioner has directed a Phase I Environmental Assessment of the site. There are several mature shade trees scattered throughout and tree lines on the east, west and south sides of the site. The tree lines feature both scrub and smaller specimens. The site is bordered on its west and south sides by apartments. On the north and east by single family homes.

This area was a focus point in the Miller Drive Neighborhood Plan and is in compliance with the densities proposed for this area. It also will eliminate the existing nonconforming uses. In addition, the project is participating in the Low Income Housing Tax Credit Program. Please refer to the attached page titled Area G - Open Area West and Johnson Service.

The service center building and trailer will be removed as well as the refuse on the site. This proposal allows 32 one bedroom condominiums to be constructed as special needs housing, including provisions for the mentally and physically handicapped, low income and elderly. An existing single family residential unit will be retained. An effort has been made to save many of the shade trees.

Variances from the 30′ buffer requirement, 50 parking spaces, the 5 acre minimum size requirement of the planned unit development, and a drive width of 22′ were approved. The petitioner requests a 20′ buffer, relief from 37 parking spaces, a 22′ drive width and a total project size of 1.88 acres

Approval of RH/PUD-12-94 was granted with the following conditions:

1. Trees in the buffer areas be preserved in conjunction with Environmental Commission review.

2. Remaining topsoil be tested and test reports submitted pursuant to the E.C.s recommendation.

3. Variances granted according to the staff report (30′ buffer, the parking requirement, the 5 acre minimum requirement for a PUD, and an allowed drive width of 22′).

Voting Record: Approved 9:0

BLOOMINGTON PLAN COMMISSION
FINAL REPORT
Location: 834, 834 1/2, and 838 Miller Drive

CASE NO.: RH/PUD/12/94
DATE: April 4, 1994

PETITIONER: Name : Tim Henke
Address: 416 West 11th Street

COUNSEL: Name : Smith Neubecker Associates, Inc.
Address: 4625 E. Morningside Drive, Bloomington, IN 47407-5355

FINAL HEARING DATE: April 4, 1994

REQUEST: This is the final hearing on a request for rezoning and outline plan approval for a two acre parcel located in the Miller Drive Neighborhood. The plan is composed of 32 one bedroom condominiums to be constructed as special needs housing, including provisions for the mentally and physically handicapped, low income and elderly. An additional single family residential unit will be retained.

EXISTING USE AND DESCRIPTION: The site is currently occupied by the Johnson Service business, a mobile home and one single family structure. The auto repair business is located in a cement block garage. As a result of this use and concern about the disposal of pollutants, the petitioner has directed a Phase I Environmental Assessment of the site. There are several mature shade trees scattered throughout and tree lines on the east, west and south sides of the site. The tree lines feature both scrub and smaller specimens. The site is bordered on its west and south sides by apartments. On the north and east by single family homes.

PROPOSED USE AND DESCRIPTION: The 32 new units will be divided into 20 first floor handicapped accessible units and 12 second floor units for those with special needs other than physical disabilities. The end units will be single story. The existing bungalow is to be rehabilitated and retained. The trailer and garage will be removed. The 4 structures feature 5 bays each arranged around a single two way drive.

ISSUES: This plan is in compliance with the densities proposed for this area by the Miller Drive Neighborhood Plan. It also will eliminate the existing nonconforming uses. In addition, the project is participating in the Low Income Housing Tax Credit Program. The petitioner has attempted to preserve come of the existing shade trees.

The site plan proposed requires variance from the 30′ buffer requirement, 50 parking spaces, the 5 acre minimum size requirement of the planned unit development, and a drive width of 22′. The petitioner requests a 20′ buffer, relief from 37 parking spaces, a 22′ drive width and a total project size of 1.88 acres

CRITERIA

20.13.01.19 Variance. In any case where these regulations will cause an undue hardship and where the preservation of topographic features requires, or where unique design quality of a development warrant, the plan commission may vary any provision of these regulations.

In responding to this petition, staff reviews the overall goals of the project, which is to provide housing for citizens with special needs and reduced income. In the process two nonconforming uses will be eliminated and the entire site reviewed for environmental concerns. Staff finds all of these considerations as well as the need to preserve several large trees to be part of this project's unique design aspects. Staff finds hardship in the difficulty of meeting affordable housing goals and provision of housing for handicapped citizens.

