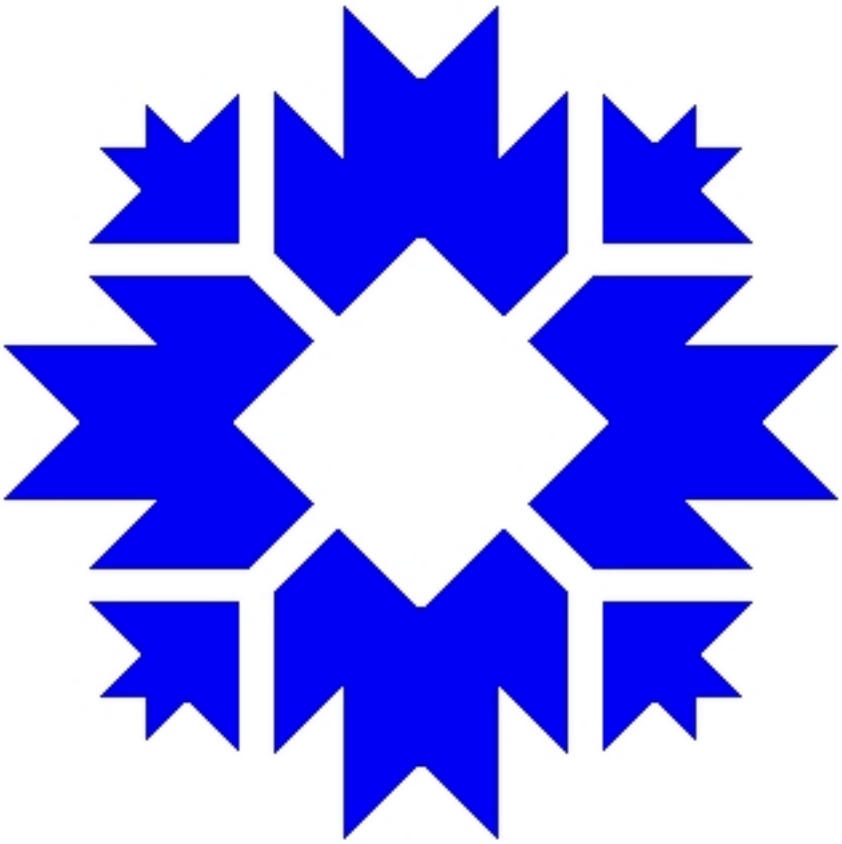
Board of Public Works Meeting

February 12, 2013



AGENDA
BOARD OF PUBLIC WORKS
(This Meeting May be Televised)

A Regular Meeting of the Board of Public Works to be Held Tuesday, February 12, 2013 at 5:30 p.m., in the City Council Chambers of City Hall at Showers, 401 N. Morton Street, Bloomington, Indiana.

I. MESSAGES FROM BOARD MEMBERS

II. APPROVAL OF MINUTES – January 29, 2013

III. PETITIONS & REMONSTRANCES

IV. TITLE VI ENFORCEMENT

V. HEARINGS FOR NOISE APPEAL

VI. OLD BUSINESS

VII. NEW BUSINESS

1. **Approval of Agreement Between AT&T Indiana and the City of Bloomington for PEG (public, education, and government) Carriage**

2. **Approval of Agreements Between the City of Bloomington and the Monroe County Public Library, Monroe County, and Monroe County Community School Corporation for Permission to Use Digital Underground Fiber**

3. **Request to Uphold Order to Remove Unsafe Structure at 2453 W. Marlene Drive**

4. **Request for Extension of Time to Repair Unsafe Structure at 618 E. Atwater Avenue**

5. **Plat Approval for B-Line Station Subdivision**

6. **Memorandum of Understanding to Use Right of Way at 640 N. Morton Street**

7. **Action Regarding Request for Vacation of Seminary Lot Alley Right of Way**

8. **Resolution 2013-09: Use of Public Streets and Parking Spaces for Arts Fair on Square Event (Saturday, 6/22)**

9. **Resolution 2013-10: Use of Public Sidewalks, Parking Spaces, and Approval of Noise Permit for Homeward Bound Event (Sunday, 4/14)**

10. **Resolution 2013-11: Allow Itinerant Merchant to Operate in Public Right of Way (Gypsy Moon)**

11. **Resolution 2013-12: Request to Encroach onto City Property with Existing Driveway at 2600 W. 3rd Street from Robert Gammon O.D.**

VIII. STAFF REPORTS & OTHER BUSINESS

IX. APPROVAL OF CLAIMS

X. ADJOURNMENT

REGULAR MEETING OF THE BOARD OF PUBLIC WORKS

The Board of Public Works meeting was held on Tuesday, January 29, at 5:30 p.m. in the Council Chambers of City Hall at Showers, 401 N. Morton Street, Bloomington, Indiana with Charlotte Zietlow presiding.

ROLL CALL

Present: Charlotte Zietlow
James McNamara

City Staff: Susie Johnson, Director- Public Works
Adrian Reid – City Engineer
Roy Aten - Engineering
Jackie Moore – City Legal
Chris Smith - Public Works
Miah Michaelsen – ESD
Laurel Archer – Public Works

MESSAGES FROM BOARD MEMBERS

No message

APPROVAL OF MINUTES

McNamara made a motion to approve Jan 15, 2013 minutes. Zietlow seconded. Minutes approved as submitted.

PETITIONS & REMONSTRANCES

None

TITLE VI ENFORCEMENT

None

HEARINGS FOR NOISE APPEALS

None

OLD BUSINESS

NEW BUSINESS

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Resolution 2013-05: Request to Encroach into Public Right of Way with Water Meter Vault at 340 S. Walnut Street From BIGO Properties, LLC

Roy Aten, City Engineering, stated BIGO properties are in the process of erecting a new commercial/residential property at 340 South Walnut Street. The water valve pit had to be changed because of last minute changes made by the City which requires them to have two water meters instead of one. This expanded the size of the vault to a 7 x 10 vault. The vault will now encroach into the right of way of South Walnut Street. The Petitioner is asking for the Resolution to Encroach into the Public Right of Way with water meter vault. They will have two feet of encroachment, but will only take up approximately 6 inches. The vault is all subterranean. It will be located under the sidewalk and all piping will be located on the Petitioner's property. There will be no pedestrian hazards. Staff

recommended approval.

McNamara made a motion to approve Resolution 2013-05: Request to Encroach into Public Right of Way with Water Meter Vault at 340 S. Walnut Street from BIGO Properties, LLC. Zietlow seconded the motion. Resolution 2013-06 passed.

There was additional discussion about the project itself. It is located north of Smith Avenue. The project has gone through the Planning Department. There will be 19 units.

Resolution 2013-06: Use of Public Streets for 4th Street Festival of the Arts and Crafts (Friday, 8/30 thru Sunday 9/1)

Miah Michaelsen, ESD, stated the annual 4th Street Festival of the Arts & Crafts is requesting the closure of Fourth, Grant and Dunn Streets on Friday, August 30th through Sunday, September 1st for this year's festival. The Festival runs Labor Day Weekend, August 31st through September 1st. The additional closure of Dunn Street has proved to be a great boon to the festival, allowing the event to stretch out across Dunn Street and accommodate the growing crowds. Despite the weather, the crowd does continue to increase. BPD and Bloomington Fire Department have no objection to the increased festival footprint. The businesses have been contacted and have had no objections. The 4th Street Arts and Crafts Festival is the largest single arts event in the City and serves to officially kick off the Fall arts and cultural season in Bloomington. The Festival brings many visitors downtown to patronize restaurants, shops, and hotels. Staff enthusiastically supported the request.

Martina Celerin and Dawn Adams, representatives from the 4th Street Arts Festival addressed the Board. They stated even though there were some weather issues this past year there still was a tremendous number of people that attended the show. Celerin also stated there has been a stronger relationship built with the businesses. The extra elbow room with the addition of Dunn Street has really helped accommodate the larger crowds and helped the artists have more display area.

Zietlow asked about totals and sales. The number for this year were 30,000 on Saturday which was a nice day, and on Sunday, when it rained all day, there were 8,000 people. Overall the normal attendance seems to be around 48,000 people. The sales have been wonderful and have been increasing which is unusual in these economic times. While a lot of art fairs and artists are struggling, Bloomington has managed to keep a nice recipe of local community support and many out of town guests. About one quarter of the people who attend this festival come from more than 50 miles away; therefore, the Arts Fair supports the local hotels, restaurants, as well as local artists, and those artists from far away.

McNamara made a motion to approve Resolution 2013-06: Use of Public Streets for 4th Street Festival of the Arts and Crafts on Friday August 30 through Sunday, September 1, 2013. Zietlow seconded the motion. The motion passed. Resolution 2013-06 passed.

Resolution 2013-07: Request of Reserve Parking on Kirkwood Avenue for Boys and Girls Club Auxiliary Strawberry Festival on Thursday, May 9, 2013.

Miah stated this will be the 27th Annual Strawberry Festival and is another important event for the community. The Festival will be on the Court House Lawn on Thursday, May 9th. The Boys & Girls Club Auxiliary has requested to reserve seven (7) parking spaces on the west end of the block adjacent to the Court House for the ice cream truck and the volunteers that need to unload supplies throughout the day. The spaces would be reserved from 5:00 a.m. until 4:00 p.m. for their use. Staff recommended approval.

McNamara made a motion to approve Resolution 2013-07: Request to Reserve Parking on Kirkwood Avenue for Boys and Girls Club Auxiliary Strawberry Festival on Thursday, May 9, 2013. Zietlow seconded the motion. Resolution 2013-07 passed.

Resolution 2013-08: Allow Itinerant Merchant to Operate in the Public Right of Way (Lance Kellar-The Hunter Dogs)

Miah stated Lance Kellar has applied for an Itinerant Merchant Permit. It has been determined when an applicant wants to operate in the public right of way that before the permit is issued, permission must be obtained from the Board of Public Works. The Department of Economic & Sustainable Development has reviewed the application and the Board of Public Works' approval to operate in the public right of way is one of the items on the check list that is required before a permit can be issued. ESD will confirm that all rules and regulations have been met prior to a permit being issued. The business will operate from a food cart. This application is for six months. Staff recommended approval.

Miah stated Mr. Kellar was not present. She stated the menu is hot dogs, chips, chili cheese chips, and soft drinks.

Maih stated in follow up to the last meeting, staff is moving forward with possible revisions to this ordinance.. Jason Carnes will be taking Adam Wason's replacement and will be taking those ordinance revisions on as one of his first projects.

Zietlow asked for an inventory of all the Itinerant Merchants.

McNamara made a motion to approve Resolution 2013-08: Allow Itinerant Merchant to Operate in the Public Right of Way (Lance Kellar - The Hunter Dogs. Zietlow seconded the motion. Resolution 2013-08 passed.

Request for Noise Permit for the AIDS Walk Event (Saturday, 3/23)

Miah stated the Board previously approved the use of public right of way for this event. The organizers have come back and asked for a Noise Permit so they can have some recorded music and a DJ at the Waldron Hill and Buskirk Park during the event. The request is from 9:00 a.m. until 4:00 p.m. on March 23rd. Staff finds this consistent with other events similar to this and recommended approval of the request.

McNamara stated the last time this event was on the agenda it was to change sponsorship from IU Health to the South Central Community AIDS Action Group. McNamara asked if Miah knew anything about this group. She stated she did not?

McNamara requested that Miah research the players and provide the Board with information which Miah stated she will do.

McNamara made a motion to approve the Request for Noise Permit for the AIDS Walk Event on Saturday, March 23rd. Zietlow seconded the motion. Noise Permit approved.

Request for Noise Permit for the KRC Concert Series at Woolery Stone Mill (Thursday, 4/11 & Friday, 4/12 or Thursday, 4/18 & Friday, 4/19)

Miah stated KRC Catering is requesting a noise permit for one of two weekends; either April 11-13 or April 18-19, 2013 to host a concert event at Woolery Stone Mill. The concert would be comprised of amplified musical instruments, vocals and audience sound. Miah stated it is staff's policy that any events around Little 500 weekend are presented to BPD per their request, and as a courtesy to have them review. BPD has stated that they do not support a Noise Permit for the April 11th thru 12th event, and strongly oppose a Noise Permit for the April 18th & 19th event. The rational is the proximity of both events to the Little 500 weekend. It is staff policy to follow BPD recommendations on Noise Permit applications; therefore, BPD staff recommends denial of both permits. Miah stated Jillian Prall would like to address the Board to explain the event and answer any questions.

Jillian Prall stated she understands why BPD does not support and opposes their request. Ms Prall stated KRC was approached by these concert promoters to help them find a stable venue for these events that will be surrounding Little 500. In the past there have been sudden venue changes because of weather or other outside influences. Prall stated she has spoken with both the City and State Fire Marshals. The concert promoters have said that if not this venue they will find somewhere else either on the IU Campus or out in the county. Ms Prall feels when an event is taken out of the City limits there is no longer the burden to the City, but it creates an environment that is not as safe for the college students who will make the journey to the venue. Ms Prall stated they want to be involved in

the planning, when the event begins and ends, and making sure there is adequate security. KRC plans to take their license and insurance to the venue so much care will be taken for a safe event. The plan is for electronic dance music on the Friday night and then Saturday night a country music show. It is hoped this will not only be a great event for the University students but also other citizens of the community. Prall stated Jim Graham is present and KRC would be hiring his security company to head up security. Prall stated they would be hiring off duty police officers who have been deputized to support KRC staff and also handle traffic control. KRC would like to provide shuttles and are working with two taxi companies to come out once the concert is over to make sure concert goers are getting to and from the concert venue in the safest way possible.

Zietlow asked for the artists' names. On Friday is will be electronic dance music with Calvin Harris. Calvin Harris is very well know and will attract a lot of people and enrich Bloomington's entertainment and arts as a whole. On Saturday the hope is to bring Jake Owen, a country music singer. This artist would also bring a lot of people from all around. These are nationally touring artists.

Prall stated these concerts are very weather dependent. When something goes wrong with the weather, these investors who bring the artists have to look for a last minute venue indoors, rather than loose their investment. The Woolery Mill is a good inside venue.

Jim Graham stated he was present to support Jillian. He stated his company, Graham Security, is probably the largest provider of private security during Little 500 events. Graham stated he has been in the security business for 17 years, after a long law enforcement career. He supports her search for a venue that is permanent, stable, and safe. So many outdoor concerts have had issues with weather. Graham security can provide 100 off duty police officers if needed. Graham security has worked security at the State Fair Grounds and satisfied the State Fair Board, Indiana State Police, and Indianapolis Police Department with the type of security he provides. Graham stated he understands BPD's concern about the safety of the event and having the manpower to handle this situation,; however, this is where his security company has the ability to keep the event secure and safe.

Zietlow stated this would be in the Woolery Stone Mill which is sort of inside. Prall stated it would be under the roof. Some of their walls are open so it would not be completely outside but would be protected from the weather. KRC also plans to make some improvements to the roof of the Woolery if they are allowed to hold their event there. Prall stated the property itself is an amazing piece

of property in Bloomington and for many people it is a big connection to Little 500. It is in the movie Breaking Away. It is an old stone cutting mill. KRC is excited and looking at possibly the potential in the future to use this as a test market and see how it works and possibly do future events that would bring a lot of people to Bloomington.

Zietlow asked about the regulations as far as the availability of liquor. Prall stated they plan to have an off site bar. KRC would have to apply through Excise to get an off site liquor license. A floor plan would be submitted with all of the exits. KRC does not foresee any problems with the application being approved. There would be a section that was 21 and older only. People would be checked by security before entering the concert for alcohol and would not be allowed to bring in alcohol to the concert. It would be a controlled environment.

McNamara asked what KRC Catering's role is versus the promoter. Prall stated the promoter is looking for an investor in Bloomington to find a stable environment and rent the space for them. The benefit to KRC would be in providing the catering. There will be food as well as the bar. KRC also has interest in pursuing other events, concerts, or even a permanent concert venue in Bloomington that would house bigger shows that would like to come through Bloomington but don't have a place to do it.

McNamara asked if this was the same promoter that had the event at Pic-a-Chic last year. Graham stated it was. McNamara remembers the event was huge. Graham added they had a lot of concerns about the weather. Because of what happened at the Indiana State Fair there are new regulations put on the stage in outdoor events, as well as constant monitoring of the weather. Graham stated Prall is trying to move this to an indoor area where there would not be these issues.

Zietlow was concerned about the control of alcohol consumption. She further stated she is on the Ambulance Advisory Board and they have advised her that one of the biggest problems in the last year or so is the spike in calls to events that involve IU students and alcohol consumption. Zietlow states even bars can't control it.

Graham felt the events that Zietlow speaks of are events that aren't organized or have security. Many of these are at fraternities. What KRC is trying to do is control the consumption and their bartenders cannot over serve as it will affect their permanent license which is their livelihood. Graham security will also monitor this very carefully and if they see a problem they will cut people off or offer a ride home in a taxi cab. Prall added that in order to get the off site

liquor license they have to go through Excise who will make a visit to the site. Also, all KRC bartenders are Excise trained which is a requirement to work for their company. They are trained to know when someone is over served. Prall added their will be two privately hired EMT's on site.

Prall and Graham both stated the concert promoters have said the event will happen somewhere.

McNamara stated people have been trying to find ways to have alternative events for Little 500 for as long as he's been in Bloomington, which is almost 40 years. However, he will never buck BPD on something this significant. McNamara added he is not sure how supportive he would be if BPD was ok. McNamara said it is always about alcohol consumption. He remembers when Little Wayne was in town and a concert was held behind some fraternities, which, he suspects, IU learned some lessons. McNamara stated from a risk management stand point if something like this happens on campus, then it is a campus issue, and the same holds true with Monroe County. McNamara felt no ethical obligation to provide a space for these kind of events. History has shown that if its not at Woolery it will be somewhere. BPD is stretched during this time and even if this event is swarming with security, when someone calls 911 it becomes a BPD issue if it is occurring within the corporate boundaries. McNamara stated without a BPD endorsement he cannot give the request any consideration beyond that.

McNamara made a motion that the Request for Noise Permit for the KRC Concert Series at Woolery Stone Mill on Thursday and Friday April 11 & 12 or Thursday and Friday, April 18 & 19th be denied. Zietlow stated given the arguments by McNamara she will second the motion. Motion passed. Noise Permit denied.

Zietlow suggested if they wish to pursue this they might want to sit down with the City police and see if they would reverse their decision.

Approval of Change Orders #4, 5, 6 & 7 for South Walnut Streetscape Project

Justin Wykoff, City Engineering, stated he is bringing forward Change Order 4,5,6,7 for the South Walnut Street Streetscape. These represent additional work items that were not included with the original bid but deemed necessary for completion of the project. Also included in these Change Orders are deductions in price for items that were changed in the field that resulted in less work and materials. Change Order amounts as follows:

Change Order #4 is $19,559.80
Change Order #5 is $53,033.00

Change Order #6 is $95,076.84
Change Order #7 is a deduction of $199,126.00

Total of the Change Orders is a negative $31,456.36

The largest deduction is because it was believed there would be 5000 cubic yards of rock to be excavated which there was not when excavation started for the culvert.

McNamara moved to approve change orders 4,5,6,7 for South Walnut Streetscape Project. Zietlow seconded the motion. The Motion passed. Change Orders #4, 5, 6, & 7 approved.

Approval of INDOT-LPA Design Contract Amendment for the 17th & Arlington Project

Adrian Reid, City Engineer, stated this is the third contract addendum to the INDOT-LPA Design contract for the 17th & Arlington Roundabout project. This addendum is necessary to correct a mathematical error on the previous addendum and adjust the total federal aid amount to reflect what is programmed in the MPO TIP. By mistake, the amount added to the contract in addendum 2 was shown as the total amount. Addendum #3 shows the correct total of $451,210. Staff recommended approval.

