Committee 7-1-1
2nd Reading Ayes: 7 Nays: 2
Vetoed by the Mayor
Sept 23, 1991
Veto Overridden
6-3

ORDINANCE 91 - 52
To Amend the Bloomington Zoning Maps from RS to BA
and to grant PCD Designation and Outline Plan Approval
Re: Property located at the northwest corner of Kinser Pike and
the S.R. 45/46 Bypass
(Wininger/Stolberg Group, Inc.)

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, BA/PCD-59-91, and recommended that Wininger/Stolberg Group, Inc. be denied an amendment to the Bloomington Zoning Maps, PCD designation, and Outline Plan Approval and request that the Common Council consider their petition for rezoning of certain property.

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 BA for property located at the northwest corner of Kinser Pike and the S.R. 45/46 Bypass. The property is further described as follows:

Part of the Northeast Quarter of Section 29, Township 9 North, Range 1 West, Monroe County, Indiana, more particularly described as follows:
Beginning at a point which is 433.00 feet north and 35 feet west of the southeast corner of said northeast quarter; then NORTH 00 degrees 00 minutes 00 seconds EAST (all bearings assumed) 184.00 feet; thence NORTH 89 degrees 07 minutes 36 seconds WEST 673.69 feet; then NORTH 00 degrees 17 minutes 37 seconds EAST 66.03 feet; thence NORTH 89 degrees 32 minutes 33 seconds WEST 133.90 feet; thence SOUTH 00 degrees 17 minutes 37 seconds WEST 422.84 feet to a point on the north right-of-way of State Road 46, said point being on a curve concave southerly and having a tangent of 400.03 feet and a radius of 22,918.31 feet; thence on a chord bearing SOUTH 85 degrees 55 minutes 07 seconds EAST 413.28 feet to a tangent line; thence SOUTH 86 degrees 20 minutes 20 seconds EAST 319.94 feet; thence NORTH 49 degrees 20 minutes 30 seconds EAST 63.24 feet; thence NORTH 03 degrees 40 minutes 27 seconds EAST 170.78 feet; thence NORTH 89 degrees 52 minutes 36 seconds EAST 18.90 feet to the point of beginning.

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 above be designated a Planned Commercial Development.

SECTION III. The Outline Plan shall be attached hereto and made a part hereof.

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 18th day of September, 1991.

John Fernandez

JOHN FERNANDEZ, President
Bloomington Common Council

ATTEST:

Patricia Williams

PATRICIA WILLIAMS, City Clerk

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 20th day of September, 1991.

Patricia Williams

PATRICIA WILLIAMS, City Clerk

SIGNED and APPROVED by me upon this _____ day of _____, 1991.

TOMILEA ALLISON, Mayor
City of Bloomington

SYNOPSIS

This ordinance rezones approximately 7 acres from RS to BA, and grants PCD designation and outline plan approval. Proposed is construction of a 50,000 to 60,000 square foot neighborhood commercial center.

This ordinance was vetoed on September 23, 1991 by Mayor Allison. The veto was overriden by the Common Council on October 2, 1991 by a vote of 6-3. Voting for the ordinance were:

House Regester
Foley White
Olcott Hogan

Voting against the ordinance were:
Fernandez
Kiesling
Service

City of
Bloomington
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Office of the
Mayor

September 23, 1991

NEWS RELEASE

Throughout the past year, a lot of time and energy has been spent by hundreds of people to create a master plan that will protect the integrity of our neighborhoods and ensure that Bloomington retains its unique quality of life.

This Master Plan will work only if the residents of Bloomington have confidence in its implementation. It is the best available expression of our community's wishes about the future of its surroundings. Yet, in its first real test, the proposed Kinser Pike Development, a project has been approved which does not conform to the letter of the Master Plan.

Simply put, "no out lot development" means no out lot development. The Plan states,

> **" The Kinser Pike tract is appropriate for neighborhood scale commercial development <u>if, and only if</u>, the following planning considerations can be addressed. Key planning considerations include: ...No out lot development."** (pages 101-102 of the Bloomington Growth Policies Plan).

Ignoring this clear language so early in the Master Plan's life will endanger the plan itself and erode the public's confidence in it. On the Kinser Pike site the Master Plan is more detailed because of past controversy. The added restrictions were part of a compromise during Master Plan deliberations.

