Passed: 6-1 (Service)

ORDINANCE 95-10

TO AMEND THE BLOOMINGTON ZONING MAPS FROM IL AND IG TO PUD, AND APPROVE THE PRELIMINARY PLAN Re: 3000 W. Third St. (Jerry Gates, Petitioner)

WHEREAS, as a result of action by the Plan Commission and Common Council, Ordinance 95-21, which repealed and replaced Title 20 of the Bloomington Municipal Code, entitled "Zoning", including the incorporated zoning maps, and Title 21, entitled "Land Use and Development," became effective on May 1, 1995; and

WHEREAS, the Plan Commission has considered this case, PUD-81-94, and recommended that the petitioner, Jerry Gates, be granted PUD designation and preliminary plan approval and request that the Common Council consider their 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 and pursuant to Chapter 20.05.09 of the Bloomington Municipal Code, that a preliminary plan be approved and the property designated a Planned Unit Development. The property is located at 3000 W. Third St. and is further described as follows:

Part of the East half of Section 36, Township 9 North, Range 2 West and part of the Southwest quarter of Section 31, Township 9 North, Range 1 West, Monroe County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of said Section 31, thence North 00 degrees 33 minutes 07 seconds West 901.14 feet along the West line of said Section 31 to a point on the Westerly line of additional right-of-way taken for the State Road 37 and State Road 48 interchange, said point being the point of beginning; thence Southerly and Westerly along said right-of-way the following nine (9) courses, 1) South 15 Degrees 21 Minutes 32 Seconds West 370.64 feet; 2) North 89 Degrees 32 Minutes 04 Seconds West 74.70 feet; 3) South 00 Degrees 16 Minutes 04 Seconds East 321.89 feet; 4) South 38 Degrees 23 Minutes 25 Seconds West 78.40 feet; 5) North 89 Degrees 39 Minutes 40 Seconds West 335.00 feet; 6) North 38 Degrees 37 Minutes 31 Seconds West 32.64 feet to a point; 7) North 89 Degrees 54 Minutes 36 Seconds West 54.85 feet; 8) South 38 Degrees 24 Minutes 44 Seconds West 31.87 feet; 9) North 89 Degrees 51 Minutes 27 Seconds West 125.51 feet; thence leaving said right-of-way North 00 Degrees 10 Minutes 51 Seconds East 77.61 feet; thence South 89 Degrees 40 Minutes 36 Seconds East 76.56 feet; thence North 00 Degrees 30 Minutes 13 Seconds West 816.42 feet; thence North 89 Degrees 38 Minutes 34 Seconds West 101.84 feet; thence North 00 Degrees 36 Minutes 56 Seconds West 763.75 feet; thence North 36 Degrees 32 Minutes 58 Seconds East 161.35 feet; thence North 00 Degrees 36 Minutes 56 Seconds West 701.42 feet; thence North 89 Degrees 23 Minutes 04 Seconds East 710.55 feet; thence North 00 Degrees 33 Minutes 07 Seconds West 549.46 feet to the Southerly right-of-way of the CSX railroad, said point being on a non-tangent curve concave Northeasterly with a radius of 10684.63 feet and a chord bearing South 82 Degrees 16 Minutes 20 Seconds East 145.41 feet; thence along said right-of-way and said curve an arc distance of 145.41 feet to a point on a non-tangent curve concave Northeasterly with a radius of 14370.13 feet and a chord bearing of South 82 Degrees 55 Minutes 17 Seconds East 130.08 feet; thence along said right-of-way and said curve an arc distance of 130.08 feet; thence South 83 Degrees 10 Minutes 50 Seconds East 768.19 feet; thence South 00 Degrees 32 Minutes 36 Seconds East 547.76 feet to the Westerly right-of-way of State Road 37; thence along said right-of-way the following six (6) courses, 1) South 46 Degrees 39 Minutes 48 Seconds West 103.40 to a point on a tangent curve concave Southeasterly with a radius of 2984.79 feet and a chord bearing South 38 Degrees 15 Minutes 37 Seconds West 872.38 feet; 2) Southwesterly

along said right-of-way and said curve an arc distance of 875.52 feet; 3) South 34 Degrees 58 Minutes 54 Seconds West 317.97 feet; 4) South 12 degrees 43 minutes 58 seconds West 317.97 feet to a point on a non-tangent curve concave Southeasterly with a radius of 2984.79 feet and a chord bearing South 15 degrees 49 minutes 05 seconds West 212.38 feet; 5) Southwesterly along said curve an aarc distance of 212.43 feet; thence North 89 Degrees 45 Minutes 56 Seconds West 64.78 feet; thence South 15 degrees 21 minutes 32 seconds West 107.36 feet to the point of beginning, containing 70.82 acres, more or less.