McNamara made a motion for the approval of the INDOT-LPA Design Contract Amendment for the 17th & Arlington Project. Zietlow seconded the motion. The motion passed. Amendment for the 17th and Arlington project approved.

STAFF REPORTS & OTHER BUSINESS

None

APPROVAL OF CLAIMS

McNamara moved to approve claims. Zietlow seconded the motion. The motion passed.

ADJOURNMENT

McNamara moved to adjourn the meeting. Zietlow seconded the motion. Meeting adjourned at 6:23 p.m.

Accepted by:

_____
Charlotte Zietlow, President

_____
James McNamara, Vice President

_____

Dr. Frank N. Hrisomalos, Secretary

Date: Attest to:

Board of Public Works
Staff Report

Project/Event: Contract for Transmission of City PEG Content by AT&T Indiana

Petitioner/Representative: NA

Staff Representative: Rick Dietz

Meeting Date: February 12, 2013

The purpose of this document is to codify the agreement enabling the carriage of City of Bloomington PEG channels over AT&T's U-Verse video service.

Although there are deficiencies in this agreement, they are not points that AT&T is willing to negotiate. Acknowledging this, we believe it is in our interest to move forward with an agreement providing PEG carriage through AT&T U-Verse to its customers.

I am happy to answer any questions you might have about his issue.

Regards,
Rick

Staff is supportive of the request.

Recommend ☑ **Approval** ☐ **Denial by Rick Dietz**

PEG Content Transmission Agreement

Whereas, on August 30, 2006, pursuant to IC 8-1-34, Indiana Bell Telephone Company, Incorporated, an Indiana corporation doing business as AT&T Indiana ("AT&T Indiana"), was granted a Certificate of Franchise Authorization ("CFA") from the Indiana Utility Regulatory Commission ("Commission") in Cause No. 43094 VSP 01 to provide video service in certain portions of Indiana including to residents within the City of Bloomington ("the City") collectively referred to as ("the Parties"); and

Whereas, AT&T Indiana has upgraded its existing telecommunications network to, among other things, provides a switched, two-way, point-to-point and interactive video service ("U-verse TV"); and

Whereas, the City agrees to provide its existing noncommercial, educational and governmental ("PEG") content to AT&T Indiana for transmission on AT&T Indiana's U-verse TV service; and

Whereas, AT&T Indiana agrees to pay certain nonrecurring and recurring costs associated with the City's provision of its existing government PEG content to AT&T Indiana; and

Whereas, AT&T Indiana agrees to transmit content from the City's six existing government PEG channels through AT&T's U-verse TV service using AT&T's Internet Sourced PEG solution pursuant to the terms described in this agreement (the "Agreement").

Now Therefore, in consideration of the promises and undertakings set forth herein, and other good and valuable consideration, the receipt and the adequacy of which is hereby acknowledged, the Parties agree as follows:

1. **Definitions**. Words defined in IC 8-1-34 or by applicable State or Federal law shall be defined in accordance with such law and hereby incorporated within this Agreement. Words otherwise not defined shall be given their normal and customary meaning.

In addition, the following definitions shall apply:

Agreement: This PEG Content Transmission Agreement and any amendments, exhibits or appendices hereto.

AT&T Indiana: an Indiana corporation doing business as AT&T Indiana, and its lawful and permitted successors, assigns, and transferees, however designated.

CFA: Certificate of Franchise Authorization approved by the Indiana Utility Regulatory Commission in Cause No. 43094 VSP 01, August 30, 2006 and any approved amendments or changes thereto.

System: For purposes of this Agreement shall mean all physical facilities used by AT&T Indiana for the delivery of U-verse TV services within the corporate limits of the City provided some portion of the facilities are located in the public rights-of-way within the City.

U-verse TV service: For purposes of this Agreement shall mean video programming delivered over AT&T Indiana's System within the City. U-verse TV service does not include the following;

1. Video programming delivered by a commercial mobile service provider defined in 47 USC § 332(d), so long as the obligations under this Agreement are not transferred to a mobile service affiliate of AT&T Indiana.

2. Video programming provided as part of and via an Internet access service that enables users to access content, information, electronic mail, or any other service offered over the public Internet.

Video programming: For purposes of this Agreement shall mean programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

2. Effective Date. This Agreement shall become effective on and after the later of the dates listed in the signature blocks below.

3. Term. The term of this Agreement shall be five (5) years from the Effective Date of this Agreement. The term may be extended upon mutual agreement of the Parties.

4. Binding Effect. This Agreement shall be binding upon and for the benefit of each of the Parties and their respective past and present principals, managers, elected officials, offices, directors, shareholders, agents, employees, attorneys, successors and assigns and any parents, subsidiaries or affiliated corporations or entities, as applicable.

5. PEG Transmission. Successful transmission of the City's PEG content over AT&T's Internet Sourced PEG solution requires that the City as a content provider and AT&T Indiana as a content transmission provider work together closely. Therefore, the Parties agree that they will meet and exchange information in good faith, as necessary, to effectuate the Agreement.

a. AT&T Indiana. Consistent with IC 8-1-34-25(c) and 8-1-34-27(a), AT&T Indiana shall provide capacity on its video system for the City's existing noncommercial, education and governmental ("PEG") channel, and AT&T Indiana shall retransmit the

existing PEG channel to its U-verse TV subscribers in the Indianapolis Designated Market Area.

Subject to reasonable economic and technical feasibility considerations, additional PEG content may be provided by the City and transmitted by AT&T Indiana pursuant to the terms of this Agreement upon the mutual agreement of the Parties or pursuant to a final non-appealable order issued by the Commission pursuant IC 8-1-34-26.5.

b. City of Bloomington. Consistent with IC 8-1-34-27(b), the City shall ensure that all content from its PEG channels is submitted by the City to AT&T Indiana in a manner or form that is capable of being accepted and transmitted via AT&T's Internet Sourced PEG solution; does not require additional alteration or change in the content by AT&T Indiana; and is compatible with the technology or protocol used by AT&T Indiana to deliver PEG content. As further discussed in Paragraph 6, the Parties have identified the equipment necessary to ensure that the City provides PEG content to AT&T Indiana in a manner or form capable of being accepted by AT&T Indiana.

6. PEG Conversion and Transmission Costs. The Parties agree that the in-kind payment described in this section is made in full and complete satisfaction of AT&T Indiana's PEG-related financial support to the City under IC 8-1-34, to the extent that section is applicable.

a. Nonrecurring Costs. AT&T Indiana agrees to be solely responsible for all nonrecurring costs associated with the purchase of equipment and installation of equipment as described below. Based upon a site inspection, the Parties agree that the equipment listed on Attachment 1 hereto is necessary for the City to deliver and submit its PEG content on its six (6) existing PEG channels to AT&T Indiana in the manner required by IC 8-1-34-27(b), at an agreed upon demarcation point for transmission by AT&T Indiana on its Internet Sourced PEG solution. The itemized list of equipment provided as Attachment 1 hereto and all nonrecurring costs associated with the installation of such list of equipment, shall be the sole responsibility of AT&T. AT&T Indiana agrees to be solely responsible for the maintenance and maintenance expenses associated with the equipment listed in Attachment 1 hereto. The Parties agree to meet to discuss and establish terms for access to the City's location for the purpose of installing and maintaining the equipment installed pursuant to paragraph 6(a).

b. Recurring Costs. AT&T Indiana agrees to be solely responsible for the transport of the content from the City's existing PEG channels from an agreed upon demarcation point to a point determined by AT&T Indiana to be necessary for transmission by AT&T Indiana on its Internet Sourced PEG solution. The Parties agree that AT&T shall not charge the City any recurring costs under this Agreement.

c. Annual Meeting. AT&T Indiana shall participate at the written request of the City in an annual meeting to be held each calendar year, or more frequently if requested by the City, with representatives of the City to discuss any matters related to Parties' respective obligations under this Agreement. One of the issues to be discussed is the

establishment of an upgrade of the hardware and software identified in Attachment. Any such upgrade would only be completed at the mutual agreement of the Parties.

7. Location of Equipment. Any equipment necessary for the City to deliver its PEG content to AT&T Indiana for transmission on AT&T Indiana's Internet Sourced PEG solution shall be placed at the Telecom Hotel, 125 W. 7th Street, Bloomington, IN 47404 that is mutually acceptable to the Parties.

8. Editorial Control. Except as expressly permitted by IC 8-1-34 and federal law, AT&T Indiana shall not exercise any editorial control over the content of programming on the designated public, educational and governmental access channels.

9. Indemnification by PEG access content producers and users. The City shall secure from all local content producers and users of any of the PEG access facilities or channels an agreement in writing to hold harmless AT&T Indiana, the City, and any responsible educational institution, from any and all liability or other injury (including the reasonable cost of defending claims or litigations) arising from or in connection with failure to comply with applicable federal laws, rules, regulations or other requirements of local, state or federal authorities; claims of libel, slander, invasion of privacy, or the infringement of common law or statutory copyright; unauthorized use of any trademark, trade name or service mark; for breach of contractual or other obligations owing to third parties by AT&T Indiana or the City; and for any other injury or damage in law or equity, which claims result from the use of a PEG access facility or channel.

10. Visual Quality. Subject to the Change of Law or Circumstances provision set forth in paragraph 19, AT&T Indiana will employ best efforts to transmit PEG content over its Internet Sourced PEG solution in a manner that provides the subscriber with PEG content of a comparable visual quality from the viewing perspective of the subscriber, to the visual quality of the same PEG content as currently displayed on PEG channels provided by an incumbent cable television service provider within the City, subject to reasonable economic and technical feasibility considerations.

11. Precedent. The Parties stipulate and agree that this Agreement shall not be construed or recited as precedent by any person or deemed an admission by any party in any other proceeding except as necessary to enforce its terms before the Commission or any court of competent jurisdiction on these particular issues and in this particular matter. This Agreement is solely the result of compromise in the negotiating process and, as provided herein, is without prejudice to and shall not constitute a waiver of any position that any of the Parties may take with respect to any or all of the items resolved herein in any future regulatory or other proceeding.

12. Force Majeure. Neither Party shall be deemed in default of provisions of this Agreement or Applicable provisions of Indiana law or Commission regulations where performance was rendered impossible by reasons out of either Party's control, which shall include but not be limited to, strikes, acts of God, acts of public enemies, orders of any kind of a government of the United States of America or of the State or any of their

respective departments, agencies, political subdivisions, however designated, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes; tornadoes, volcanic activity, storms, floods, washouts, droughts, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of either Party. If either Party is unable in whole or in part to carry out its obligations hereunder, said Party shall not be deemed to be in violation or default during the continuance or impact of such inability.

13. Governing Law. This Agreement shall be governed in all respects by the law of the State of Indiana.

14. Notices. Unless otherwise expressly stated herein, notices required under this Agreement shall be mailed first class, postage prepaid, to the addresses below. Each party may change its designee by providing written notice to the other party, but each party may only designate one entity to receive notice.

Notice to AT&T Indiana shall be mailed to:

George Fleetwood, President
AT&T Indiana
240 N. Meridian
Indianapolis, IN 46204

With a copy sent to:

Brian D. Robinson
AT&T Indiana
240 N. Meridian, Room 1830
Indianapolis, IN 46204

Notice to the City of Bloomington shall be mailed to:

Information and Technology Service Dept.
City of Bloomington
401 N. Morton Street, Suite 150
Bloomington, Indiana 47404

15. Entire Agreement. This Agreement sets forth the entire understanding of the Parties and supersedes any and all prior agreements, arrangements, representations or understandings relating to the subject matter hereof. No subsequent agreement between the City and AT&T Indiana concerning the subject matter of this Agreement, and no modification of this Agreement, shall be effective or binding unless it is made in writing and signed by both Parties.

16. Modification. This Agreement may be amended or modified only by a written instrument executed by both Parties.

17. Breach of Agreement. Should either Party claim that a breach of any part of this Agreement has occurred, that Party will provide prompt written notice to the other, specifying the nature of the breach; and upon receipt the other Party shall cure such breach within thirty (30) days.

18. Dispute Resolution. Except as otherwise provided in this Agreement, the Parties shall make diligent good faith efforts to resolve all issues and disputes that arise in the administration of this Agreement through discussions between designated representatives of the Parties. In the event of no resolution, the Parties agree to submit such dispute to binding arbitration in Indianapolis, Indiana before a single arbitrator in accordance with the arbitration procedures of the American Arbitration Association, and judgment of such arbitrator upon such rendered decision may be entered in any court of competent jurisdiction thereof. Each Party shall bear its own costs of arbitration including attorney fees.

19. Miscellaneous.

a. AT&T Indiana and the City each hereby warrants that it has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof.

b. The headings used in this Agreement are inserted for convenience or reference only and are not intended to define, limit or affect the interpretation of any term or provision hereof. The singular shall include the plural; the masculine gender shall include the feminine and neutral gender.

c. AT&T Indiana and the City shall cooperate fully with one another in the execution of any and all other documents and in the completion of any additional actions including, without limitation, the processing of permits that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

d. Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the Parties hereto toward any person or entity not a Party to this Agreement, unless otherwise expressly set forth herein.

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have executed this Agreement and made the same effective as of the Effective Date.

City of Bloomington Board of Public Works

By:

_____
Charlotte Zietlow, President

_____
Date

Approved by:

_____
Mark Kruzan, Mayor

_____
Date

Indiana Bell Telephone Company
Incorporated d/b/a AT&T Indiana

By:

_____
George Fleetwood, President

_____
Date

Attachment 1
PEG Content Transmission Agreement
City of Bloomington

Description	Vendor Part Number	Qty
Router,2851 Sec_Bundle,Adv Sec	CISCO2851-SEC/K9	1
C2960 Ethernet Switch - 24 Port, 10/100 Catalyst Switch	WS-C2960-24-S	1
2-Port 2nd Gen Multiflex Trunk Voice/WAN Int. Card - T1/E1	VWIC2-2MFT-T1/E1	4
VC-1 Encoder - single channel device	S3000 / PN 4017683	6
9 Outlet Rk MNT Power Distribution	PID915R	1
Patch Panel single encoder model	BHFT-3BNC-2XLRFM	2

Labor Charge - Site Survey and Engineering & Prog Mgt	Telamon	1
Labor Charge - Staging, Assembly 1-4 ENCODER	Telamon	1
Delivery Charge to Location	Telamon	1
Labor Charge - Deployment 1-4 ENCODER	Telamon	1
Miscellaneous Material - Misc	Telamon	1

Board of Public Works
Staff Report

Project/Event: Permission to Use City of Bloomington Fiber Assets

Petitioner/Representative: NA

Staff Representative: Rick Dietz

Meeting Date: February 12, 2013

The purpose of these agreements is to codify mutually agreeable conditions on the use of the City of Bloomington's fiber assets by MCCSC, Monroe County Government and MCPL. These agreements are in keeping with previous agreements with only minor exceptions. Monroe County Community School Corporation (MCCSC) is provided with 18 strands, Monroe County Government with 6 strands and Monroe County Public Library (MCPL) with 4 strands to use. BDU partners are responsible for terminating and lighting the fiber strands themselves.

Staff is supportive of the request.

Recommend ☑ **Approval** ☐ **Denial by Rick Dietz**

AGREEMENT BETWEEN THE CITY OF BLOOMINGTON AND THE MONROE COUNTY PUBLIC LIBRARY FOR PERMISSION TO USE DIGITAL UNDERGROUND FIBER

WHEREAS, the City of Bloomington ("City"), through its Information and Technology Services Department ("ITS"), has adopted a policy of placing fiber optic cable in buried conduit throughout the City and refers to this network as the Bloomington Digital Underground ("BDU"); and,

WHEREAS, Indiana Code § 36-1-7-2 authorizes governmental entities to enter into contracts to buy, sell, or exchanges services, supplies or equipment between or among themselves; and,

WHEREAS, the Monroe County Public Library ("MCPL") is a governmental entity and seeks to obtain the services of the City in the form of connection to and use of strands of fiber of the BDU; and,

WHEREAS, the City wishes to provide said services to MCPL upon certain terms and conditions;

NOW, THEREFORE, the City and MCPL agree as follows:

Section 1: Term. This Agreement shall be in full force from the date this Agreement is fully executed and shall end on December 31, 2013.

Section 2: Permission. This Agreement grants MCPL permission to use four (4) strands of dark fiber optic cable located in the City's BDU network.

Section 3: Payment. MCPL shall not be required to make payment to the City for the use of these fiber optic strands, however, the City reserves the right to enact legislation which could impose payment obligations. In the event that the City enacts legislation which would impose payment obligations, MCPL shall have the right to terminate its obligations under this Agreement. Any payment obligation which may be imposed shall be due and payable in advance on an annual basis.

Section 4: Use. MCPL shall be responsible for lighting the fibers. The City shall be responsible for patching over to MCPL's ISP(s) within the Telecom Hotel.

Section 5. Connection: MCPL shall be responsible for securing any easements necessary for connection to the BDU and for construction of lateral connections in compliance with standards and specifications established by ITS. Line-locate wires must be installed in any lateral which connects to the BDU. Splicing and connection to the BDU must be performed by a certified technician, and all costs associated with connecting to the BDU shall be borne by MCPL. Upon completion of its connection to the BDU, MCPL shall provide the City with "as built" drawings in both print and digital form of MCPL's connections and laterals. MCPL shall be responsible

for any repairs to the connections and laterals which must be performed during the term of this Agreement. MCPL shall notify the City forty-five (45) days in advance of any construction projects pertaining or connecting to the BDU.

Section 6. Responsibility for Maintenance and Repairs. The City shall be responsible for maintenance and repair of the BDU core network. MCPL shall be responsible for maintenance and repair of its lateral connections from the splice point to their facility. MCPL shall notify the City forty-eight (48) hours in advance of any maintenance hole or hand-hole entrance to the BDU.

Section 7. Restoration and Line Location Services. The City shall retain an Emergency Restoration Agreement ("ERA") on the BDU core network with a certified contractor. The City will provide line locate services for the BDU core network. MCPL shall be responsible for their own ERA of fiber optics from the splice point to their facility along with line location services unless the City has extended the BDU along the lateral pursuant to Section 9 below.

Section 8. Call Out Requirements. MCPL will provide a call out list to the City in case of emergency work. The list should include the order in which the City is to call out, the cell phone, pager, and home phone numbers, as well as e-mail addresses for each person on the list.

Section 9. Right to Co-locate. MCPL agrees to permit the City to install BDU conduit within any new MCPL lateral extension, with the City bearing the marginal additional cost of installation of said conduit. The City may, at its discretion, install conduit in all, part or none of the lateral extension.

Section 10. Substitution of Fibers. In the event that in the future MCPL obtains the City's permission to use fiber in a different conduit or a conduit as a whole, the City may request that MCPL discontinue use of the fibers referenced herein and those fibers shall be returned to the City's management in exchange for an equivalent number of fibers in the additional conduit or as part of the arrangement for the additional conduit itself.

Section 11. Rights Reserved. The City reserves the right to terminate its obligations under this Agreement without notice or liability to MCPL in the event that the Telecom Hotel shall cease service or change owners, or in the event of any damage, destruction or condemnation of the Telecom Hotel which renders it unusable or inoperable. The City also reserves the right to terminate its obligations under this Agreement at its sole discretion upon thirty (30) days written notice to MCPL.

Section 12. Waiver of Claims. The City and its agents shall have no liability to MCPL for any damage to the property of MCPL located in or about the BDU core network. MCPL hereby waives all claims for recovery from the City of any loss or damage incurred due to defects in, or damage to, the fiber optic cable system.

Section 13. Waiver of Warranties. The City expressly disclaims all express and implied warranties, including but not limited to the implied warranties or merchantability and fitness for a particular purpose. Except as otherwise provided in this Agreement, no information, oral or

written, provided or disseminated by the City shall create any express or implied warranties, guaranty of performance, or contractual obligations.

Section 14. Assignment of Rights. The rights granted to MCPL shall not be assigned in whole or in part without the City's prior written consent. In the event said consent is granted, the provisions of this Agreement shall be binding upon and inure to the benefit of any successors and assigns.