Therefore, I have vetoed ordinance 91-52 because it does not conform to the city's Master Plan. This should not be interpreted to mean that a no-growth policy has been adopted by city hall. I merely seek to ensure that our city experiences quality growth that does not diminish the true strength of Bloomington--our neighborhoods. The people expect nothing less.

Following the Master Plan is our best opportunity to meet this challenge and the expectations of the city's residents.

Jennifer Allison

8-26-91

OUTLINE PLAN STATEMENT:
N W Corner 45/46 By Pass & Kinser Pike P.C.D.

This statement is intended to define, in detail, the pertinent elements as proposed for the Outline Plan for the NW Corner 45/46 By Pass & Kinser Pike Planned Commercial Development.

The proposed site contains approximately 7 acres. Requested is a BA rezoning with PCD designation according to the Outline Plan drawing labeled Exhibit "A". The purpose of the request is to prepare the land for development of a neighborhood commercial center of approximately 50,000 to 60,000 square feet. In this statement we will address proposed land uses; setbacks; buffer areas; road, R/W, and sidewalk improvements; tree preservation; lighting; architectural and signage controls.

PROPOSED LAND USES

The following are the proposed list of land uses for the PCD. Refer to the Outline Plan (Exhibit "A") for the configuration of the area "A" and the Grocery-Drugstore Anchor. The Grocery-Drugstore Anchor will be developed either simultaneously or before area "A" development and will be a minimum of 28,000 square feet. No other use will be allowed to exceed 15,000 square feet. Area "A" will allow both in-line retail uses and out parcel uses. A specific list of allowed uses is presented below. In addition, the in-line retail uses will not exceed 6,000 square feet total for the entire building. Only the uses listed under out parcel will be allowed to be freestanding. An in-line retail building will require more than one tenant to be allowed.

AREA A

Area "A" Retail Shop Uses

1. Antiques
2. Apparel Store
3. Appliance/Electrical Service
4. Arts & Crafts
5. Bakery
6. Books, Newspaper
7. Florist Shop
8. Gift Shop
9. Hardware/Home Improvement
10. Pet Shops
11. Sporting Goods
12. Business Service or Professional Office
13. In Line Restaurant (max. 2,400 S.F.)
14. Laundry and Dry Cleaning
15. Personal Service
16. Copy Service
17. Doctor & Dentist Office
18. Auto Parts/Supplies, New
19. Video Rental and Sales

Area "A" Out Parcel

1. Video Rental and Sales
2. Bank (branch)
3. Business Service or Professional
3. Business Service or Professional Office
4. One Sitdown Restaurant (no drive-thru)
5. Auto Parts, Service/Supplies, new (no gasoline sales)
6. Convenience Food Mart with Gasoline Sales (i.e. Village Pantry)

Proposed minimum setbacks for the PCD area as follows:

*45/46 Bypass = Varies (see outline plan map)
* Kinser Pike = 65' Parking, 75' Building
Rear Yard = 30'-65' (see outline plan map)
Side Yard = 30'
Landscaping will be provided per the City Code for all setback areas.

* Measured from the center line not R/W line.

BUFFER AREAS:

A proposed buffer area will be provided along the school property. This will include construction of a fence for the entire Parrish property, including the remaining residential buffer area. (Refer to the Outline Plan map (Exhibit "A").

Access to the property in the Northeast corner of our site will be deed restricted so no future access from our site can be accomplished to this property. The private road will be maintained by the Owner. Access will be assured by easement to adjacent rental properties. All trees falling within the proposed buffer areas will be retained.

ROADS, R/W AND SIDEWALK IMPROVEMENTS (see attached plan)

ROADS

We have prepared an extensive traffic study for this development, which is being submitted under a separate cover. The current level of service at the Kinser Pike intersection, with the 45/46 By-pass is "A". The traffic study delineates new improvements needed to continue to provide the same level of service "A" (the highest level of service) after our development takes place. This will require a full new lane along the east side of Kinser Pike. This lane will allow for a left turn lane from Kinser Pike into our site and from Kinser Pike onto the By-pass, plus an unimpeded through traffic lane running both north and south. The traffic study also calls for accel and decel tapers at our project entrance and a right turn lane and taper for turns from Kinser Pike onto 45/46 By-pass. These improvements are to be made according to County Highway standards. The result is a continued level of service "A" after development of our center.