AND,

Part of the West half of the Section 31, Township 9 North, Range 1 West, Monroe County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of said half section, thence North 00 degrees 33 minutes 07 seconds West along the West line of said half secton 1004.79 feet; thence North 89 degrees 45 minutes 56 seconds West 633.79 feet; thence North 00 degrees 49 minutes 45 seconds West 49.48 feet; thence North 89 degrees 381 minutes 34 seconds West 266.52 feet to the point of beginning; thence North 89 Degrees 38 Minutes 34 Seconds West 254.10 feet; thence North 00 Degrees 38 Minutes 36 Seconds West 44.19 feet; thence North 89 Degrees 43 Minutes 37 Seconds West 1566.48 feet; thence North 00 Degrees 26 Minutes 02 Seconds West 800.17 feet; thence North 89 Degrees 10 Minutes 04 Seconds East 573.76 feet; thence North 00 Degrees 01 Minutes 09 Seconds West 190.42 feet; thence North 89 Degrees 16 Minutes 50 Seconds East 707.86 feet; thence North 01 Degrees 09 Minutes 32 Seconds East 124.09 feet; thence North 42 Degrees 43 Minutes 12 Seconds West 42.41 feet; thence North 01 Degrees 27 Minutes 43 Seconds West 410.24 feet; thence North 17 Degrees 05 Minutes 35 Seconds West 184.80 feet; thence North 24 Degrees 26 Minutes 03 Seconds West 244.40 feet; thence South 84 Degrees 00 Minutes 57 Seconds West 292.80 feet; thence North 04 Degrees 46 Minutes 52 Seconds West 70.01 feet; thence South 89 Degrees 24 Minutes 49 Seconds West 206.77 feet; thence North 00 Degrees 21 Minutes 01 Seconds West 379.87 feet; thence North 89 Degrees 52 Minutes 05 Seconds East 1020.38 feet to the Southerly right-of-way of the CSX Railroad, said point being on a non-tangent curve concave Northeasterly with a radius of 3867.61 feet and a chord bearing South 67 degrees 57 minutes 12 seconds East 272.74 feet; thence Southeasterly along said right-of-way and said curve an arc distance of 272.80 feet to a point on a non-tangent curve concave Northeasterly with a radius of 3726.03 feet and a chord bearing of South 71 Degrees 35 Minutes 02 Seconds East 209.35 feet; thence Southeasterly along said right-of-way and said curve an arc distance of 209.38 to a point on a non-tangent curve concave Northeasterly with a radius of 3978.98 feet and a chord bearing South 73 degrees 14 minutes 32 seconds East 6.76 feet; thence Southeasterly along said right-of-way and said curve an arc distance of 6.76 feet to the Northwest corner of a tract of land described in Deed Record Book 345, page 260 of the Monroe County Recorder's Office; thence leaving said right-of-way South 00 Degrees 33 Minutes 07 Seconds East 627.83 feet; thence North 89 Degrees 26 Minutes 53 Seconds East 550.00 feet; thence South 00 Degrees 33 Minutes 07 Seconds East 50.00 feet; thence South 89 Degrees 23 Minutes 04 Seconds West 710.55 feet; thence South 00 Degrees 36 Minutes 56 Seconds East 701.42 feet; thence South 36 Degrees 32 Minutes 58 Seconds West 161.35 feet; thence South 00 Degrees 36 Minutes 56 Seconds East 763.75 feet to the point of beginning, containing 70.82 acres, more or less.

SECTION II. The Preliminary Plan shall be attached hereto and made a part thereof.

SECTION III. 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 21 day of June, 1995.

Iris Kiesling

IRIS KIESLING, President
Bloomington Common Council

ATTEST:

Patricia Williams

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this 22 day of June, 1995.

Patricia Williams

PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED AND APPROVED by me upon this 22nd day of June, 1995.

Tomilea Allison

TOMILEA ALLISON, Mayor
City of Bloomington

SYNOPSIS

This ordinance designates a 141.64 acre parcel as a Planned Unit Development and approves a preliminary plan for shopping center development on the half of the site closest to the S.R. 37 Bypass, and industrial development on the western half of the site. Current zoning is IL along the S.R. 37 and Whitehall Pike frontages, and IG to the west.

Signed copies to:
Planning
Petitioner

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 95-10 is a true and complete copy of Plan Commission Case Number PUD-81-94 which was given a recommendation of approval by a vote of 6 Ayes, 2 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on April 24, 1995.