Section 15. Indemnification. MCPL shall defend, indemnify, and hold harmless the City from and against all liabilities, judgments, claims, damages, settlements, expenses and costs, including reasonable attorneys' fees and litigation expenses arising out of or relating to MCPL's execution and undertaking of this Agreement. MCPL shall promptly notify the City of any third party claim or legal action arising out of or related to this Agreement.

Section 16. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and MCPL.

Section 17. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

Section 18. Costs and Expense of Enforcement. If MCPL shall default in the performance of any of its obligations under this Agreement, it shall be responsible for the reimbursement of any attorneys' fees and expenses which the City may incur in enforcing any obligations herein.

Section 19. Waiver. No waiver by either party of any default or breach of the other party's performance of any term, condition or covenant of this Agreement shall be deemed to be a waiver or any subsequent default or breach of the same or any other term, condition or covenant contained in this Agreement.

Section 20. Notices. All notices required to be given by either party hereunder shall be in writing and delivered by hand, courier, overnight delivery service or registered or certified mail return receipt requested. Any notice or other communication under this Agreement shall be deemed given when received or refused and shall be directed to the following address:

CITY
Information and Technology Services Dept.
City of Bloomington
401 N. Morton Street, Suite 150
Bloomington, IN 47404
Attn: Director

MCPL

Monroe County Public Library
303 E. Kirkwood Ave.
Bloomington, IN 47408
Attn: Director

Section 20. Severability. Should any part of the Agreement be found in violation of any federal, state, or local law or ordinance, all unaffected parts shall remain in effect and enforceable provided that the intent of the Agreement is still served.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____, 2013.

City of Bloomington
Board of Public Works
By:

_____
Charlotte Zietlow, President

_____
Mark Kruzan, Mayor

Monroe County Public Library
Board of Trustees
By:

_____
President, MCPL Board of Trustees

_____
Sara Laughlin, MCPL Director

AGREEMENT BETWEEN THE CITY OF BLOOMINGTON
AND MONROE COUNTY
FOR PERMISSION TO USE DIGITAL UNDERGROUND FIBER

WHEREAS, the City of Bloomington ("City"), through its Information and Technology Services Department ("ITS"), has adopted a policy of placing fiber optic cable in buried conduit throughout the City and refers to this network as the Bloomington Digital Underground ("BDU"); and,

WHEREAS, Indiana Code § 36-1-7-2 authorizes governmental entities to enter into contracts to buy, sell, or exchanges services, supplies or equipment between or among themselves; and,

WHEREAS, Monroe County, Indiana ("County") is a governmental entity and seeks to obtain the services of the City in the form of connection to and use of four strands of fiber of the BDU; and,

WHEREAS, the City wishes to provide said services to County upon certain terms and conditions;

NOW, THEREFORE, the City and County agree as follows:

Section 1: Term. This Agreement shall be in full force from the date this Agreement is fully executed and shall end on December 31, 2013.

Section 2: Permission. This Agreement grants County permission to use six (6) strands of dark fiber optic cable located in the City's BDU network.

Section 3: Payment. County shall not be required to make payment to the City for the use of these fiber optic strands, however, the City reserves the right to enact legislation which could impose payment obligations. In the event that the City enacts legislation which would impose payment obligations, County shall have the right to terminate its obligations under this Agreement. Any payment obligation which may be imposed shall be due and payable in advance on an annual basis.

Section 4: Use. County shall be responsible for lighting the fibers. The City shall be responsible for patching over to County's ISP(s) within the Telecom Hotel.

Section 5. Connection: County shall be responsible for securing any easements necessary for connection to the BDU and for construction of lateral connections in compliance with standards and specifications established by ITS. Line-locate wires must be installed in any lateral which connects to the BDU. Splicing and connection to the BDU must be performed by a certified technician, and all costs associated with connecting to the BDU shall be borne by County. Upon completion of its connection to the BDU, County shall provide the City with "as built" drawings in both print and digital form of County's connections and laterals. County shall be responsible

for any repairs to the connections and laterals which must be performed during the term of this Agreement. County shall notify the City forty-five (45) days in advance of any construction projects pertaining or connecting to the BDU.

Section 6. Responsibility for Maintenance and Repairs. The City shall be responsible for maintenance and repair of the BDU core network. County shall be responsible for maintenance and repair of its lateral connections from the splice point to their facility. County shall notify the City forty-eight (48) hours in advance of any maintenance hole or hand-hole entrance to the BDU.

Section 7. Restoration and Line Location Services. The City shall retain an Emergency Restoration Agreement ("ERA") on the BDU core network with a certified contractor. The City will provide line locate services for the BDU core network. County shall be responsible for their own ERA of fiber optics from the splice point to their facility along with line location services unless the City has extended the BDU along the lateral pursuant to Section 9 below.

Section 8. Call Out Requirements. County will provide a call out list to the City in case of emergency work. The list should include the order in which the City is to call out, the cell phone, pager, and home phone numbers, as well as e-mail addresses for each person on the list.

Section 9. Right to Co-locate. County agrees to permit the City to install BDU conduit within any new County lateral extension, with the City bearing the marginal additional cost of installation of said conduit. The City may, at its discretion, install conduit in all, part or none of the lateral extension.

Section 10. Substitution of Fibers. In the event that in the future County obtains the City's permission to use fiber in a different conduit or a conduit as a whole, the City may request that County discontinue use of the fibers referenced herein and those fibers shall be returned to the City's management in exchange for an equivalent number of fibers in the additional conduit or as part of the arrangement for the additional conduit itself.

Section 11. Rights Reserved. The City shall not be liable for any interruption of services in the event of damage, destruction, condemnation or closure of the Telecom Hotel which renders it unusable or inoperable. The City also reserves the right to terminate its obligations under this Agreement at its sole discretion upon 120 days written notice to County.

Section 12. Waiver of Claims. The City and its agents shall have no liability to County for any damage to the property of County located in or about the BDU core network. County hereby waives all claims for recovery from the City of any loss or damage incurred due to defects in, or damage to, the fiber optic cable system.

Section 13. Waiver of Warranties. The City expressly disclaims all express and implied warranties, including but not limited to the implied warranties or merchantability and fitness for a particular purpose. Except as otherwise provided in this Agreement, no information, oral or written, provided or disseminated by the City shall create any express or implied warranties, guaranty of performance, or contractual obligations.

Section 14. Assignment of Rights. The rights granted to County shall not be assigned in whole or in part without the City's prior written consent. In the event said consent is granted, the provisions of this Agreement shall be binding upon and inure to the benefit of any successors and assigns.

Section 15. Indemnification. County shall defend, indemnify, and hold harmless the City from and against all liabilities, judgments, claims, damages, settlements, expenses and costs, including reasonable attorneys' fees and litigation expenses arising out of or relating to County's execution and undertaking of this Agreement. County shall promptly notify the City of any third party claim or legal action arising out of or related to this Agreement.

Section 16. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and County.

Section 17. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

Section 18. Costs and Expense of Enforcement. If County shall default in the performance of any of its obligations under this Agreement, it shall be responsible for the reimbursement of any attorneys' fees and expenses which the City may incur in enforcing any obligations herein.

Section 19. Waiver. No waiver by either party of any default or breach of the other party's performance of any term, condition or covenant of this Agreement shall be deemed to be a waiver or any subsequent default or breach of the same or any other term, condition or covenant contained in this Agreement.

Section 12. Notices. All notices required to be given by either party hereunder shall be in writing and delivered by hand, courier, overnight delivery service or registered or certified mail return receipt requested. Any notice or other communication under this Agreement shall be deemed given when received or refused and shall be directed to the following address:

CITY
Information and Technology Services Dept.
City of Bloomington
401 N. Morton Street, Suite 150
Bloomington, IN 47404
Attn: Director

County
Monroe County Government
Technical Services
Monroe County Courthouse Room 112
Bloomington, IN 47404
Attn: Director

Section 20. Severability. Should any part of the Agreement be found in violation of any federal, state, or local law or ordinance, all unaffected parts shall remain in effect and enforceable provided that the intent of the Agreement is still served.

IN WITNESS WHEREOF, the parties have executed this Agreement this____ day of _____ 2013.

City of Bloomington
Board of Public Works
By:

Charlotte Zietlow, President

Mark Kruzan, Mayor

Monroe County, Indiana
Board of Commissioners
By:

Iris F. Kiesling, Commissioner

Julie Thomas, Commissioner

Patrick Stoffers, Commissioner

AGREEMENT BETWEEN THE CITY OF BLOOMINGTON
AND THE MONROE COUNTY COMMUNITY SCHOOL CORPORATION
FOR PERMISSION TO USE DIGITAL UNDERGROUND FIBER

WHEREAS, the City of Bloomington ("City"), through its Information and Technology Services Department ("ITS"), has adopted a policy of placing fiber optic cable in buried conduit throughout the City and refers to this network as the Bloomington Digital Underground ("BDU"); and,

WHEREAS, Indiana Code § 36-1-7-2 authorizes governmental entities to enter into contracts to buy, sell, or exchanges services, supplies or equipment between or among themselves; and,

WHEREAS, the Monroe County Community School Corporation ("MCCSC") is a governmental entity and seeks to obtain the services of the City in the form of connection to and use of strands of fiber of the BDU; and,

WHEREAS, the City wishes to provide said services to MCCSC upon certain terms and conditions;

NOW, THEREFORE, the City and MCCSC agree as follows:

Section 1: Term. This Agreement shall be in full force from the date this Agreement is fully executed and shall end on December 31, 2013.

Section 2: Permission. This Agreement grants MCCSC permission to use eighteen (18) strands of dark fiber optic cable located in the City's BDU network.

Section 3: Payment. MCCSC shall not be required to make payment to the City for the use of these fiber optic strands, however, the City reserves the right to enact legislation which could impose payment obligations. In the event that the City enacts legislation which would impose payment obligations, MCCSC shall have the right to terminate its obligations under this Agreement. Any payment obligation which may be imposed shall be due and payable in advance on an annual basis.

Section 4: Use. MCCSC shall be responsible for lighting the fibers.

Section 5. Connection: MCCSC shall be responsible for securing any easements necessary for connection to the BDU and for construction of lateral connections in compliance with standards and specifications established by ITS. Line-locate wires must be installed in any lateral which connects to the BDU. Splicing and connection to the BDU must be performed by a certified technician, and all costs associated with connecting to the BDU shall be borne by MCCSC. Upon completion of its connection to the BDU, MCCSC shall provide the City with "as built" drawings in both print and digital form of MCCSC's connections and laterals. MCCSC shall be responsible for any repairs to the connections and laterals which must be performed during the

term of this Agreement. MCCSC shall notify the City forty-five (45) days in advance of any construction projects pertaining or connecting to the BDU.

Section 6. Responsibility for Maintenance and Repairs. The City shall be responsible for maintenance and repair of the BDU core network. MCCSC shall be responsible for maintenance and repair of its lateral connections from the splice point to their facility. MCCSC shall notify the City forty-eight (48) hours in advance of any maintenance hole or hand-hole entrance to the BDU.

Section 7. Restoration and Line Location Services. The City shall retain an Emergency Restoration Agreement ("ERA") on the BDU core network with a certified contractor. The City will provide line locate services for the BDU core network. MCCSC shall be responsible for their own ERA of fiber optics from the splice point to their facility along with line location services unless the City has extended the BDU along the lateral pursuant to Section 9 below.

Section 8. Call Out Requirements. MCCSC will provide a call out list to the City in case of emergency work. The list should include the order in which the City is to call out, the cell phone, pager, and home phone numbers, as well as e-mail addresses for each person on the list.

Section 9. Right to Co-locate. MCCSC agrees to permit the City to install BDU conduit within any new MCCSC lateral extension, with the City bearing the marginal additional cost of installation of said conduit. The City may, at its discretion, install conduit in all, part or none of the lateral extension.

Section 10. Substitution of Fibers. In the event that in the future MCCSC obtains the City's permission to use fiber in a different conduit or a conduit as a whole, the City may request that MCCSC discontinue use of the fibers referenced herein and those fibers shall be returned to the City's management in exchange for an equivalent number of fibers in the additional conduit or as part of the arrangement for the additional conduit itself.

Section 11. Rights Reserved. The City shall not be liable for any interruption of services in the event of damage, destruction, condemnation or closure of the Telecom Hotel which renders it unusable or inoperable. The City also reserves the right to terminate its obligations under this Agreement at its sole discretion upon 60 days written notice to MCCSC.

Section 12. Waiver of Claims. The City and its agents shall have no liability to MCCSC for any damage to the property of MCCSC located in or about the BDU core network. MCCSC hereby waives all claims for recovery from the City of any loss or damage incurred due to defects in, or damage to, the fiber optic cable system.

Section 13. Waiver of Warranties. The City expressly disclaims all express and implied warranties, including but not limited to the implied warranties or merchantability and fitness for a particular purpose. Except as otherwise provided in this Agreement, no information, oral or written, provided or disseminated by the City shall create any express or implied warranties, guaranty of performance, or contractual obligations.

Section 14. Assignment of Rights. The rights granted to MCCSC shall not be assigned in whole or in part without the City's prior written consent. In the event said consent is granted, the provisions of this Agreement shall be binding upon and inure to the benefit of any successors and assigns.

Section 15. Indemnification. MCCSC shall defend, indemnify, and hold harmless the City from and against all liabilities, judgments, claims, damages, settlements, expenses and costs, including reasonable attorneys' fees and litigation expenses arising out of or relating to MCCSC's execution and undertaking of this Agreement. MCCSC shall promptly notify the City of any third party claim or legal action arising out of or related to this Agreement.

Section 16. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and MCCSC.

Section 17. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

Section 18. Costs and Expense of Enforcement. If MCCSC shall default in the performance of any of its obligations under this Agreement, it shall be responsible for the reimbursement of any attorneys' fees and expenses which the City may incur in enforcing any obligations herein.

Section 19. Waiver. No waiver by either party of any default or breach of the other party's performance of any term, condition or covenant of this Agreement shall be deemed to be a waiver or any subsequent default or breach of the same or any other term, condition or covenant contained in this Agreement.

Section 20. Notices. All notices required to be given by either party hereunder shall be in writing and delivered by hand, courier, overnight delivery service or registered or certified mail return receipt requested. Any notice or other communication under this Agreement shall be deemed given when received or refused and shall be directed to the following address:

CITY
Information and Technology Services Dept.
City of Bloomington
401 N. Morton Street, Suite 150
Bloomington, IN 47404
Attn: Director

MCCSC
Monroe County Community School Corp.
315 E North Drive
Bloomington, IN 47401
Attn: Director

Section 20. Severability. Should any part of the Agreement be found in violation of any federal, state, or local law or ordinance, all unaffected parts shall remain in effect and enforceable provided that the intent of the Agreement is still served.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____, 2013.

City of Bloomington
Board of Public Works
By:

_____
Charlotte Zietlow, President

_____
Mark Kruzan, Mayor

Monroe County Community School
Corporation Board of Trustees
By:

_____
Keith Klein, President

City of Bloomington
Housing and Neighborhood Development

City of Bloomington
H.A.N.D.

Board of Public Works

Meeting Date:	12 February 2013
Petition Type:	Uphold Order to Remove Unsafe Structure
Address:	013-53060-03 Maple Grove Baby Farms Pt Lot 6 72 x 132 .22A; commonly known as 2453 W. Marlene Dr.
Petitioner:	Housing and Neighborhood Development
Inspector:	Michael Arnold

Staff Report:	22 August 2012	Rental Inspection
	28 November 2012	Request for Extension of Time to complete repairs
	06 December 2012	Issued Order to Repair
	15 December 2012	Received written request for hearing
	30 January 2013	Unit is vacant

During the Rental Cycle Inspection for Title 16 it was noted that, "The water heater and furnace are sinking into the floor. Repair the floor in the utility closet to be level and structurally sound and restore the water heater and furnace to their original locations". The Board of Housing Quality Appeals denied the request for extension of time. The repairs are past due; however, because the unit is vacant, Title 16 does not require compliance unless the unit is to be occupied. The structure is now vacant. Orders to Repair the structure under Title 17 were issued to make sure the repairs to the floor are completed in a timely manner and to prevent deterioration that may affect the adjacent unit.

Deadline: 31 March 2013

Attachments: orders, written request, cycle report

City of Bloomington
Housing and Neighborhood Development

ORDER TO REPAIR

06 December 2012

Kelly Harding
608 W. Kirkwood Ave.
Bloomington IN 47403

Re: 013-53060-03 Maple Grove Baby Farms Pt Lot 6 72 x 132 .22A; commonly known as 2453 W. Marlene Dr.

Dear Kelly Harding;

The City of Bloomington's Housing and Neighborhood Development Department (HAND), pursuant to Indiana Code Section 36-7-9-5, is issuing this Order to Repair. HAND is required to give all substantial property interest holders in the above-referenced property notice of this Order to Repair.

You have until 20 December 2012 to repair the structure. See the attached Notice of Ordinance Violation (NOV) for the details of this violation and a summary of the violation history.

The law does not require a hearing for this Order to be issued. However, you or any person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in this property, may request a hearing in writing and delivered to the City of Bloomington's HAND Department at 401 North Morton Street, Bloomington, Indiana within ten (10) days after the date of this Order. **This Order to Repair becomes final ten (10) days after it has been issued, if you or any other person holding an interest in this property have not requested a hearing.**

If the Order to Repair is not complied with, the following may occur:

1. HAND may hire a contractor to fulfill the obligations of the Order to Repair.
2. HAND may fulfill the obligations of the Order to Repair itself.
3. If HAND has to hire a contractor to fulfill the obligations of the Order to Repair or must fulfill the obligations of the Order to Repair itself, each person who holds a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the date of this Order to Repair to the time that the work is completed, is jointly and severally responsible for certain costs; including the actual cost of the work performed and reasonable processing expenses.
4. If any assessed costs remain unpaid, HAND shall execute a judgment in the Monroe Circuit Court against any and all of the aforementioned

parties; said judgment is a debt and lien on all real and personal property of each named individual.

Per Indiana Code § 36-7-9-27, if, after you have been issued and received notice of this order and you have not complied, you must supply full information regarding this order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest, and within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, you must supply HAND with written copies of the full name, address, and telephone number of the person taking a substantial property interest in the property, and the legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

I hereby affirm, to the best of my knowledge, under the penalties of perjury, that the foregoing representation is true.

Lisa Abbott
Director
Housing and Neighborhood Development
401 North Morton Street/P.O. Box 100
Bloomington, Indiana 47402
(812) 349-3401

State of Indiana)
)SS:
County of Monroe)

Subscribed and sworn to before me a Notary Public this 5th day of December 2012.

Janet E Roberts
Name of Notary Public

Janet E Roberts
Signature of Notary Public

Monroe
Notary Public's County of Residence

1/15/2015
Commission Expires

CITY OF BLOOMINGTON
NOTICE OF ORDINANCE VIOLATION

Date NOV issued:	**06 December 2012**
Person(s) NOV issued to:	**Kelly Harding**
Date violation discovered:	**22 August 2012**
Location/address of violation:	**013-53060-03 Maple Grove Baby Farms Pt Lot 6 72 x 132 .22A; commonly known as 2453 W. Marlene Dr.**
Nature of violation/code provision violated:	**Bloomington Municipal Code (BMC) § 17.16**

Inspector's Report

On 22 August 2012, during the cycle inspection to renew the Rental Occupancy Permit at this address, it was noted that, "the water heater and furnace are sinking into the floor. Repair the floor in the utility closet to be level and structurally sound and restore the water heater and furnace to there original locations. PM-603.1, PM-304.3". You are herby ordered to comply with the cycle inspection's command by 20 December 2012. The following steps should occur to gain compliance:

1. Contact the Monroe County Building Department and obtain all permits required to complete the work;
2. Complete all work necessary to bring the structure into compliance with the Bloomington Municipal Code Title 16 for Housing Inspection and Title 17 for unsafe structures;
3. Notify Housing and Neighborhood Development upon the completion of the work so the proper inspection can be completed

Relevant Code Citations

BMC § 17.16.020 adopts Indiana Code §§ 36-7-9-1—36-7-9-28 by reference. Indiana Code § 36-7-9-4, Unsafe building and unsafe premises described, states in section (a) "For purposes of this chapter, a building or structure, or any part of a building or structure, that is:

(1) In an impaired structural condition that makes it unsafe to a person or property;
(2) A fire hazard;

(3) A hazard to the public health;
(4) A public nuisance;
(5) Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
(6) Vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance;

is considered an unsafe building.