In addition, we are proposing improvements beyond what is warranted, as stated in the traffic study. An additional 600'± full width lane will be added along the west side of Kinser Pike to connect our entry with the new right turn lane. This will give us a full four (4) lane cross-section from our entry to 45/46 By-pass. It will not only cover the impact of our shopping center, but will add additional capacity to this intersection for the future.

RIGHTS-OF-WAY

We will dedicate right-of-way according to the Master thoroughfare plan for the City of Bloomington along Kinser Pike. No additional dedication is needed along the 45/46 By-pass.

SIDEWALKS

A sidewalk will be constructed across our site frontage along the newly dedicated right-of-way line along the west side of Kinser Pike.

After discussions with the school corporation and among ourselves, we propose to not construct a sidewalk along the 45/46 By-pass frontage. This frontage measures approximately 800' in length. We feel a sidewalk in this location could give school students a method to leave the school site and travel to the shopping center. We intend to construct our fence along the entire east side of the school site and to attach to the fence along the front of the school property, therefore, allowing no access to school children to our site. In the event that this situation changes in the future, we will dedicate an easement along this frontage in case a sidewalk is deemed necessary at that future date.

We are willing to contribute the cost of this 800' of sidewalk to the construction of a sidewalk to the north along Kinser Pike to the first entrance drive into the Cascades Subdivision. This can be done by actually performing the construction or by putting funds in escrow for its construction. This will only be done provided adequate right-of-way is available or can be secured by others to allow the construction.

TREE PROTECTION

All vegetation within the buffer zone will be saved except as needed for incidental grading and construction along the periphery of the development areas. All trees 8" in trunk diameter or greater that fall within the "Tree Protection Zone" will be retained. No trees will be trimmed.

LIGHTING, ARCHITECTURAL, AND SIGNAGE CONTROLS

Lighting for the center will be designed using the latest technologies. This will allow us to control the lighting so as to be directed site specific.

Buildings and site signage shall be architecturally integrated throughout the development. This will be accomplished through the use of such elements as common materials, colors, architectural features and design themes. One center identification monument sign is proposed for the commercial center as a whole and an additional user identification monument sign is proposed for area "A".

The following uses, normally allowed in a BA Zone are to be excluded under the PCD:

1. Nurseries/Greenhouses
2. Amusement/Outdoor
3. Auto/Truck/Marine Sales
4. Bicycle Shops
5. Camps and Resorts
6. Farm Equipment
7. Farm Produce
8. Jewelry
9. Liquor Store
10. Mobile Home Sales
11. Motor Cycle Sales
12. Used Merchandise
13. Building Trades Shops
14. Mini-Warehouses
15. Commercial, Wholesale Farm Products
16. Commercial, Wholesale Food Products
17. Beverage, Bottling
18. Newspaper Printing
19. Cultural Facilities
20. Public Assembly Halls
21. Schools, Parks, Playgrounds
22. Communication, Transmission
23. Appliance Repair (small)
24. Auto Repairs
25. Bars or Taverns
26. Bus Terminal
27. Furniture Repair
28. Funeral Service
29. Gasoline Service Station
30. Hotel/Motel
31. Radio and TV Stations
32. Schools
33. Taxi Stands
34. Telephone Exchanges
35. Theaters
36. Commercial, Wholesale Building Materials
37. Commercial, Wholesale Farm Supplies
38. Commercial, Wholesale Household Goods
39. Research Laboratories
40. Lodge Halls
41. Religious Organizations
42. Civic, Community Clubs
43. Amusement/Indoor
44. Dairy Products
45. Recreation
46. Furniture
47. Cannery, Confectionery
48. Day Care Center
49. Clinics and Services
50. Veterinary Services
51. Variety Store
52. Restaurant with Drive-thru

SETBACKS

The current zoning for the site requires the following minimum setbacks:

*45/46 Bypass = 75' Building Setback
*Kinser Pike = 65' Building Setback
Rear Yard = 25'
Side Yard = 8'