Date: April 26, 1995

Timothy A. Mueller
Tim Mueller, Secretary
Plan Commission

Received by the Common Council Office this 24 day of April, 1995,

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.)

MEMORANDUM

To: Council Members
From: Tim Mueller - Planning Dept.
Re: PUD-81-95 (Jerry Gates - 3000 W. Third Street)
Date: May 30, 1995

This PUD preliminary plan consists of the site plan, plan details for the entrances at Whitehall Pike and Curry Pike (these differ from the basic site plan; roadways are governed by the detail plans), storm drainage specifications and the petitioner's statements including ownership, proposed uses and design controls. The plan is modified by the Plan Commissions conditions of approval.

Because several conditions were verbalized at the hearing, the commission, in its motion and vote specified that the petitioner sign off on the written conditions before the action is effective and the commission's recommendation is certified to the council.

The plan was initially filed in October 1994 in a rather preliminary form. The applicant acknowledged that the plans would be refined prior to hearings. The plan was initially reviewed by the commission on January 30 as a 100 acre development, with 72 acres retail and 38 industrial. Zoning at that time was ML near Whitehall, RH along 37, and MG on the balance. The new zoning ordinance designates the former ML as IL, and the balance of the site IG.

Retail zoning of land shown on the Growth Policies Plan and the proposed new zoning ordinance as industrial was the key issue, along with other technical matters. The case was continued to April 24 for resolution of these issues.

The revised plan contains 141.64 acres, evenly split between an industrial component and a retail shopping center. The proposed uses for the industrial area were modified to delete retail uses. The Commission's conditions further refine the list to delete restaurants and bring the list into compatibility with the new zoning ordinance. The retail center's uses are the broad range of retail, office, and service uses typical of a regional center.

Circulation includes a main entrance to Whitehall Pike, a new street to Curry, and a new street to the North, connecting to Industrial Park Drive in the Bloomington Industrial Park. All will be built by the petitioner, including entrance improvements on Whitehall and Curry, except the railroad crossing itself, which is complicated by the current rail configuration and the need for state approval. The petitioner will contribute $150,000.00 toward the cost of the crossing, to be guaranteed for a five year period commencing with the start of construction.

Plan Commission condition #8 indicates that the plan is single phase, unless the commission approves another phasing schedule. The completion of all of the street links is important for a center of this magnitude. Also, the provision of the industrial infrastructure is necessary to deliver on the petitioner's proposition that 70 acres of industrial land, previously not available,

is being placed on the market. The petitioner's statement of ownership indicates that 32 acres

of the ABB land will be purchased 30 days after it is certified clean by environmental review and EPA. It should be noted that this purchase schedule may not be viewed by the commission as a rationale for phased construction of infrastructure. This case was voted by the commission under the old zoning ordinance. The current ordinance specifies that the commission "shall consider" (not make findings) several review issues listed in Section 20.05.09.08. To facilitate the transition to council consideration under the current ordinance, staff submitted brief comments on these review considerations to the commission. These comments have been revised to accommodate the results of the final hearing and are submitted for the council's consideration. No specific vote or itemization of these is necessary; you must simply consider these in making your decision.

The commission voted 6:2 to recommend approval. The conditions of approval, which differ from those submitted to the commission by the staff, are as follows:

The recently adopted zoning ordinance identifies the following review considerations: Staff comments derived from the Plan Commission's review on this proposal follow.

"20.05.09.08 Review Considerations

A. In their consideration of a Planned Unit Development Preliminary plan, the Planning staff in its report to the Plan Commission, the Plan Commission in its recommendation, and the Common council in its decision, shall consider as many of the following as may be relevant to the specific proposal:

1. The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Unit Development regulations."

Staff Comment: The plan can meet the PUD requirements and standards. Certain requirements and standards will be detailed at development (final) plan stage.

The stated purpose of the PUD regulations are generally met:

- **"Promote the most appropriate use".**
- **"Improve the design character and quality" (depending on the details agreed to at outline (preliminary) stage and detailed in development (final) plans".**
- **"Harmonious and appropriate mixture of uses".**
- **"Facilitate the adequate and economic provision of streets, utilities, and city services".**
- **"Preserve desirable features" (see above).**
- **"To mitigate problems...presented by specific site conditions" (drainage plan mitigates downstream problems).**

2. "The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvement, and construction and design standards and the reasons why such departures are or are not deemed to the in the public interest."