BMC § 17.16.040 (f) states, in part, "Unsafe building or structure means any building or structure or part of building or structure that is ... in any of the conditions or possesses any of the defects described below, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered:

(ll) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure, provided by the building regulations of this city, or of any law or ordinance of this state or city relating to the condition, location, or structure of buildings;

(nn) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the enforcement authority to be unsanitary, unfit for human habitation, or in such condition that it is likely to cause sickness or disease.

December 15, 2012

TO: HOUSING AND NEIGHBORHOOD DEVELOPMENT

FROM : HARDING RENTALS

RE: 2453 W. MARLENE DRIVE HEARING

I am requesting a formal hearing regarding the property located at 2453 W. Marlene Drive. I have hired two different construction contractors to repair this unit since receiving the Order to Repair, and both of them have walked away and refused to repair it. Furthermore, I have had the unit inspected by a certified heating contractor who informed me that the fittings on the furnace and hot water heater are not loose in any way and are of no danger to the tenants who reside there.

The tenants have been totally uncooperative with having these repairs done at this time, as it is necessary to disconnect their water and heating for a full day. It is nearly Christmas and this is a huge inconvenience for them. They are packing boxes to vacate and their house is already crammed full, with no room for this construction. The second contractor left after being griped at for two hours by the tenant, and said he would fix it only AFTER they moved out.

My original request was for an extension of time so that they could vacate the premises, thus allowing us to remove the flooring entirely and do the repairs properly, not just patch it until better weather; however, this was disallowed based solely on one inspector's opinion, which was not substantiated by a certified heating contractor.

Please schedule a formal hearing so that I may present pictures with evidence. Thank you.

Kelly Harding

Kelly Harding, Owner

Harding Rentals

City of Bloomington
Housing and Neighborhood Development

Cycle Report

674

OWNERS
======
Harding, Kelly A.
608 W Kirkwood Ave
Bloomington, IN 47404

Prop. Location: 2457 W Marlene DR, 2453 W Marlene DR
Number of Units/Structures: 2/1
Units/Bedrooms/Max # of Occupants: 2/2/4

Date Inspected: 08/22/2012
Primary Heat Source: Gas
Property Zoning: RM
Number of Stories: 1

Inspectors: Robert Hoole
Foundation Type: Crawl Space
Attic Access: No
Accessory Structure:

Monroe County Assessor's records indicate this structure was built in 1967.
There were no requirements for emergency egress at the time of construction.

INTERIOR

2457

NOTE: The electricity was not connected. Electrical items will be checked at the reinspection. The electrical items must be inspected and brought into compliance within the same 60 day deadline as the remainder of this property. PM-605.1

Living room (20 x 11)

No violations noted.

Kitchen (10 x 13)

Thoroughly clean and service the furnace, inspect and test shut off valves for proper operation. Documentation from a professional HVAC contractor for this service is acceptable and encouraged. Servicing shall include a test for carbon monoxide. Acceptable levels of carbon monoxide are as follows:

Desired level:	0 parts per million (ppm)
Acceptable level in a living space:	9 ppm
Maximum concentration for flue products:	50 ppm

PM-603.1

Hallway

Provide operating power to smoke detector. PM-704.1

Bath

No violations noted.

Inner bedroom (10 x 12)

Existing Egress Window Measurements:

Height: 33 inches
Width: 15 inches
Sill Height: 48 inches
Openable Area: 3.43 sq. ft.

At the time this structure was built, there were no code requirements for emergency egress for a sleeping room. The Housing & Neighborhood Development Department strongly recommends that the sleeping room egress windows be modified or replaced with a larger window to aid in emergency escape. BMC-16.04.400 (b)

Outer bedroom (11 x 12)

Existing Egress Window Measurements:

Height: 33 inches
Width: 15 inches
Sill Height: 48 inches
Openable Area: 3.43 sq. ft.

At the time this structure was built, there were no code requirements for emergency egress for a sleeping room. The Housing & Neighborhood Development Department strongly recommends that the sleeping room egress windows be modified or replaced with a larger window to aid in emergency escape. BMC-16.04.400 (b)

2453

Living room (20 x 11)

No violations noted.

Kitchen (10 x 13)

Thoroughly clean and service the furnace, inspect and test shut off valves for proper operation. Documentation from a professional HVAC contractor for this service is acceptable and encouraged. Servicing shall include a test for carbon monoxide. Acceptable levels of carbon monoxide are as follows:

Desired level:	0 parts per million (ppm)
Acceptable level in a living space:	9 ppm
Maximum concentration for flue products:	50 ppm

PM-603.1

Repair the stove so that all burners ignite and function as intended. PM-603.1

Replace the broken exterior door. PM-303.15

The water heater and furnace are sinking into the floor. Repair the floor in the utility closet to be level and structurally sound and restore the water heater and furnace to their original locations. PM-603.1, PM-304.3

Hallway

No violations noted.

Bath

Repair the exhaust fan to eliminate excessive noise. PM-403.2

Inner bedroom (10 x 12)

Existing Egress Window Measurements:

Height:	**33 inches**
Width:	**15 inches**
Sill Height:	**48 inches**
Openable Area:	**3.43 sq. ft.**

At the time this structure was built, there were no code requirements for emergency egress for a sleeping room. The Housing & Neighborhood Development Department strongly recommends that the sleeping room egress windows be modified or replaced with a larger window to aid in emergency escape. BMC-16.04.400 (b)

Outer bedroom (11 x 12)

Existing Egress Window Measurements:
Height: 33 inches
Width: 15 inches
Sill Height: 48 inches
Openable Area: 3.43 sq. ft.

At the time this structure was built, there were no code requirements for emergency egress for a sleeping room. The Housing & Neighborhood Development Department strongly recommends that the sleeping room egress windows be modified or replaced with a larger window to aid in emergency escape. BMC-16.04.400 (b)

Crawlspace

No violations noted.

EXTERIOR

No violations noted.

OTHER REQUIREMENTS

Required documentation:
A completed copy of the Tenants and Owners Rights and Responsibilities Summary must be provided to this office or reviewed with the inspector within 60 days of the date of the inspection **or a $25.00 fine will be levied. BMC 16.12.050 (d) (2453 only)**

Required documentation:
The owner or his agent shall contact the tenant and arrange a joint inspection of the premises to occur within ten days of the tenant's occupancy of the rental unit. The owner or his agent and the tenant shall at that time jointly complete an inventory and damage list, and this shall be signed by all parties to the tenancy agreement. Duplicate copies of the inventory and damage list shall be retained by all parties and shall be deemed a part of the tenancy agreement. **A completed copy of the Inventory & Damage List must be provided to the office or reviewed with the inspector within 60 days of the date of the inspection or a $25.00 fine will be levied. BMC16.12.040 (2453 only)**

When issued, a copy of the new Rental Occupancy Permit shall be posted as required by BMC 16.12.080 (b): All rental units shall be required to have a current occupancy permit displayed in an accessible location inside the unit. The permit shall contain the name of the owner or his agent and the expiration date of the permit. BMC 16.12.080 (b)

This is the end of this report.

City of Bloomington
H.A.N.D.

Board of Public Works

Meeting Date: 12 February 2013

Petition Type: Extension of time

Address: 015-21010-00 University Hts (W 18'); commonly known as 618 E. Atwater Ave.

Petitioner: Housing and Neighborhood Development

Inspector: Michael Arnold

Staff Report:	24 January 2013	Received a complaint regarding an unsafe structure
	28 January 2013	Sent Orders to Repair
	04 February 2013	meeting with Owner

Housing and Neighborhood Development (HAND) received a complaint regarding an unsafe structure at this address. A drive by inspection found violations of Title 17 regarding Unsafe Structures. An Order to Repair was issued with a deadline of 01 April 2013. HAND met with the owners concerning the repairs. They have begun repairs but feel additional time is needed for the roof repairs. The roof appears to be stable and work is continuing on the structure.

Deadline: 01 July 2013

Attachments: Photos, orders.

City of Bloomington
Housing and Neighborhood Development

ORDER TO REPAIR

28 January 2013

Mark Goodwin.
618 E. Atwater Ave.
Bloomington IN 47401

Re: 015-21010-00 University Heights PT (W 18'); commonly known as 618 E. Atwater Ave.

Dear Mark Goodwin:

Housing and Neighborhood Development (HAND) received a complaint regarding an unsafe structure at this location. A drive by inspection was conducted to determine if the property was in violation of Bloomington Municipal Code (BMC) Title 17 regarding unsafe structures.

The City of Bloomington's HAND Department, pursuant to Indiana Code Section 36-7-9-5, is issuing this Order to Repair. HAND is required to give all substantial property interest holders in the above-referenced property notice of this Order to Repair.

You have until 01 April 2013 to repair the structure. See the attached Notice of Ordinance Violation (NOV) for the details of this violation and a summary of the violation history.

The law does not require a hearing for this Order to be issued. However, you or any person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in this property, may request a hearing in writing and delivered to the City of Bloomington's HAND Department at 401 North Morton Street, Bloomington, Indiana within ten (10) days after the date of this Order. **This Order to Repair becomes final ten (10) days after it has been issued, if you or any other person holding an interest in this property have not requested a hearing.**

If the Order to Repair is not complied with, the following may occur:

1. HAND may hire a contractor to fulfill the obligations of the Order to Repair.
2. HAND may fulfill the obligations of the Order to Repair itself.
3. If HAND has to hire a contractor to fulfill the obligations of the Order to Repair or must fulfill the obligations of the Order to Repair itself, each person who holds a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the date of this Order to Repair to the time that the work is completed, is jointly and severally responsible for certain costs; including the actual cost of the work performed and reasonable processing expenses.

4. If any assessed costs remain unpaid, HAND shall execute a judgment in the Monroe Circuit Court against any and all of the aforementioned parties; said judgment is a debt and lien on all real and personal property of each named individual.

Per Indiana Code § 36-7-9-27, if, after you have been issued and received notice of this order and you have not complied, you must supply full information regarding this order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest, and within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, you must supply HAND with written copies of the full name, address, and telephone number of the person taking a substantial property interest in the property, and the legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

I hereby affirm, to the best of my knowledge, under the penalties of perjury, that the foregoing representation is true.

_____

Lisa Abbott
Director
Housing and Neighborhood Development
401 North Morton Street/P.O. Box 100
Bloomington, Indiana 47402
(812) 349-3401

State of Indiana)
)SS:
County of Monroe)

Subscribed and sworn to before me a Notary Public this ____ day of January 2013.

_____

Name of Notary Public

_____

Signature of Notary Public

_____

Notary Public's County of Residence

_____

Commission Expires

CITY OF BLOOMINGTON
NOTICE OF ORDINANCE VIOLATION

Date NOV issued:	**28 January 2013**
Person(s) NOV issued to:	**Mark Goodwin**
Date violation discovered:	**24 January 2013**
Location/address of violation:	**015-21010-00 University Height Pt (W 18'); commonly known as 618 E. Atwater Ave.**
Nature of violation/code provision violated:	**Bloomington Municipal Code (BMC) § 17.16**

Inspector's Report

A complaint was received regarding an unsafe structure located at 618 E. Atwater Ave. During a drive by inspection it was noted the carport structure on the east side of the house has collapsed. The following steps shall be completed to bring the structure into compliance:

1. The Monroe County Building Department shall be contacted to determine of a Building Permit is required for the work to repair the structure.
2. Properly repair/replace the roof, eaves, soffits, overhangs, garage doors and other portions of the structure where deterioration is present. Tarps do not meet the standards set forth in 17.16.110 for workmanlike manner.
3. Properly repair or seal openings in the structure such as missing/broken windows and doors.
4. Remove all debris associated with these repairs.
5. HAND shall be notified when work is completed at this location

Relevant Code Citations

BMC § 17.16.020 adopts Indiana Code §§ 36-7-9-1—36-7-9-28 by reference. Indiana Code § 36-7-9-4, Unsafe building and unsafe premises described, states in section (a) "For purposes of this chapter, a building or structure, or any part of a building or structure, that is:

(1) In an impaired structural condition that makes it unsafe to a person or property;
(2) A fire hazard;
(3) A hazard to the public health;
(4) A public nuisance;

(5) Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or

(6) Vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance;

is considered an unsafe building.

BMC § 17.16.040 (f) states, in part, "Unsafe building or structure means any building or structure or part of building or structure that is ... in any of the conditions or possesses any of the defects described below, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered:

(ll) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure, provided by the building regulations of this city, or of any law or ordinance of this state or city relating to the condition, location, or structure of buildings;

(nn) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the enforcement authority to be unsanitary, unfit for human habitation, or in such condition that it is likely to cause sickness or disease.

618 E. Atwater Ave.
24 January 2013

Board of Public Works
Staff Report

Project/Event: Plat Approval for B-Line Station Subdivision

Staff Representative: Rick Alexander

Petitioner/Representative: Neighborhood Solutions and Matt Press/Bynum Fanyo

Date: February 12th, 2013

Report: The petitioner is requesting plat approval of a 20 lot mixed use subdivision at the southeast corner of Morton and Dodds. Lots 1 thru 12 will be narrow single family home lots that will face the B-Line Trail which runs parallel to the west edge of the property. There is also a paved alley that runs north/south and is east of the property which will allow access to the parking areas of each lot. On lot 13, the proposal is to build a 5 unit townhouse with each unit on its own lot and a common lot for parking and utilities. Lot 13 will be further subdivided in the futures. Lot 14 is planned to have a mixed use two story building designed to look like a train depot with 3 two bedroom apartments on the second floor and 3200 sq ft of nonresidential space on the ground floor. Lot 15 will also be a mixed use building with 1000 sq ft of nonresidential space on the ground floor and one 2 bedroom apartment on the 2nd floor and is planned to be a live/work building and designed to look similar to the Carriage House building.

Recommendation and Supporting Justification: The Plan Commission approved PUD-18-12 in 2012 to allow a rezone to permit multi-family and commercial uses on some of the lots and approved the preliminary plat. The Plat Committee approved the plat on Feb 4th, 2013. The petitioner is required to dedicated right of way 25' from the center of Dodds Street as shown on the plat. He is also required to install a new sidewalk along Dodds as well as street trees. He is also dedicating 4' of right of way in the alley to the east of the property. A public improvement bond for $28,495.63 has been posted for those improvements. Staff recommends approval.

Recommend ☒ **Approval** ☐ **Denial by** _____

BYNUM FANYO & ASSOCIATES, INC.

ARCHITECTURE
CIVIL ENGINEERING
PLANNING

B-Line Station (Morton & Dodds)

Engineer's Cost Estimate for Public Improvements Not Yet Completed

January 16, 2013

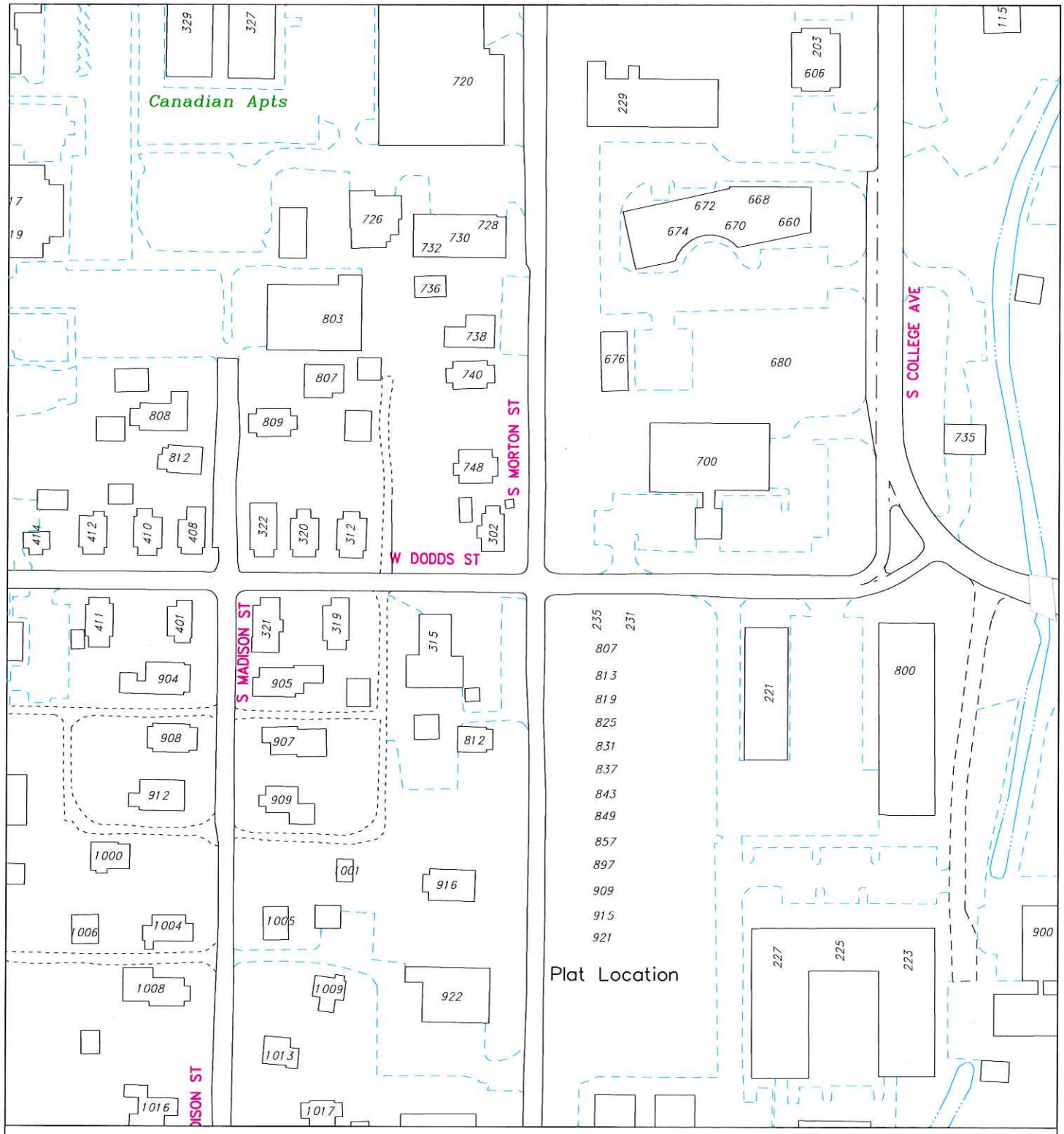
Description	UNIT	QUANTITY	UNIT PRICE	TOTAL
Onstreet Parking, Alley Pavement, Pavement Patch:				
HMA Surface	TON	47	$58.00	$2,726.00
HMA Base	TON	94	$52.00	$4,888.00
Compacted Aggregate Base, #53	TON	225	$14.00	$3,150.00
Pavement Patch	LF	312	$24.00	$7,488.00
6" Standing Curb, Concrete	LF	136	$12.00	$1,632.00
5' Sidewalk, Concrete	LF	130	$16.00	$2,080.00
Handicap Ramps	EA	1	$750.00	$750.00
Painted Parking Marking	LF	24	$2.50	$60.00
Mulch Seeding	SY	30	$0.75	$22.50
			Subtotal	*$22,796.50*