RECOMMENDATION: Staff recommends approval of RH/PUD-12-94 with the following conditions:

1. Trees in the buffer areas be preserved in conjunction with Environmental Commission review.
2. Remaining topsoil be reexamined after removal of contaminants.

BLOOMINGTON PLAN COMMISSION
PRELIMINARY REPORT
Location: 834, 834 1/2, & 838 Miller Dr.

CASE NO.: RH/PUD-12-94
DATE: March 21, 1994

PETITIONER: Name : Tim Henke
Address: 416 W. 11th St.

COUNSEL: Name : Smith Neubecker & Assoc., Inc.
Address: 4625 E. Morningside Dr.

PRELIMINARY HEARING DATE: March 21, 1994
FINAL HEARING DATE: April 4, 1994

REQUEST: Rezone from RS to RH/PUD, outline plan approval of condominiums for special needs housing (which includes mentally and physically handicapped persons, low income and elderly people) in the form of 32 one bedroom apartments on this two acre parcel.

EXISTING USE AND DESCRIPTION: This two acre parcel is currently zoned RS. It is the site of the Johnson Service business, a trailer and one single family home. The land is relatively flat with several large mature shade trees scattered throughout the two acres. The parcel is the site of a clean-up project to remove the tainted soil from the service area and towards the rear of the property. The Environmental Commission has reviewed the clean-up documents and will report on their findings.

PROPOSED USE AND DESCRIPTION: This project is a Low Income Housing Tax Credit Program and is committed to this program for a minimum of fifteen years. The proposed use is a housing project for low income people with special needs. Thirty-two one-bedroom units are proposed. Twenty of the units will be constructed on the first floor and will be handicapped accessible. The second floor will be for people who are physically able but have other needs. The single family home will remain and be refurbished, while the service center and the trailer will be razed.

ISSUES:
R.O.W. Dedication: The required right-of-way on Miller Dr. is thirty feet from the centerline of the street. This right-of-way will be dedicated.

Access: Access to the site will be from one point only. Currently there are two entrance drives to the property. Engineered plans will be required at development plan stage.

Utilities: All utilities are available at this time.

Drainage: Drainage will be addressed at development plan stage.

Tree Preservation: Several of the mature trees on the site will be preserved. In addition, several additional trees will be planted.

Sidewalks: Sidewalks are provided along Miller Dr. and will connect the interior of the site for easy access.

Density: The density of the project is 16 units per acre. Although this is slightly over the moderate housing density, all of the units are one bedroom only which lowers the impact of multiple tenants in each unit.

Parking: The petitioner is requesting a variance from the parking space requirements. Because this is special needs housing, it is estimated that approximately 50% of the tenants will not be licensed to drive. Although there is room for the required 50 parking spaces, 37 parking spaces are requested. The petitioner is will to document on the recorded deed that if the housing should ever revert to conventional housing that the parking must be constructed.

Plan Compliance: This area of Bloomington is known as the Miller Dr. area. In 1992, after much work with the residents in the area, the Miller Dr. Neighborhood Plan was adopted as part of the Master Plan process. This particular site is referenced as Area G - Open Area West and Johnson Service. The plan proposes that the Johnson service site be encouraged to develop as moderate density residential to encourage the replacement of the business at this location. Please see the attached page for Area G.

Variance: Variances are requested the number of parking spaces (from 50 to 37), a setback variance from the required 30' buffer to a 20' buffer area, and a drive width variance from the required 24' width to a 22' width. These variances are requested in order to allow for more open space and the preservation of a few of the trees while allowing the construction of 32 one-bedroom apartments.

RECOMMENDATION: Staff recommends forwarding this petition to a second hearing on April 4, 1994.

April 4, 1994

To: Tim Mueller

From: T. Micuda, K. Komisarcik, G. Heise,
M. Wedekind, P. Werner

Subj: RH/PUD-12-94 Tim Henke 834, 834 1/2, & 838 Miller Dr.

During this petition's first hearing on March 21, the Environmental Commission reviewed the results of a Phase I Environmental Assessment that was done on the site. Please reference our report from that meeting. We have no issues with the Environmental Assessment as long as the petitioner is willing to agree to two conditions of approval. These are that: 1) the petitioner carry out all of the recommendations contained in the assessment including post-disposal soil testing and 2) the petitioner submit all post-disposal test results to staff for verification.