Staff Comment: The plan departs in terms of retail uses in the IG zoning of the site. Conditions #5 and 6 require compliance with landscaping requirements and setback/lot coverage standards. The use issue is deemed by staff to be in the public interest given its

location on the 37/48 interchange and the rapid building out that has occurred on zoned retail land.

3. "The extent to which the Planned Unit Development meets the purposes of this zoning ordinance, the Comprehensive Plan, and any other adopted planning objectives of the city. Any specific benefits hall be specifically cited."

Staff Comment: The planned development conflicts with the plan's specific land use recommendations for the area involved and the commercial containment recommendation. It does not conflict in other respects with the zoning ordinance, and can be construed to meet the general narrative goals of the plan to locate commercial development in well served center. The proposal's specific benefits include: rezoning 70 acres from industrial to retail; placing 70 acres with infrastructure, previously held by ABB, on the market; makes good use of existing or programmed traffic improvements; and provides retail opportunity.

4. "The physical design of the Planned Unit Development and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space, and furthers the amenities of light and air, recreation and visual enjoyment."

Staff Comment: The design as conditioned int he Commission's approval, provides Whitehall Pike improvements, a start to Curry Pike, and provides for a street link to the north.

5. "The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods."

Staff Comment: The proposal is remote from residential uses and should not adversely affect surrounding uses.

6. "The desirability of the proposed plan to the city's physical development, tax base, economic well-being."

Staff Comment: Generally a positive effect. TIF potential is created.

7. "The proposal will not cause undue traffic congestion and can be adequately served by existing or programmed public facilities and services."

Staff Comment: Generally well served by existing or programmed (Curry Pike) improvements, and by the links to be provided by the development.

8. "The proposal preserves significant ecological, natural, historical, and architectural resources to the extent possible."

Staff Comment: The only resources involved are tree cover. See earlier comments.

9. The proposal will not be injurious to the public health, safety, and general welfare."

Staff Comment: No adverse impacts anticipated.

10. "The proposed development is an effective and unified treatment of the development possibilities on the planned development site."

Staff Comment: The plan breaks no new ground in terms of commercial design innovation, but is nevertheless, an acceptable design, assuming that conditions relative to landscaping and tree preservation are implemented effectively in the final plans.

RECEIVED
MAY 25 1995
By_____

PUD-81-94 - Jerry Gates, 3000 W. Third St.

Conditions of Approval

1. The storm water detention should be approved in the alternative, one alternative as proposed, and the other with the same detention characteristics on the Cowden property, above and beyond Cowden's detention needs.

2. The Curry Pk. improvements will be constructed as shown on the petitioner's submittal, to the extent that right-of-way is available. The county will acquire the right-of-way is available. The county will acquire the right-of-way as part of its Curry project. In the event that the county does not acquire the right-of-way, the general configuration of lanes will be incorporated on Curry within the context of existing right-of-way.

3. Petitioner will be responsible for building the roadway north of the railroad tracks on the land that is presently controlled by the petitioner, and the petitioner will also guarantee $150,000 surety (bond, letter of credit, escrow account), toward the construction of the railroad crossing itself for a five-year period beginning at the commencement of development.

4. The list of industrial uses shall not include any use which is not permitted in the IL or the IG zone per the zoning ordinance effective on May 1, 1995. The list of uses shall include "light manufacturing" as defined in the code. Any use listed as a conditional use in the ordinance effective May 1, 1995, which will be spelled out in the approval, shall be treated as a conditional use in this PUD, namely:

   a. Petrochemical facilities
   b. The manufacture of chemicals and chemical products
   c. The processing of meat, poultry, or seafood and other agricultural products, solid waste disposal, or transfer facilities
   d. The manufacture of paper products from wood or pulp
   e. The manufacture of paving material or concrete block
   f. Motor or bus terminal
   g. The manufacture and processing of drugs and pharmaceuticals other than "light manufacturing"
   h. Metal fabrication other than "light manufacturing"

5. At the time of any development plan approval, significant vegetated areas shall be identified for preservation. This can occur in island, setback areas between streets and pavements, and streets and buildings. With the understanding that this is an intensive commercial development that precludes preservation of large tracts of vegetation, it shall be the commission's discretion to require selective preservation. No removal of

vegetation, grading, utilities or road work, or construction of any kind shall be undertaken without a specific development (final) plan approval. Development plan approval by the plan commission shall be required.

6. Landscaping shall meet the specifications of the new zoning ordinance, particularly with respect to parking lot landscaping.