TOTAL - *$22,796.50*

25% Contingency - $5,699.13

Grand Total - ***$28,495.63***

528 NORTH WALNUT STREET
BLOOMINGTON, INDIANA 47404
812-332-8030
FAX 812-339-2990



By: alexandr
5 Feb 13

150 0 150 300 450

N

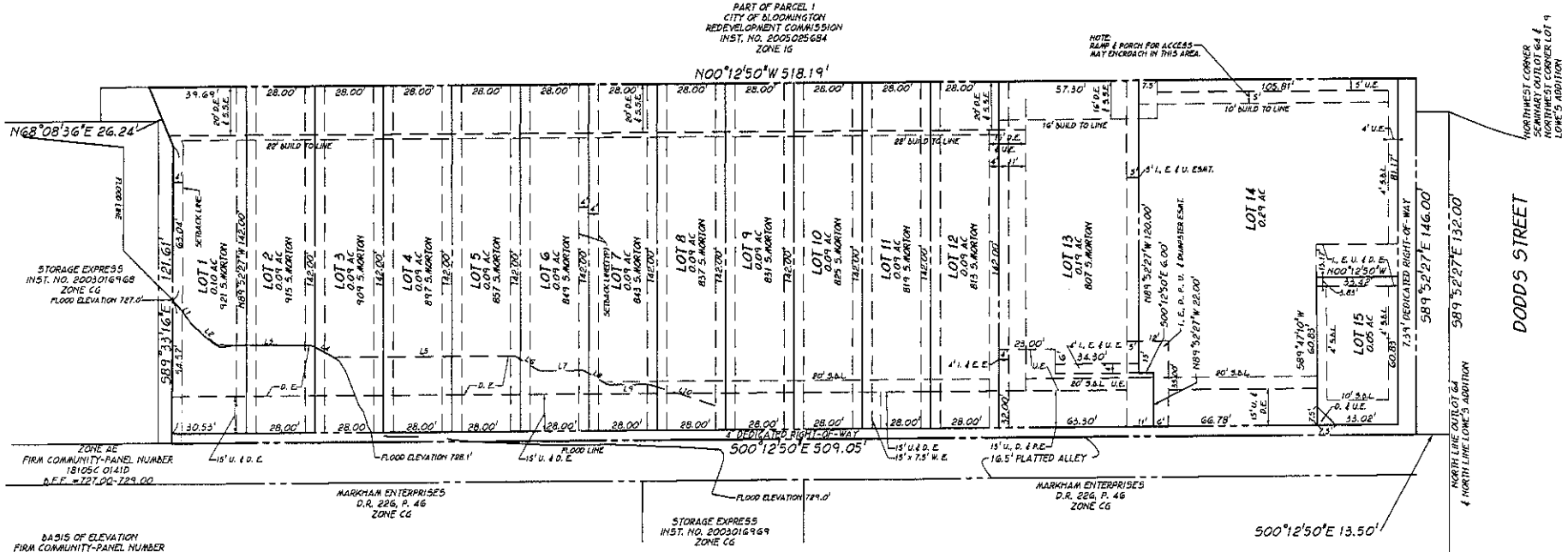
City of Bloomington
Engineering

Scale: 1" = 150'

For reference only; map information NOT warranted.

INSTRUMENT NO. _____ PLAT CABINET _____ ENVELOPE _____

B-LINE STATION SUBDIVISION
FINAL PLAT



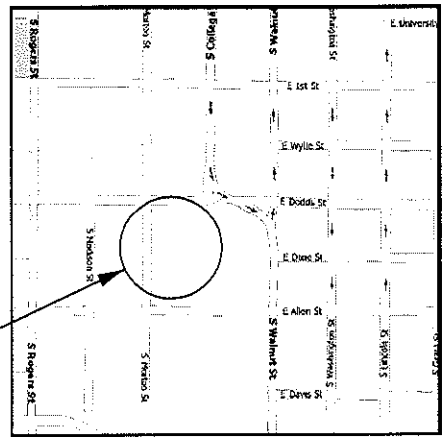
NUMBER	DIRECTION	DISTANCE
L1	N51°03'07"E	12.91'
L2	N39°16'22"E	12.98'
L3	N00°38'10"E	38.94'
L4	N28°52'14"E	9.87'
L5	N00°12'50"W	73.99'
L6	N30°44'59"E	11.66'
L7	N00°12'50"W	18.00'
L8	N30°44'59"E	11.66'
L9	N00°12'50"W	17.13'
L10	N18°06'05"E	28.21'

PETITIONER
Matt Press
Neighborhood Solutions, LLC
601 W. Dodds Street
Bloomington, IN
47403

FLOOD NOTE:
According to Flood Insurance Rate Map (FIRM) Community-Panel Number: 18105C 0141 D having an Effective Date: December 17, 2010, a portion of the subject property is in Zone AE, an area with base flood elevations determined.
Source: FEMA

NOTE: Minimum finished floor elevation, including basements and crawl spaces shall be a minimum of 2 feet above the base flood elevation.

PROJECT LOCATION



LOCATION MAP

I affirm under penalties of perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

Douglas R. Curry

This instrument prepared by Douglas R. Curry.

LEGEND

PROPERTY LINE	
EASEMENT LINE	
FENCE	
OVERHEAD UTILITIES	OHU
OVERHEAD ELECTRIC LINE	E
UNDERGROUND ELECTRIC LINE	UGE
UNDERGROUND GAS LINE	GAS
UNDERGROUND TELEPHONE LINE	UGT
WATER LINE	W
SANITARY SEWER LINE	S
DEED RECORD BOOK AND PAGE	XXX/XXX
5/8" REBAR WITH CAP SET	⊙
MAG NAIL SET	MN ⊙
RECORD	R
MEASURED	M
RIGHT-OF-WAY	ROW
LANDSCAPE AREA	L.S.
INGRESS AND EGRESS EASEMENT	I. E. E.
DRAINAGE EASEMENT	D.E.
WATER LINE EASEMENT	W.E.
PARKING EASEMENT	P. E.
UTILITY EASEMENT	U.E.
SANITARY SEWER EASEMENT	S.S.E.

NOTE: Ingress and Egress easement shown along the north and south lines of Lot 13 are for the residents of Lot 13's use to access individual units.

B-LINE STATION SUBDIVISION
FINAL PLAT
223 W. DODDS STREET
JOB NO. 401204
APRIL 10, 2012
SHEET 1 OF 2

PREPARED BY BYNUM FANYO & ASSOCIATES INC. 528 N. WALNUT ST. BLOOMINGTON, IN. 47404

INSTRUMENT NO. _____ PLAT CABINET _____ ENVELOPE _____

B-LINE STATION SUBDIVISION
FINAL PLAT

Legal Description

Lots Number 4,5,6,7 and 8 in Lowe's Addition to the City of Bloomington, Indiana; Also a part of Lots Number 3 and 9 in Lowe's Addition as recorded in Plat Cabinet b, Envelope 6; Also that portion of Park Avenue in said City of Bloomington, Indiana, in Seminary Lot Number 64; Also a part of the West half of Section 4, Township 8 North, Range 1 West, Perry Township, Monroe County, Indiana, all being recorded in the Office of the Recorder, Monroe County, Indiana, more particularly described as follows:

Commencing at the northwest corner of Seminary Outlot 64 and the northwest corner of said Lot 9; Thence on the north line of said seminary outlot and said Lot 9 South 89 degrees 52 minutes 27 seconds East 132.00 feet; Thence leaving the north line of said seminary outlot and on the east line of said Lowe's Addition South 00 degrees 12 minutes 50 seconds East 13.50 feet to the true point of beginning;

Thence continuing on said east line South 00 degrees 12 minutes 50 seconds East 509.05 feet; Thence leaving said east line and bisecting Lot 3 North 89 degrees 33 minutes 16 seconds West 121.61 feet; Thence South 68 degrees 08 minutes 36 seconds West 26.24 feet to a point that is 14.00 feet west of the west line of said Lowe's Addition; Thence parallel to said west line North 00 degrees 12 minutes 50 seconds West 518.19 feet; Thence leaving said parallel line and on a line parallel with said north line of seminary outlot 64 and Lot 9 South 89 degrees 52 minutes 27 seconds East 146.00 feet to the Point of beginning containing within 1.71 acres, more or less.

CERTIFICATE OF SURVEYOR

I, Douglas R. Curry, hereby certify that I am a professional Land Surveyor licensed in compliance with the laws of the State of Indiana; that this plat correctly representrs a survey completed by me on _____, 2013; that all the monuments shown thereon actually exist; and that their location, size, type, and material are accurately shown.

_____
Douglas R. Curry Indiana L.S. No. 890006
Bynum Fanyo & Associates, Inc.
528 North Walnut Street
Bloomington, Indiana 47404
(812) 332-8030

CERTIFICATE OF APPROVAL OF COMMISSION AND BOARD OF PUBLIC WORKS

Under the authority of Chapter 174 -Acts of 1947- enacted by the General Assembly of the State of Indiana and Ordinance adopted by the Common Council of the City of Bloomington, Indiana, this plat was given approval by the City of Bloomington, as follows:

Approved by the City Plan Commission at a meeting held _____, 2013.

_____
(Tom Micuda)

_____
(Jack Baker) President Bloomington Plan Commission

Approved by the board of Public Works at a meeting held _____, 2013

_____ _____
(Chairperson) (Member)

_____
(Member)

SOURCE OF TITLE: Instrument Number 2012002366

OWNER: Neighborhood Solutions, LLC

ZONING: PUD

The undersigned, as owners of the real estate described on this plat, for and in consideration of the City of Bloomington, Indiana, granting to the undersigned the right to tap into and connect to the sewer system of the City of Bloomington for the purpose of providing sewer service to the described real estate, now release the right of the undersigned as owners of the platted real estate and their successors in title to remonstrate against any pending or future annexation by the City of Bloomington, Indiana, of such platted real estate.

Neighborhood Solutions, LLC, the owner of the real estate shown and described herein, does hereby lay off, plat, and subdivide said real estate in accordance with the within plat.

This subdivision shall be known and designated as B-LINE STATION SUBDIVISION, an addition to the City of Bloomington. All streets and alleys shown, and not heretofore dedicated are dedicated to the public.

Front and side yard building setback lines are established as shown on the plat, between which lines and the property lines of the adjacent streets no building or other structure shall be erected or maintained.

The strips of ground that are shown on the plat and marked "easement" are owned by the owners of the lots that they respectively affect, subject to the rights of public utilities for the installation and maintenance of water and sewer mains, poles, ducts, lines, and wires. Buildings or other structures shall not be erected or maintained on these strips.

This subdivision shall be subject to the Declaration Of Covenants, Conditions, and Restrictions as set forth in Instrument Number _____ in the Office of the Recorder of Monroe County, Indiana.

This subdivision shall be subject to the Declaration Of Incorporation Of Morton & Dodds Subdivision Owners Association, Inc. as set forth in Instrument Number _____ in the Office of the Recorder of Monroe County, Indiana.

Neighborhood Solutions, LLC

Signed and Sealed _____, 2013.

_____
Signature

_____ _____
Name Printed Office

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Before me, the undersigned Notary Public, in and for the said county and state, personally appeared _____, and acknowledged the execution of the foregoing for the purposes therein expressed.

Witness my hand and notorial seal this _____ day of _____, 2013.

_____ _____
County of Residence Commission Expiration

_____ _____
Notary Public, Written Notary Public, Printed

EASEMENT DEFINITIONS

Easement: A non-possessory interest in land granted by a property owner to the City, the general public, a corporation, or other persons for specific purposes including but not limited to the construction of utilities, drainage ways, and streets, or for the protection of natural features.

Easement, Drainage: An easement that permits the unobstructed flow of upstream storm water runoff. A drainage easement may include detention or retention ponds, swales, wetlands or underground pipes, and which allows the City Utilities Department exclusive access for installation, maintenance, repair or removal of drainage facilities.

Easement, Pedestrian: An easement that permits the general public the right to access the easement for purposes of walking, running, bicycling, skating, or utilizing certain classes of non-motorized vehicles, and grants the City the right to construct, alter, repair, maintain, or remove improvements within the easement area.

Easement, Sanitary Sewer: An easement that allows the City Utilities Department exclusive access for installation, maintenance, repair, or removal of sanitary sewer facilities.

Easement, Utility: An easement that allows both private and public utility providers access associated with the installation, maintenance, repair, or removal of utility facilities.

Easement, Waterline: An easement that allows the City Utilities Department exclusive access for installation, maintenance, repair, or removal of potable water facilities.

B-LINE STATION SUBDIVISION
FINAL PLAT
223 W. DODDS STREET
JOB NO. 401204
APRIL 10, 2012
SHEET 2 OF 2

PREPARED BY BYNUM FANYO & ASSOCIATES INC. 528 N. WALNUT ST. BLOOMINGTON, IN. 47404

Board of Public Works
Staff Report

Project/Event: Request to use the public right of way at 640 N. Morton

Staff Representative: Rick Alexander

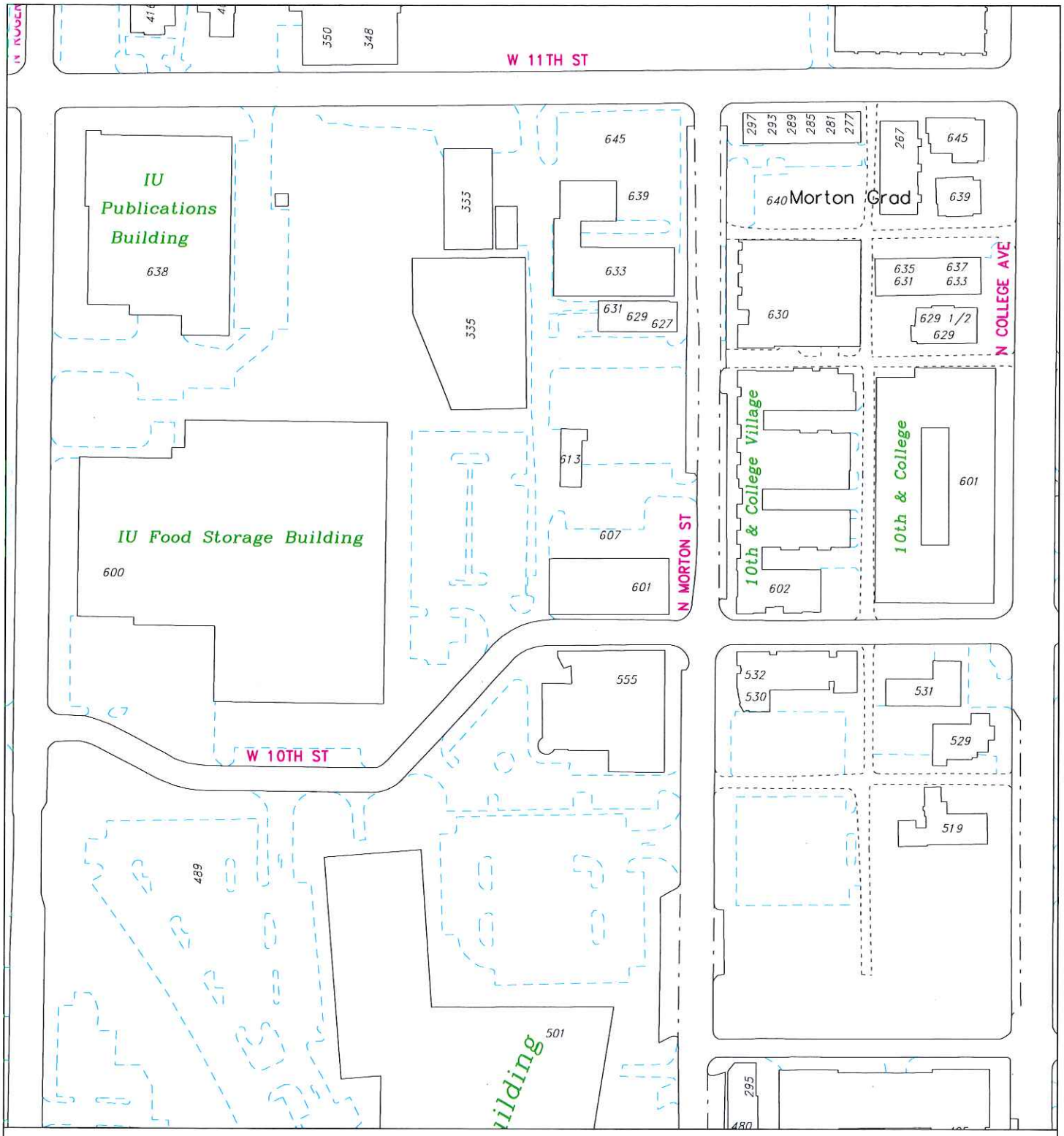
Petitioner/Representative: Gilliatte General Contractors/Tom Ritman

Date: February 12th, 2013

Report: Gilliatte has been contracted to build the next apartment building, Morton Grad, as part of the complex in the Morton/10th/College development. This is the last available empty lot in this block and the last planned development along the east side of North Morton. The building encompasses nearly the entire lot making the adjoining public right of way the only potential space available for staging of the construction. Mr. Ritman has asked to use the north/south alley that is east of and adjoining the project, the parking lane west of and adjoining the site as well as a large portion of the alley south of the development but allowing access to the parking entry for 630 N. Morton just south of the site.

Recommendation and Supporting Justification: A memo of understanding has been prepared by staff, reviewed by Legal Department staff and signed by the mayor. A hold harmless agreement has also been prepared by staff. By signing these documents, Mr. Ritman agrees to the terms and conditions. Gilliatte has built several building in Bloomington and has shown its ability to work with Engineering staff to comply with our conditions. Staff recommends approval.

Recommend ☒ **Approval** ☐ **Denial by** Richard Alexander



City of Bloomington
Engineering

By: alexandr
5 Feb 13

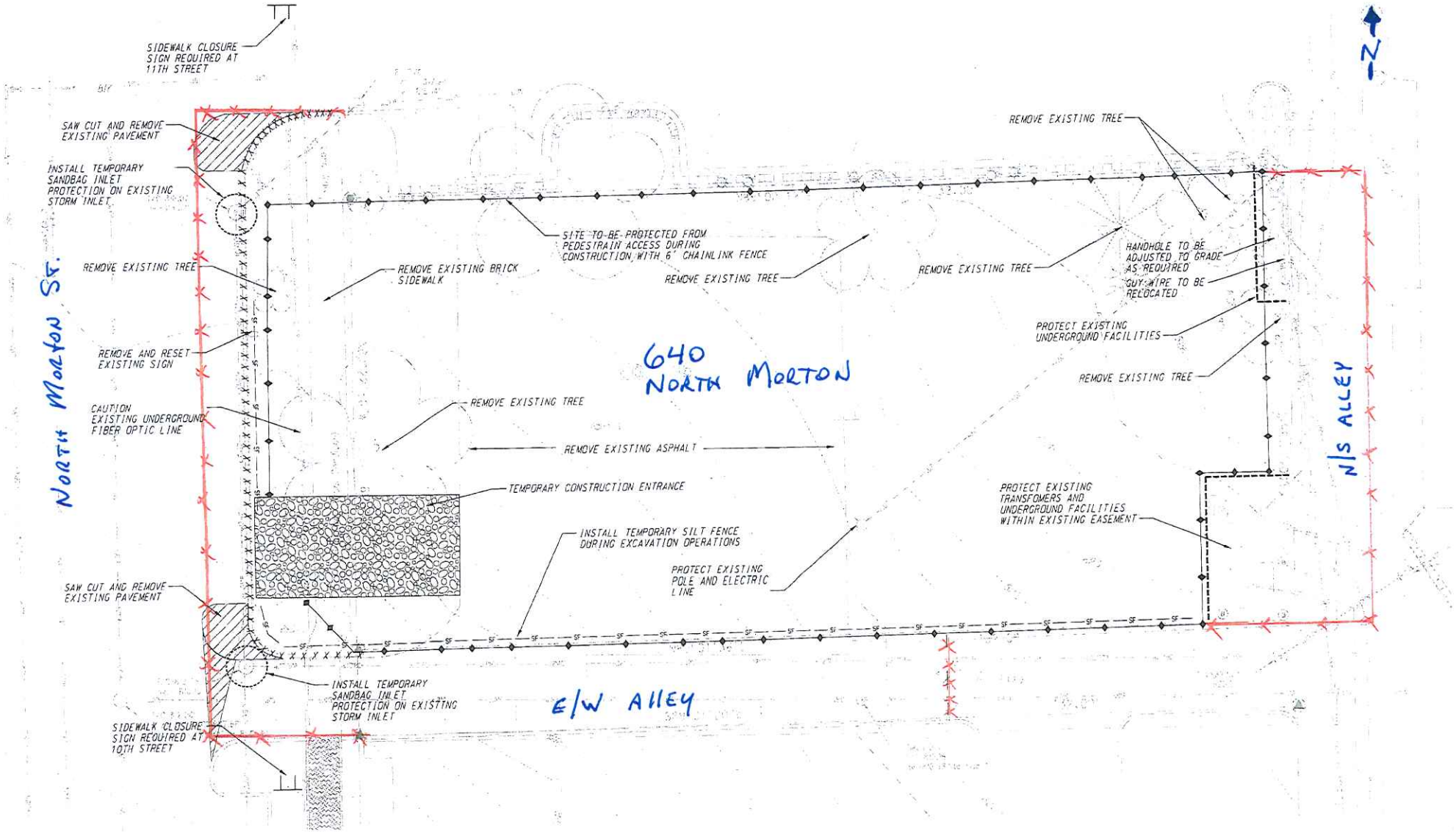
150 0 150 300 450

N

Scale: 1" = 150'

For reference only; map information NOT warranted.