Examination of the petitioner's site plan shows that specimen trees on the property are slated for preservation. Among the trees the Environmental Commission would like to be preserved include: a large sugar maple tree on the southern portion of the site, two silver maples, one just northeast of the existing house and the other just south of the existing garage, a very large deciduous tree (probably an elm) along Miller Drive, two evergreen trees north of the existing residence, and three or four deciduous trees along the eastern property line. We hope to resolve any outstanding tree preservation issues prior to the April 4th hearing.

cc. Rod Young

March 21, 1994

To: Tim Mueller

From: T. Micuda, K. Komisarcik, G. Heise,
M. Wedekind, P. Werner

Subj: RH/PUD-12-94 Tim Henke 834, 834 1/2, & 838 Miller Drive

We have inspected the site and reviewed the petitioner's documentation and have the following comments:

1. As a result of this site's previous usage as an auto repair facility, the petitioner has directed a Phase I Environmental Assessment to be done on the property. An area of soil staining east and northeast of the repair garage was tested for pollutants and was found to have excess levels of total particulate hydrocarbons (TPHs) and lead. A fill area in the southeast corner of the site was also tested and also contains excess levels of TPH. Well water on the property was also analyzed for waterborne pollutants, and the site's buildings were tested for asbestos. The report recommends that the area of soil staining east of the garage be removed for disposal. Information provided by the petitioner indicates that the soil from this area falls into the classification a "special waste", meaning it will be sent to a landfill outside of Monroe County. The report recommends that the fill material in the southeast corner of the site be disposed of as well. It is classified as a solid waste and can be taken to the Monroe Co. landfill. In summary, we have reviewed the recommendations in the report and find them to be satisfactory. As long as the petitioner carries out the recommendations outlined in the Phase I Environmental Assessment, we believe this issue will be adequately addressed.

2. The property in question has no severe slopes or sinkholes. Drainage and erosion control should not be major issues at development plan stage. The site has predominantly small caliper trees, brambles, and vines on the southern and western perimeters. The eastern perimeter of the site also has scrub vegetation but does contain some larger preservable specimens. The interior of the site is largely open with scattered specimen trees. On the south portion of the property, a large maple tree and two cedars are worth preserving. In the center of the property, several large trees could be found around the repair garage and the existing house. The evergreens and several maples look to be healthy; other hardwood trees are of lesser quality. Just west of the site's proposed entrance is a huge specimen tree. It will not restrict site distance as long as the Miller Drive ROW is left reasonably clear of additional landscaping.

cc. Rod Young

Smith Neubecker Associates, Inc.

Stephen L. Smith P.E., L.S.
President

Daniel Neubecker L.A.
Project Manager

February 22, 1994

Bloomington Plan Commission
c/o Tim Mueller, Director
P. O. Box 100
Bloomington, IN 47402-0100

RE: Huntington Gardens

Dear Commissioners:

On behalf of Tim Henke we request the rezoning of an existing parcel of land from RS to RH PUD. The land that is to be rezoned will provide affordable housing opportunities.

The approximate size of the project is 2.0 acres in size and located on Miller Drive. The project is surrounded on two sides by high density multi-family developments and low density rental housing on remaining sides.

The outline plan proposed an affordable housing project that allows easy access for the handicapped as well. Specially designed architecture will be used to cater to people with physical disabilities by providing handicapped accessible living space. The project is internal focused on a garden green space.

As part of this outline plan the petitioner requests variances to setback and parking regulations. Reducing the excessiveness of these requirements will allow for a greater number of handicapped accessible and affordable housing units.

The proposed variances will not reduce the quality of the living environment but will make it more useful and efficient.

The following variances are requested:

20' Perimeter Setback
22' Travel Lane in Parking
37 Parking Spaces Instead of 51

4625 Morningside Drive
Post Office Box 5355
Bloomington, Indiana 47407-5355
Telephone 812 336-6536
FAX 812 336-0513

Bloomington Plan Commission
February 22, 1994
Page two

Please give this project due consideration for the many merits it will exhibit.

Sincerely,

Michael J. Probst, A.S.L.A.
Smith Neubecker and Associates

MJP:vp

cc: File #2200