7. Although the county has expressed the intent to assist with the funding of the east/west road between the center and Curry Pk., this roadway and its Curry Pk. Entrance improvements are fundamental elements of the plan and shall be the petitioner's responsibility regardless of county participation or lack thereof.

8. The plan does not indicate any phasing so it is assumed that the entire center, with all of its detention and roadway improvement will be a single phase. Any other phasing schedule shall be subject to development (final) plan approval by the plan commission."

9. The conditions of approval recommended in the environmental staff report of April 20, shall be incorporated in the staff's recommendations for conditions of approval."

10. For the purpose of transition from old to new code, the commission's "outline plan" recommendation shall be treated as a planned development "preliminary plan" recommendation when is considered by the council after May 1. The proposed plan will be check listed against the approval requirements of the new ordinance.

11. All streets existing and proposed, shall be provided with public sidewalks as well as appropriate links from these public streets to the center of activity on the site.

12. In the absence of specific dimensional standards, the underlying zone standards shall govern unless those standards are reduced by the plan commission in development (final) plan approval stage.

13. The "restaurant" use is deleted from the industrial portion of the site.

14. The parcel that lies in the retail component but west of the north/south access road, shall either accomodate a relocation of the north/south road, become part of the industrial uses, or be used for uses that are accessory to the retail center.

15. These conditions of approval shall be written up by the staff according to the record of this meeting and be approved by the petitioner in written form before this case is forwarded to the city council. Any dispute about those conditions in written form shall come back to the plan commission for resolution before the recommendation is certified to the city council.

(INCORPORATED IN CONDITIONS OF APPROVAL BY REFERENCE: SEE CONDITION #9)

April 20, 1995

To: Tim Mueller

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

Subj: MG/BA/PCD-81-94 Jerry Gates 3000 W. 3rd. St.

As a result of new information from the petitioner and additional discussions with the Planning staff, the Environmental Commission report has been revised to include more specific conditions of approval.

Tree Preservation - The Environmental Commission recommends that the petitioner's development plan incorporate the preservation of treelines and clusters of natural vegetation, particularly on the northeast portion of the site. There are approximately 15 acres of woodlands on this site, and there are areas within this acreage where existing grades and vegetation can be maintained.

Tree Removal along S.R. 37 - Environmental Commissioners have expressed concern about the premature removal of vegetation along the S.R. 37 bypass. More specifically, over 5 acres of natural cover were removed from the site several weekends ago. Although the vegetation was composed mainly of small caliper trees and scrub, there may have been an opportunity to preserve a strip of buffer vegetation along S.R. 37. It has been common practice for proposed developments along this highway to have buffer strips of natural vegetation. The Environmental Commission recommends that no more clearing of vegetation be allowed on the site until development plan approval and permit approval have been rendered.

Landscaping - Environmental Commissioners have expressed concern about the aesthetic quality of the petitioner's site on Industrial Park Drive. As a result, the Commission recommends that the more comprehensive landscaping requirements contained in the proposed zoning ordinance be incorporated into the outline plan approval for this parcel.

Stormwater Detention - The Environmental Commission supports the staff recommendation that a more actively managed detention system be designed by the petitioners at development plan stage if there is a governmental entity that is willing to operate the system. The Sinking Creek watershed is one of the most sensitive areas of the City's planning jurisdiction and requires innovative stormwater management solutions.

PCB Issues - The site under consideration for rezoning still has active monitoring wells for PCBs. Rezoning the land from its existing land use to a proposed industrial/commercial usage will not affect this issue. However, there may be some precautions in terms of site development and grading which will be necessary to protect the continued monitoring of the site. The Environmental Commission recommends that the petitioners address this issue at development plan stage.

[SEE BACK UP FILES FOR OTHER DOCUMENTS]

Staff report to Council supplementary report - review considerations
Plan Commission conditions of approval, including E.C. report (signed by applicant)
Site Plan
Whitehall Street Detail
Curry Street Detail
Railroad Crossing Street Detail

Petitioner's Statements:
- letter of October 13, 1994
- letter of December 29, 1994
- letter of March 29, 1995 APRIL 4
- Industrial covenants and restrictions, ~~March 31~~, 1995
- Retail covenants and restrictions, ~~April 4,~~ 1995 MARCH 31
- letter of April 14, 1995
- letter of May 24, 1995

Current Zoning - effective May 1, 1995
Zoning at time of Plan Commission action
Staff Report - April 24, 1995
Staff Report - January ~~1~~, 1995 JAN. 30
Draft Plan Commission Minutes - April 24, 1995
Plan Commission Minutes - January ~~1~~, 1995 JAN. 30
Highland Village Association Letter
BEDC Letter