EXHIBIT "A"


SIDEWALK CLOSURE SIGN REQUIRED AT 11TH STREET
SAW CUT AND REMOVE EXISTING PAVEMENT
INSTALL TEMPORARY SANDBAG INLET PROTECTION ON EXISTING STORM INLET
REMOVE EXISTING TREE
REMOVE AND RESET EXISTING SIGN
CAUTION EXISTING UNDERGROUND FIBER OPTIC LINE
SAW CUT AND REMOVE EXISTING PAVEMENT
SIDEWALK CLOSURE SIGN REQUIRED AT 10TH STREET
NORTH MORTON ST.
REMOVE EXISTING BRICK SIDEWALK
SITE TO BE PROTECTED FROM PEDESTRAIN ACCESS DURING CONSTRUCTION, WITH 6' CHAINLINK FENCE
REMOVE EXISTING TREE
REMOVE EXISTING TREE
REMOVE EXISTING ASPHALT
TEMPORARY CONSTRUCTION ENTRANCE
INSTALL TEMPORARY SILT FENCE DURING EXCAVATION OPERATIONS
PROTECT EXISTING POLE AND ELECTRIC LINE
INSTALL TEMPORARY SANDBAG INLET PROTECTION ON EXISTING STORM INLET
640 NORTH MORTON
E/W ALLEY
REMOVE EXISTING TREE
REMOVE EXISTING TREE
HANDHOLE TO BE ADJUSTED TO GRADE AS REQUIRED
GUY WIRE TO BE RELOCATED
PROTECT EXISTING UNDERGROUND FACILITIES
REMOVE EXISTING TREE
PROTECT EXISTING TRANSFOMERS AND UNDERGROUND FACILITIES WITHIN EXISTING EASEMENT
N/S ALLEY
N

Memorandum of Understanding
Between
City of Bloomington Public Works Department
And
Gilliatte General Contractors

This Memorandum of Understanding (MOU) between the City of Bloomington Public Works Department, (hereafter "Public Works") and Gilliatte General Contractors outlines the binding conditions placed upon Gilliatte General Contractors, and agreed to by Gilliatte General Contractors, in exchange for use by Gilliatte General Contractors, its agents and subcontractors, of certain public right-of-way during the construction of the apartment complex at 640 North Morton Street, at the real property located on the east side of North Morton Street between W. 10th Street and W. 11th Street in Bloomington, Indiana (hereinafter the "Construction Site.")

1. This MOU shall cover the time period from February 14, 2013 through August 9, 2013 inclusive.

2. Public Works shall allow Gilliatte General Contractors to block and restrict from general public usage the north/south alley that is east of, and directly adjacent to, the Construction Site as depicted in exhibit "A", the east/west alley from the west property line east to the garage entrance of 630 North Morton Street, as well as the parking lane on the east side of North Morton Street that is directly adjacent to the construction site as depicted in exhibit "A". Gilliatte General Contractors shall coordinate the placement of any and all construction notification and detour signage with the City Engineering Department including vehicular and pedestrian signage.

3. Gilliatte General Contractors shall install and maintain, to the satisfaction of the City of Bloomington Engineering Department, all signage associated with providing notice to the public of restrictions on right-of-way usage. Such signage shall reflect the form and content specified by the Manual on Uniform Traffic Control Devices (M.U.T.C.D), and must be approved by the City Engineering Department.

4. Gilliatte General Contractors shall coordinate the removal and replacement of all permanent signage and parking meters at, or adjoining, the Construction Site through the City of Bloomington Traffic Division at all requested points for permanent signage replacement, which will be performed by the Traffic Division.

5. The City shall have the right to avail itself of any legal action and remedy as necessary to maintain the free flow of traffic along the streets in the Construction Site area.

6. Nothing in this MOU shall be construed to prohibit the City of Bloomington from issuing any Stop Work Orders during construction on this project, in addition to any remedy or action spelled out in this MOU or available under law.

7. Should any part of this MOU be found in violation of any federal, state, or local law or ordinance, all unaffected parts shall remain in effect and enforceable provided that the intent of the MOU is still served.

8. Gilliatte General Contractors agrees to release, forever discharge, hold harmless and indemnify the City of Bloomington, Indiana, its departments, its Board of Public Works and its employees, officers and agents, its successors and assigns from any and all claims or causes of action that may arise from personal injury, property damage, and /or any other type of claim which may occur as a result of Gilliatte General Contractors use of the described right-of-way, whether such claims may be brought by the City of Bloomington or by any third party.

9. Any and all closures of the additional travel lanes will require a one week advance notice to the City Engineering Department, the City transit service and emergency services. Any lanes closed without proper prior notification may result in a fine of $500.00 for each violation.

10. Prior to beginning work, Gilliatte General Contractors shall provide the City Engineering Department with a phone contact list for their supervisory personnel and for their sub-contractors.

11. Gilliatte General Contractors shall make its on-site supervisory personnel available for bi-weekly meetings with the City Engineering Department staff for progress updates.

12. Tom Ritman, president of Gilliatte General Contractors, agrees by signing that he has full power by proper action to enter into this MOU and has the authority to do so.

City of Bloomington
Department of Public Works

By: _____
Susie Johnson, Director

Date: _____

By: Mark Kr
Mark Kruzan, Mayor

Date: 2.6.2013

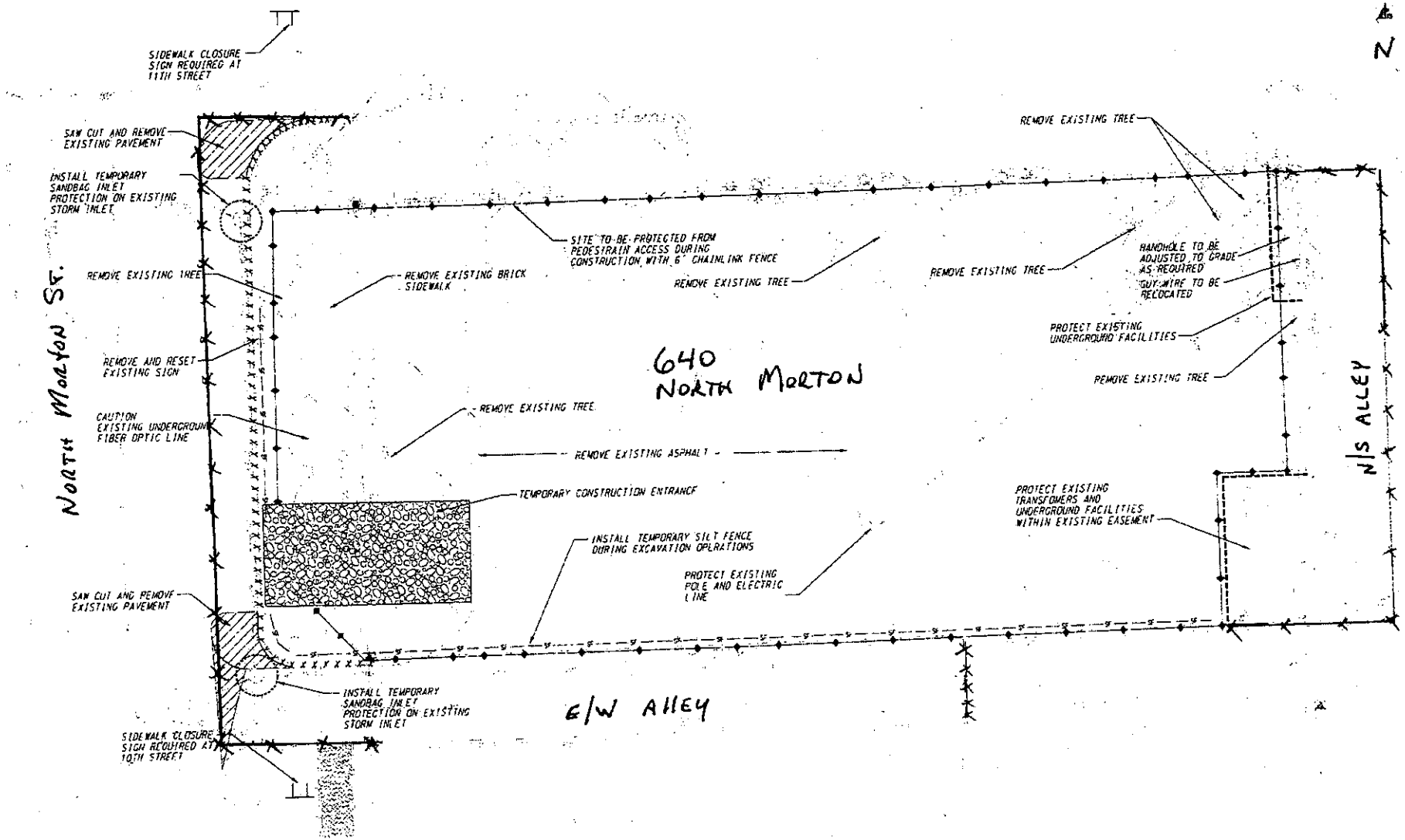
Gilliatte General Contractors

By: _____
Tom Ritman, President

Date: _____

CITY OF BLOOMINGTON
Legal Department
Reviewed By: Jackie Moore
DATE: 2-6-13

EXHIBIT "A"


N
SIDEWALK CLOSURE SIGN REQUIRED AT 11TH STREET
SAW CUT AND REMOVE EXISTING PAVEMENT
INSTALL TEMPORARY SANDBAG INLET PROTECTION ON EXISTING STORM INLET
REMOVE EXISTING TREE
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GUY WIRE TO BE RELOCATED
PROTECT EXISTING UNDERGROUND FACILITIES
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REMOVE AND RESET EXISTING SIGN
CAUTION EXISTING UNDERGROUND FIBER OPTIC LINE
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REMOVE EXISTING TREE
REMOVE EXISTING ASPHALT
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PROTECT EXISTING POLE AND ELECTRIC LINE
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NORTH MORTON ST.
N/S ALLEY
SAW CUT AND REMOVE EXISTING PAVEMENT
INSTALL TEMPORARY SANDBAG INLET PROTECTION ON EXISTING STORM INLET
E/W ALLEY
SIDEWALK CLOSURE SIGN REQUIRED AT 10TH STREET

Board of Public Works
Staff Report

Project/Event: Alley Vacation – 401 S. Patterson Drive, 550 S. Adams Street, 545 S. Adams Street, and 420 S. Patterson Drive

Petitioner/Representative: Adams Crossing, LLC

Staff Representative: Rick Alexander

Meeting Date: February 12, 2013

Report: During a title search for the property known as Patterson Park, it was discovered that there is a Seminary alley right-of-way that runs east/west over four separate developments. Patterson Park is a mixed use development on the east side of Patterson Drive south of Third Street. These other properties include Patterson Pointe, City of Bloomington, and Stone Belt Employment Services. This Seminary alley, measures 16.5 feet in width and 1,559 feet in length, and has gone undetected by title searches until now. The Seminary alley is not identified on the City of Bloomington's GIS mapping system.

Recommendation and Supporting Justification: Planning has heard from all of the utility companies as well as BPD & BFD and none of them object to the loss of this public right of way. The Public Works staff supports this request to vacate. The development will result in construction jobs as well as jobs in the commercial portions of the developments. The alley is not needed for access to any of the four properties. All of the properties either have access or will have access from other public rights-of-way.

Recommend ☑ Approval ☐ Denial by _____ **Rick Alexander**

City of Bloomington
Planning Department

DEVELOPMENT REVIEW TRANSMITTAL

Date: January 31, 2013

Type of Request: right-of-way vacation

Project Name: 401 S. Patterson Drive, 550 S. Adams Street, and 545 S. Adams Street (16.5 foot wide alley right-of-way)

Owner: Adams Crossing, LLC

Location: The subject parcel is a 16.5 foot wide strip of alley right-of-way running east/west between the east and west property lines of the proposed Patterson Park PUD for approximately 1,559 feet. This vacation includes the right-of-way crossing Patterson Drive mid-point through the site. Please see the attached site plan.

Proposed Use: The purpose of this vacation request is to allow for the construction of a mixed use development.

Required Approval: Common Council approval

TENTATIVE SCHEDULE

We need your comments by: **February 7, 2013**

First Common Council hearing: as scheduled

Second Common Council hearing: as scheduled

Final Common Council hearing: as scheduled

SIGNIFICANT ISSUES AND QUESTIONS

The petitioner is seeking right-of-way vacation of an alley right-of-way in order to construct a mixed use development.

Refer to the enclosed site plans, and the petitioner's letter.

Please respond in writing concerning the effect this vacation would have upon your provision of service to this area.

Please reply in writing to: ***darlandl@bloomington.in.gov***

Lynne Darland, AICP
Planning Department
City of Bloomington
P.O. Box 100
Bloomington, IN 47402

812-349-3529

BYNUM FANYO & ASSOCIATES, INC.

ARCHITECTURE
CIVIL ENGINEERING
PLANNING

January 31, 2013

City of Bloomington Planning Department
401 N. Morton Street, Suite 160, City Hall
Bloomington, Indiana 47402

RE: Patterson Pointe and Patterson Park PUD Vacation of Seminary Lot Alley

City of Bloomington Planning Department or To Whom It May Concern:

This letter with attached exhibits and application serves as an informative packet requesting petition to vacate the existing 'Seminary Lot Alley' currently routed through parcels and lots desired for development. These lots and parcels planned for improvements are: Lot #2 of the Landmark Business Center, Phase V and 401 S. Patterson Drive in Bloomington, Indiana (see attached aerial exhibit for locations and surroundings).

These lots and parcels for development are currently not accessed by this Seminary Lot Alley and no other parcels, lots or public connection depend on this platted easement for access. As part of the development improvements, the parcel located east of Patterson Drive (401 S. Patterson Drive) will introduce two new (80.5' and 50.0' wide) dedicated public ROW strips. These public dedicated ROW strips are planned to provide future connections to Howe St. and Prospect St. This introduced ROW will provide the necessary replacement of the Seminary Lot Alley for public use and connectivity (see attached aerial exhibit.) The lot for proposed development improvements west of Patterson Drive (Lot #2 of the Landmark Business Center, Phase V) will also provide new introduced dedicated public ROW (Milieu Drive) as part of the project. This will be a 57.0' wide dedicated public ROW that that will replace the Seminary Lot Alley by running nearly parallel to the north of it by an average of 30.0'. This parcel will also provide a future 50.0' public dedicated ROW (Dolimah Avenue) to connect businesses and residential areas to the south.

We believe this vacation of the Seminary Lot Alley and dedication of public ROW as laid out is consistent with the Bloomington Master Plan, Thoroughfare Plan, and Patterson Pointe PUD connectivity layout. Please contact us with any concerns or questions.

Sincerely,

Daniel J Butler, EIT, Project Civil Engineer

528 NORTH WALNUT STREET
BLOOMINGTON, INDIANA 47404
812-332-8030
FAX 812-339-2990

PETITION FOR VACATION OF PUBLIC RIGHT-OF-WAY

CITY OF BLOOMINGTON
COMMON COUNCIL

FILE # _____
1st READING _____
COMMITTEE _____
FINAL HEARING _____

Office of the Common Council
P.O. Box 100, Showers City Hall
Bloomington, IN. 47402
(812) 349-3409

Address of Property Lot #2 of Landmark Business Center, Phase V to Adams Street ROW and Patterson Drive ROW to 401 S. Patterson Drive, Bloomington, IN 47403
Also, effects 550 S. Adams St. and 545 S. Adams St., Bloomington, IN 47403

Applicant's Name Travis J. Vencel, Trinitas Ventures LLC

Address 201 Main Street, Suite 1000 Phone (765) 464-2800
Lafayette, IN 47901

Counsel or Consultant Jeffrey S. Fanyo, PE, Bynum Fanyo and Associates, Inc.

Address 528 N. Walnut Street Phone (812) 332-8030
Bloomington, IN 47404

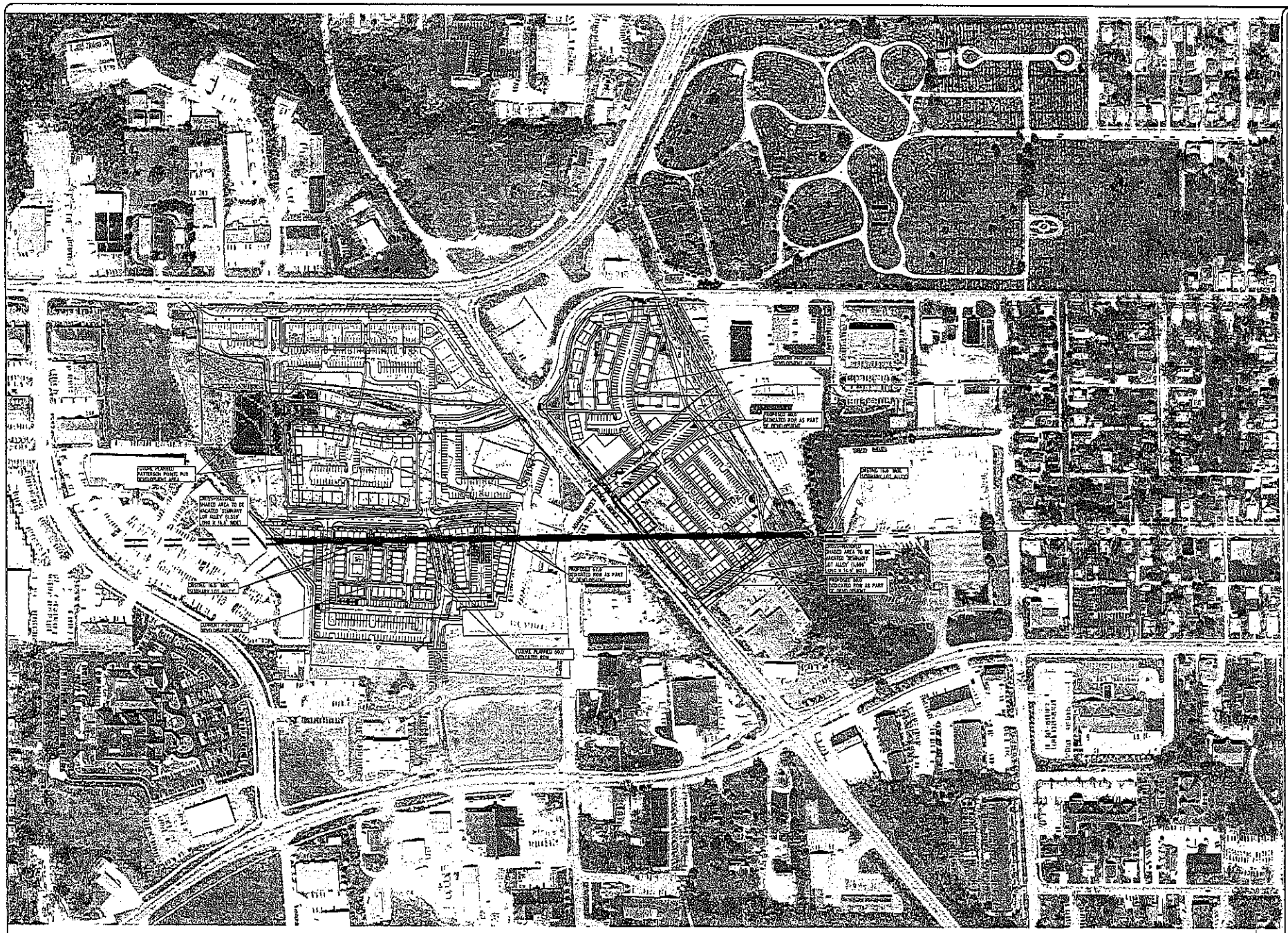
This application must be accompanied by all required submittals as stated in the information packet for vacation of public right-of-way. Staff reserves the right to schedule hearing dates for petitions subject to complete submittals. Notices to adjacent property owners should not be mailed until hearing dates have been confirmed.

I (we) agree that the applicant will notify all adjacent property owners by certified mail at the applicant's expense.

I (we) further agree that the applicant will cause a legal notice of this application to be published in a paper having general circulation in Bloomington at the applicant's expense.

I (we) certify that all foregoing information is correct and that I (we) are the owners (legal agents for owners) of property adjacent to the proposed vacation of public right-of-way which is the subject of this application.

Signature: _____



revisions:

ARCHITECTURE
CIVIL ENGINEERING
PLANNING

BRYAN ROTH & ASSOCIATES, INC.
808 North Walnut St.
Bloomington, IN 47408
(812) 332-2808 (TEL)

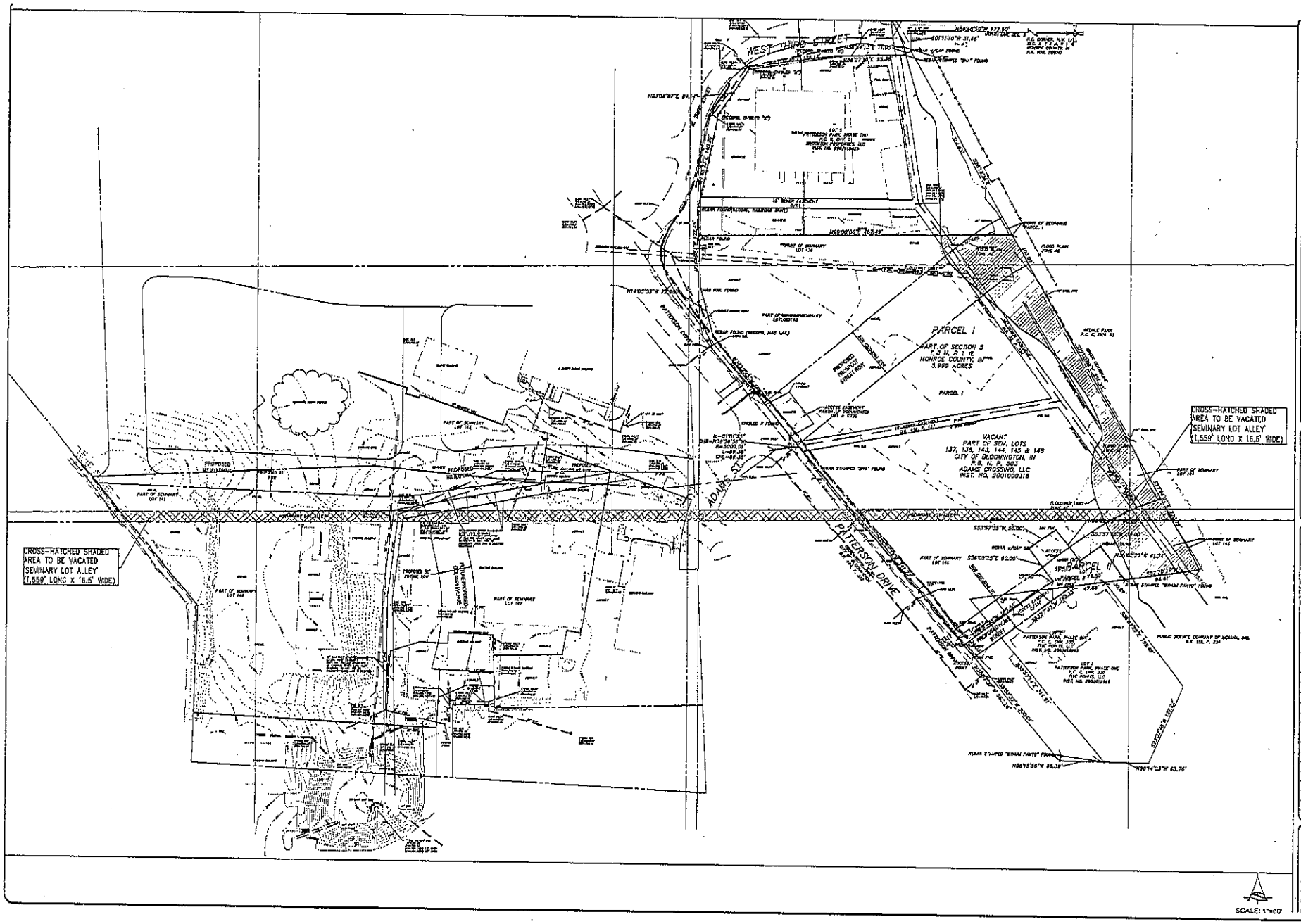
certified by

PROPOSED
PATTERSON POINTE PUD (WESP)

15 ADAMS STREET
BLOOMINGTON, INDIANA

title: OVERALL AERIAL EXHIBIT

designed by: DJB
drawn by: DJB
checked by: JBP
sheet no: 1
project no.: 401216W



revisions:

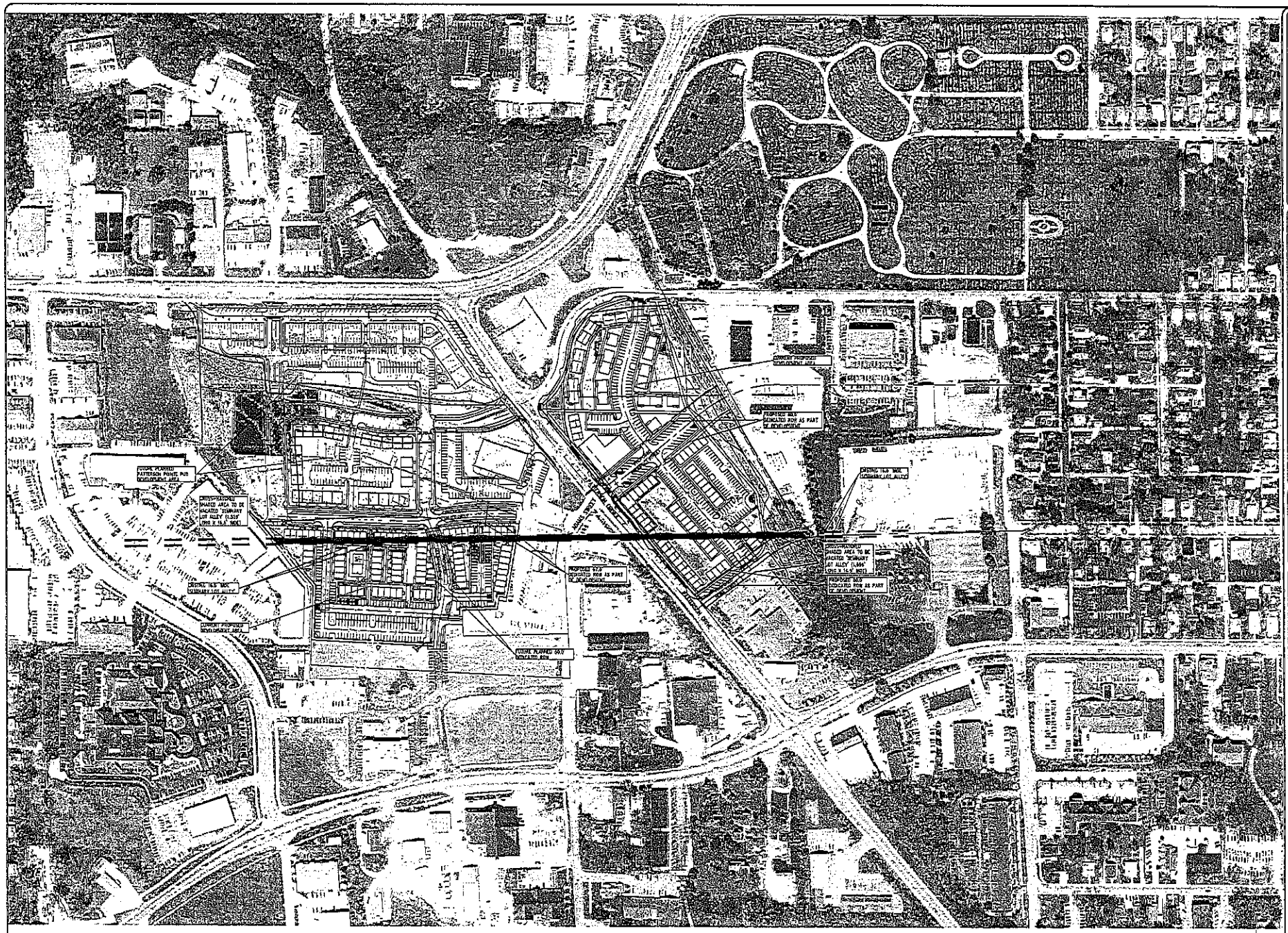
BRG
ARCHITECTURE
CIVIL ENGINEERING
PLANNING
BARGER PARTO & ASSOCIATES, INC.
528 north walnut street
bloomington, indiana
(812) 332-8030
(812) 339-2990 (fax)

certified by:

PROPOSED
PATTERSON POINTE AND
PATTERSON PARK PUDS
S. ADAMS STREET AND S. PATTERSON DRIVE
BLOOMINGTON, INDIANA

title: VACATED ALLEY EXHIBIT

designed by: DJB
drawn by: DJB
checked by: JSF
sheet no: 1
project no.: 401216



revisions:

ARCHITECTURE
CIVIL ENGINEERING
PLANNING

BRYAN ROTH & ASSOCIATES, INC.
808 North Walnut St.
Bloomington, IN 47408
(812) 332-2808 (TEL)

certified by

PROPOSED
PATTERSON POINTE PUD (WESP)

15 ADAMS STREET
BLOOMINGTON, INDIANA

title: OVERALL AERIAL EXHIBIT

designed by: DJB
drawn by: DJB
checked by: JBP
sheet no: 1
project no.: 401216W

Board of Public Works
Staff Report

Project/Event: Arts Fair on the Square

Petitioner/Representative: Bloomington Playwrights Project

Staff Representative: Miah Michaelsen

Meeting Date: February 12, 2013

June 22, 2013 will be the 33rd year for the Arts Fair on the Square. It is the same day as the Taste of Bloomington, and the two events along with the Saturday Farmers Market make for a major summer tourism event in downtown.

Festival organizers are requesting closure of 6th Street between College and Walnut beginning at 5:30 a.m. on Saturday, June 22; three parking spaces on College Avenue adjacent to the Monroe County Courthouse beginning at 2:00 p.m. on Friday, June 21 until 8:00 a.m. on Monday, June 24 for the placement of portable toilets and unloading and loading by vendors; and three parking spaces on Walnut Street adjacent to the Monroe County Courthouse also beginning at 2:00 p.m. on Friday, June 21 until 8:00 a.m. on Monday, June 24 for the placement of portable toilets and unloading and loading by vendors.

A noise permit is also requested as part of this event.

BPP has notified businesses on the north side of 6th Street about the street closure.

Recommendation and Supporting Justification: Major destination event for downtown. Staff recommends approval.

RESOLUTION 2013-09
ARTS FAIR ON THE SQUARE

WHEREAS, the Board of Public Works is empowered by I.C. 36-9-6-2 to supervise City Streets; and

WHEREAS, the Bloomington Playwrights Project is sponsoring the 33rd annual Arts Fair on the Square, on Saturday, June 22, 2013, to take place on the Monroe County Courthouse square; and

WHEREAS, the sponsors as in the past, have requested that the Board of Public Works allow them to close three parking spaces on the west side and three spaces on the east side of the Courthouse square for placement of portable toilets and to be used by vendors while unloading and loading, and the sponsors are requesting that they be allowed to close 6th Street between College and Walnut to vehicular traffic; and

WHEREAS, the Bloomington Playwrights Project has agreed to hold the City of Bloomington harmless for any and all actions, losses or claims arising from said event, a copy of which is attached hereto and made apart hereof, and to supply the city with a Certificate of Insurance, and has agreed to develop, have in place, and submit to City of Bloomington staff an Emergency Action Plan for the Arts Fair on the Square at least thirty (30) days prior to the beginning of the Arts Fair on the Square;

NOW, THEREFORE, BE IT RESOLVED:

1. That the City of Bloomington Board of Public Works declares that the Bloomington Playwrights Project may reserve three parking spaces on College Avenue and three parking spaces on Walnut Street, beginning at 2:00 p.m. on Friday, June 21, until 8:00 a.m. on Monday, June 24, for the placement of portable toilets. The sponsors may also close 6th Street between College and Walnut for the expansion of the festival space beginning at 5:30 a.m. until 7:00 p.m. on Saturday, June 22, in conjunction with the staging of an arts festival to be free and open to the general public.

2. That the street closures outlined above are for the purposes of allowing the Bloomington Playwrights Project to provide an outdoor art show of high quality that is mutually beneficial to the exhibitors and the community on Saturday, June 22.

3. That artists, performers, craftspersons and vendors who have not received explicit authorization from the Bloomington Playwrights Project or their representatives or agents, to participate in the Arts Fair on the Square, shall not be permitted to utilize the closed off portions of the streets outlined above for the purposes of performing, displaying, producing or selling items or goods.

4. That by approval of this Resolution, the city noise ordinance is waived for performers and artists who have received explicit authority from the Bloomington Playwrights Project to participate in the Arts Fair on the Square.

5. That by approval of this Resolution, the President of the Board of Public Works is authorized to sign the attached Release, Hold Harmless and Indemnification Agreement.

6. That the City reserves the right to charge a reasonable fee for the aforementioned street closures and other public parking directly affected.

7. That in addition to agreeing to the above restrictions, the Bloomington Playwrights Project has agreed to the following, as evidenced by the signature of their representative below:

   A. The Bloomington Playwrights Project agrees to clean up the street both before and after the event. The clean-up shall include, but not be limited to, removal of temporary "no parking" signs, picking up litter, sweeping any broken glass and the placing, emptying and removal of trash cans. Clean-up after the event shall be completed by 12:00 midnight, Saturday, the 22nd day of June, 2013.

   B. The Bloomington Playwrights Project must provide barricades in order to indicate that the street is closed and shall be responsible for placement and removal of the se barricades.

   C. The Bloomington Playwrights shall be responsible for notifying the press, affected businesses, public safety and transit agencies in advance of the street closing, along with posting "no parking" signs as required by City Ordinance.

ADOPTED THIS _____ DAY OF _____, 2013.

BOARD OF PUBLIC WORKS

_____

Charlotte Zietlow

_____
James McNamara

_____
Dr. Frank N. Hrisomalos

All terms and conditions in this Resolution 2013-09 are acceptable and agreed to this _____ day of _____, 2013.

Bloomington Playwrights Project

_____
Signature

_____
Printed Name & Position

RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

WHEREAS, the undersigned, Bloomington Playwrights Project, hereinafter referred to as "Releasor," is sponsoring the Arts Fair on the Square on June 22, 2013; and

WHEREAS, in connection with Festival, the Releasor seeks to use the public property of the City of Bloomington, specifically: Sixth Street between College Avenue and Walnut Street, three parking spaces on College Avenue and three parking spaces on Walnut Street adjacent to the Monroe County Courthouse; and

WHEREAS, the Releasor seeks permission by the City of Bloomington Board of Public Works to use the described property, and in partial consideration of such permission, agrees to execute this Release, Hold Harmless and Indemnification Agreement; and

WHEREAS, RELEASOR hereby agrees to develop, enact, and enforce an Emergency Action Plan covering emergencies, including but not limited to weather related emergencies, that may arise during the course of the Arts Fair on the Square, a copy of which RELEASOR agrees to submit to City of Bloomington staff at least thirty (30) days prior to the beginning of the Arts Fair on the Square;

NOW THEREFORE, in consideration of permission from the City of Bloomington Board of Public Works for use of the described property, the Releasor hereby agrees to release, hold harmless and indemnify the City of Bloomington, its officers, employees, agents and assigns from any and all claims, causes of action, suits, proceedings or demand which may arise as a result of Releasor's use of the described property. This includes, but is not limited to, claims for personal injury, property damage, and/or breach of contract, whether brought by the Releasor, its employees or agents, or any third party.

IN WITNESS WHEREOF, the undersigned has executed this Agreement with full knowledge of its significance and with the intent to be bound by it.

Bloomington Playwrights Project

by: _____ _____

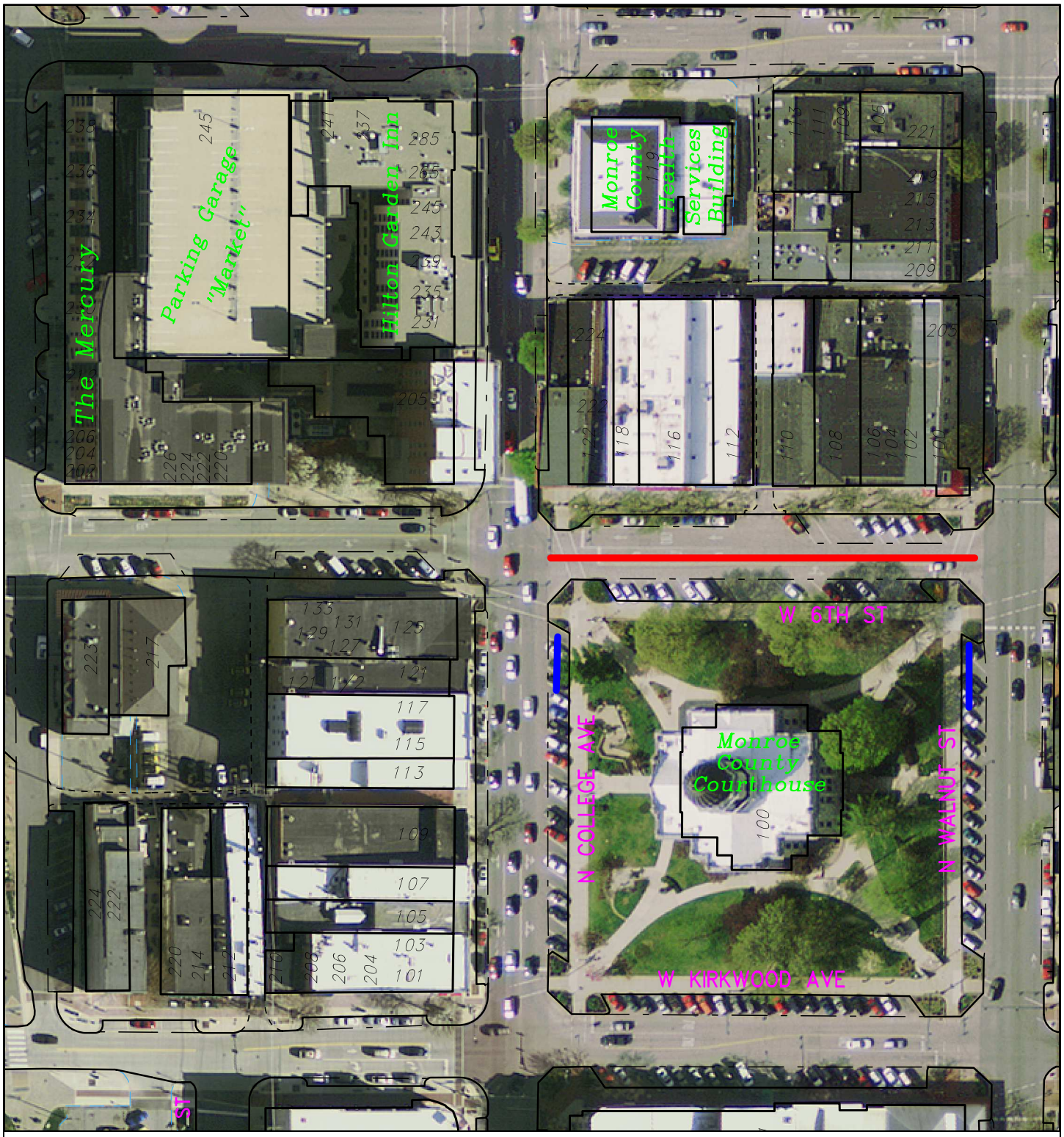
Signature Date

_____

Printed Name

_____

Position



Arts Fair on the Square

By: smithc
7 Feb 13

100 0 100 200 300

N

City of Bloomington
Public Works

Scale: 1" = 100'

For reference only; map information NOT warranted.

City of Bloomington
Public Works Department

BOARD OF PUBLIC WORKS
STAFF REPORT

Meeting Date: February 12, 2013

Subject: Use of Sidewalks and Parking for Homeward Bound Walk

Report: This is a community event which raises funds for and awareness of our homeless population. The walk will take place on Sunday, April 14. Walkers will start and end at Waldron, Hill & Buskirk Park. They are requesting use of City sidewalks and would like like to utilize four spaces on Lincoln next to the park for the day to park a refrigerated truck. The resolution also includes a waiver to the noise ordiance so speakers and music may be amplified in the park. There will also be some music along the route.

Recommendation: Staff recommends approval.

RESOLUTION 2013-10
HOMEWARD BOUND WALK

WHEREAS, The Board of Public Works is empowered by I.C. 36-9-2 to supervise city streets and right of way; and

WHEREAS, The City of Bloomington Community and Family Resources Department and other area agencies ("Sponsors") organize and sponsor the Homeward Bound Walk to raise awareness about homelessness and to raise funds for agencies that assist the homeless; and

WHEREAS, the Sponsors desire to use City of Bloomington sidewalks as indicated on the attached map (Attachment A), and they have requested permission to use these sidewalks and to stop vehicular traffic as walkers cross at certain intersections and to reserve 4 parking spaces on Lincoln Street adjacent to Waldron, Hill and Buskirk Park for support supplies; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Bloomington Board of Public Works declares that public sidewalks may be used by the Homeward Bound procession on Sunday April 14, 2013, during the hours of 12:00 noon and 4:00 p.m., under the following conditions:

1. Sponsor agrees to clean up the sidewalks after the event. The clean up shall include but not be limited to picking up litter that may result from the event.

2. Sponsors may reserve 4 parking spaces on Lincoln Street adjacent to Waldron, Hill and Buskirk Park and will be responsible for posting "no parking" signs at least 24 hours in advance.

3. The Board recognizes that there will be some noise associated with this event in the format of amplified announcements and music in Waldron, Hill and Buskirk Park, and that their may be some singing and music on the route. By approving this event, they are also agreeing to waive the City of Bloomington noise ordinance during the hours of this event.

4. Sponsors agree to obtain a Parade Permit from the Bloomington Police Department.

ADOPTED THIS _____DAY OF _____, 2013.

BOARD OF PUBLIC WORKS:

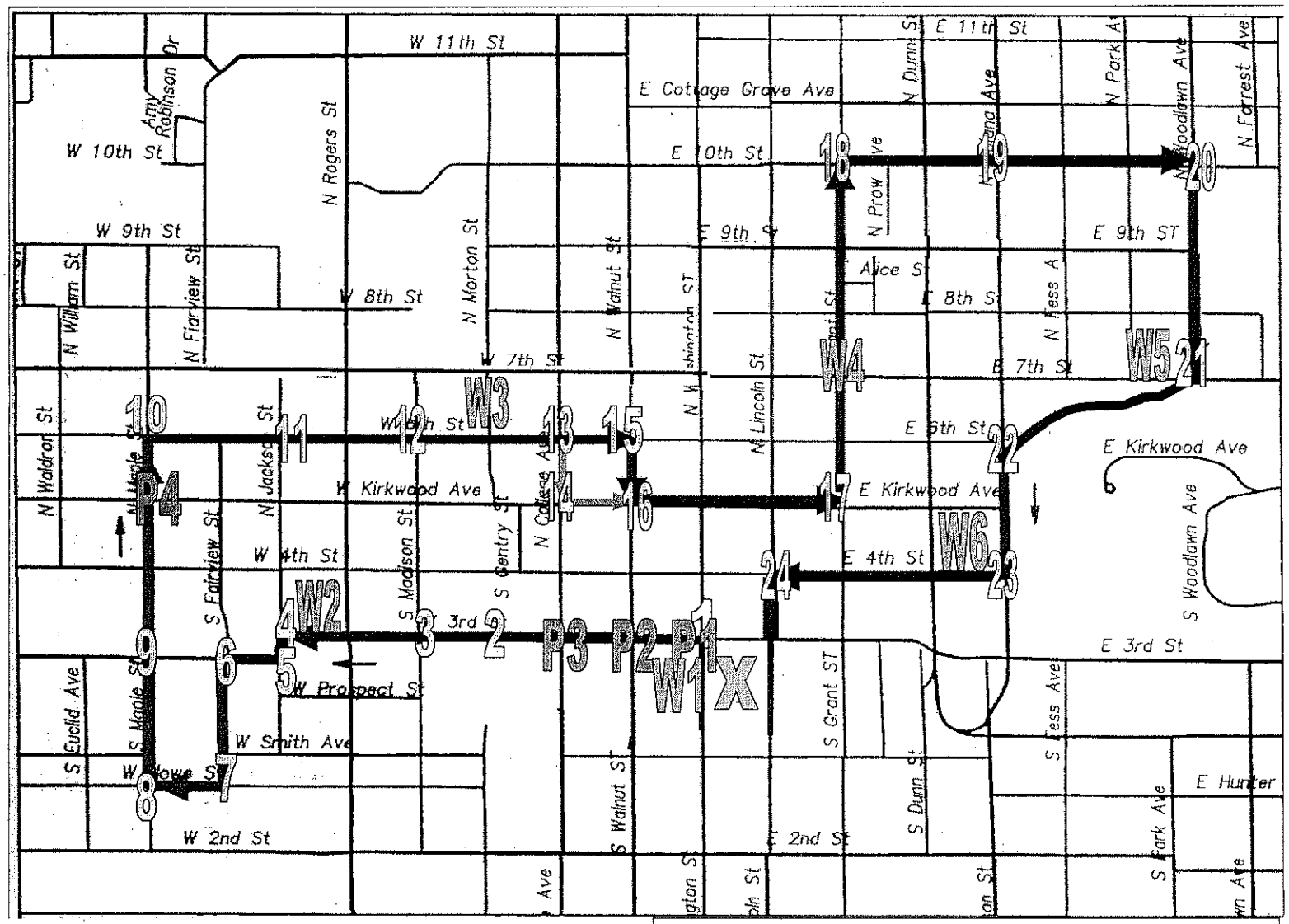
_____
Charlotte Zietlow, President

_____
James McNamara

_____

Dr. Frank N. Hrisomalos

Homeward Bound Walk Route - Locations



Sign #s & Locations

1	L	3rd & Washington
2	SA	3rd & Morton
3	SA	3rd & Madison
4	L	3rd & Jackson (1)
5	R	3rd & Jackson (2)
6	L	3rd & Fairview
7	R	Fairview & Howe
8	R	Howe & Maple
9	SA	Maple & 3rd
10	R	6th & Maple
11	SA	6th & Jackson
12	SA	6th & Madison
13	Both	(either 6th & College Walnut)
14	L	College & Kirkwood
15	R	6th & Walnut
16	SA	Walnut & Kirkwood
17	L	Kirkwood & Grant
18	R	10th & Grant
19	SA	10th & Indiana
20	R	10th & Woodlawn
21	SA	7th & Woodlawn
22	L	Dunn Meadow
23	R	4th & Indiana
24	L	4th & Lincoln

Police Locations

P1 = 3rd & Washington

P2 = 3rd & Walnut

P3 = 3rd & College

P4 = Maple & Kirkwood

Water Stop Locations

W1= 3rd & Washington (beginning of route) IU Credit

W2= 3rd & N. Jackson (Bauer & Densford Law Office)

W3 = 6th & Morton (Bloomingfoods)

W4 = 7th & Grant (Grant St. Inn)

W5 = 7th & Woodlawn (Hutton Honors College) ReMaxx

W6 = 4th & Indiana

FIGHTING HOMELESSNESS, ONE STEP AT A TIME

HOMEWARD BOUND

Uniting to Provide Housing and Fight Homelessness in Indiana

The 11th Annual 5K Walk

SUNDAY, APRIL 15 · 1 pm

The Waldron, Hill and

Buskirk Park (Third Street Park)

FOOD • MUSIC • FUN

Walk, Join, Donate today!

www.homewardboundindiana.org

Major Underwriters

iaced

City of Bloomington community and family resources

United Way of Monroe County

Ivy Tech Community College

Lilly Endowment Inc

Major Sponsors

IU Credit Union

LAMAR

Board of Public Works
Staff Report

Project/Event: Itinerant Merchant in right of way

Petitioner/Representative: Jackie White – Gypsy Moon

Staff Representative: Miah

Meeting Date: February 12, 2013

Jackie White has applied for an Itinerant Merchant Permit. It has been determined that when the applicant wants to operate in the right of way that before the permit is issued, permission must be obtained from the Board of Public Works. The Department of Economic & Sustainable Development has reviewed the application and the Board of Public Works' approval to operate in the public right of way is one of the items on the check list that is required before a permit can be issued. ESD will confirm that all rules and regulations have been met prior to a permit being issued.

The business will operate from a food trailer.

This application is for one year.

Staff is supportive of the request.

Recommend ☑ **Approval** ☐ **Denial by** Miah Michaelsen

RESOLUTION 2013-11
Itinerant Merchant Food Vendor in Public Right of Way
Jackie White – Gypsy Moon

WHEREAS, the Board of Public Works is empowered by I.C. 36-9-6-2 to supervise City streets, alleys, sewers, public grounds, and other City property; and

WHEREAS, Jackie White ("Vendor") is desirous of using public on-street parking and sidewalks within the City of Bloomington for the purpose of selling food via a mobile kitchen and food cart; and

WHEREAS, Vendor has agreed to hold the City of Bloomington, City of Bloomington Board of Public Works, or any of their agents or employees harmless for any and all actions, losses or claims arising from said event, a copy of which is attached hereto and made a part hereof;

NOW, THEREFORE, BE IT RESOLVED that the City of Bloomington Board of Public Works declares that Vendor has permission to use on-street public parking and sidewalks for the purposes of selling food via a mobile kitchen for one year beginning on the day that License is issued by the City _____, 2013 thru _____ 2014.

The following conditions attach to this approval:

1. Vendor agrees to maintain a clear five-foot path for pedestrians at all times.
2. Vendor will comply with all other laws, ordinances, rules and regulations in effect at the time it conducts their business.
3. Vendor will have obtained a valid Itinerant Merchant license issued by the City of Bloomington Controller's Office prior to operation on City property.
4. Vendor shall not conduct business on the same side of the street and within fifty (50) feet of a primary entry way into a ground level retail establishment which offers the same types of goods, wares, services, foods, or products.
5. Vendor shall honor parking restrictions as posted for any parking spot that they may utilize, but may not park in a street median strip or an alleyway.
6. Vendor shall locate his business a reasonable distance from any posted bus stop, taxi stand, crosswalk, driveway, alleyway, building entrance or walk-up window.
7. Vendor shall locate his business a reasonable distance from another mobile kitchen, food cart or food stand.
8. Vendor shall not locate his business in front of the primary entrance to a retail business, office building or church.
9. Vendor shall not locate his business on the following portions of the B-Line Trail:
   a) From the north side of Country Club Road to the south side of Dodds Street;
   b) From the north side of 2nd Street to the south side of 3rd Street; and
   c) From the north side of 4th Street to the south side of 6th Street.

10. Vendor shall not locate his business within a one block radius of the following special events during the hours of their operation unless prior written consent has been provided by the coordinator or director of the special event:
    a) City of Bloomington Farmers' Market;
    b) City of Bloomington Holiday Market;
    c) The Taste of Bloomington;
    d) Lotus World Music and Arts Festival;

e) The Fourth Street Festival;
f) Arts Fair on the Square;
g) Strawberry Festival;
h) Canopy of Lights;
i) Fourth of July Parade; and
j) Any other special events approved by the City Controller.

11. Vendor may locate his business in a public parking space according to parking restrictions for that space including Bloomington Municipal Code section 15.32 which is attached as Exhibit A of this document.
12. Vendor shall not locate his business in a manner which would significantly impede or prevent the use of any City of Bloomington property, or which would endanger the safety or property of the public.
13. Vendor shall conduct their business in accordance with the Standards of Conduct noted in Bloomington Municipal Code section 4.16.100.

This approval may be renewed by the Director of Public Works no more then once a year provided Vendor has complied with all conditions of this approval; complied with all applicable laws, ordinances, rules and regulations; and the City has received no valid complaints regarding Vendor's activities associated with this approval.

ADOPTED THIS_____DAY OF _____, 2013.

BOARD OF PUBLIC WORKS:

_____
Charlotte Zietlow, President

_____
James McNamara

_____
Dr. Frank N. Hrisomalos

ALL TERMS AND CONDITIONS CONTAINED IN THIS RESOLUTION 2013-11 ARE ACCEPTABLE AND AGREED TO BY VENDOR:

_____
Jackie White

Date: _____

CITY OF BLOOMINGTON
economic & sustainable development

Itinerant Merchant, Solicitor and Peddler License Application Checklist

City of Bloomington
Department of Economic and Sustainable Development
401 N. Morton St.
Bloomington, Indiana 47404
812-349-3418

License Length and Fee Information

Valid License:	☐	☐	☐	☐	☐	☒
Length of License:	24 hours	72 hours	1 Calendar Week	30 Days	6 Months	1 Year
License Fee:	$15	$40	$75	$125	$175	$240

Applicant Information

Name:	Jackie White		
Title:	owner	Date of Birth:	1/28/58
Physical Address:	6977 S Stone Rd		
City, State, Zip:	Bloomfield IN 47424		
E-Mail Address:	gypsymoontruck@hotmail.com		
Phone Number:	812-863-7170	Mobile Phone:	812-381-0029

Corporate Contact Information

Name of Employer:					
Physical Address of Employer:					
City, State, Zip:					
Phone Number of Employer:					
Employer is a:	☐ Firm	☐ Limited Liability Corporation	☐ Corporation	☐ Partnership	☐ Sole Proprietor

Description of product or service to be sold and any equipment to be used (You may attach additional information as needed):

If applicable, a description of Motor Vehicle or Mobile Trailer to be used:

STEP VAN, GMC,

License Plate Number: 1467462 Vehicle Identification Number (VIN): 1GBHP32M9D3312513

Please attach two (2) pictures of the vehicle and trailer.

You Must Obtain the Following:

☒	Proof of insurance in accordance with the limits described in Section 4.16.070 of the Bloomington Municipal Code: • Personal Injury: $100,000.00 per occurrence and $300,000 in the aggregate • Property Damage: $25,000.00 per occurrence and $50,000.00 in the aggregate
☒	Release of liability wherein the Applicant agrees to indemnify and hold harmless the City of Bloomington for losses or expenses arising out of the operation of his/her business.

You May Need To Obtain and Provide the Following (Staff will advise):

☒	If you will be using, handling, selling or distributing food, you must submit a copy of the Monroe County Health Department permit and a Certified Food Handler Certificate.
☒	If you will conduct business in the City of Bloomington public right-of-way, you need to obtain a letter of approval from the Board of Public Works.
☐	If you will conduct business in or on property owned and/or managed by the City of Bloomington Parks and Recreation Department, you need to obtain a letter of approval from the Parks Department.
☐	If your product or service will produce any type of spark, flame or fire in the course of your business, you need to submit a copy of a Permit for Open Burning issued by the City of Bloomington Fire Department.

RELEASE, HOLD-HARMLESS AND INDEMNIFICATION AGREEMENT

The undersigned, in consideration for the issuance of a license by the City of Bloomington Controller, agrees to the following:

1. The undersigned, in exchange for the issuance of a license by the City of Bloomington Controller, agrees to release, hold harmless, and forever indemnify the City of Bloomington and any and all City employees, officers, and agents from any claim or claims which may arise out of any incident connected with or in any way related to his/her issuance of a license by the City of Bloomington or his/her operation of a business which was licensed by the City of Bloomington. This includes claims for personal injury, death, property damage, and/or any other type of harm or injury.

2. The undersigned shall, and hereby does, indemnify, defend, and hold harmless the City of Bloomington and any and all City employees, officers, and agents from and against any and all actions, costs, claims, suits, losses, expenses or damages, including but not limited to attorneys' fees and court costs, arising out of the undersigned's operation of a business which has been licensed by the City of Bloomington.

3. The undersigned understands this release binds him/herself, his/her spouse, and all heirs, executors and administrators of those individuals. The undersigned acknowledges that he/she has read this release and understands all of its terms. The undersigned signs this release voluntarily and with full knowledge of its significance.

Name (printed): JL White

Signature: JL White

Date Release Signed: 1/21/13

ServSafe®

EXAM FORM NO. 4518

CERTIFICATE NO. 6905935

ServSafe® Certification

TO JACKIE WHITE

for successfully completing the standards set forth for the ServSafe® Food Protection Manager Certification Examination, which is accredited by the American National Standards Institute (ANSI)–Conference for Food Protection (CFP).

2/9/2010

DATE OF EXAMINATION

2/9/2015

DATE OF EXPIRATION

Local laws apply. Check with your local regulatory agency for recertification requirements.

ANSI

ACCREDITED PROGRAM
American National Standards Institute and the Conference for Food Protection ®

#0665

David Gilbert
Chief Operating Officer, National Restaurant Association
Executive Director, National Restaurant Association Solutions

NATIONAL RESTAURANT ASSOCIATION®

MOBILE

Food Service Establishment

Monroe County Health Department
Bloomington, IN 47404-3989
812-349-2542

Gypsy Moon
6977 S Stone Rd
Bloomfield, IN 47424

Having complied with the rules and regulations of the Monroe County Health Department as authorized by the Indiana Administrative Code and the Board of Commissioners of Monroe County, Indiana, is hereby authorized to operate a Food Service Establishment at the above location for the calendar year.

Issued JAN 24 2013

By Thomas W Shepard

2013

Expires 1/31/14

This License Is Not Transferable to Another Individual or Location

OPEN
gypsymoontruck
Gypsy Moon
Nosh Wagon
EAT IN THE
STREET!
See ya on
the moon!
812-381-0029

Board of Public Works
Staff Report

Project/Event: Request to encroach onto City property at 2600 W. 3rd Street

Staff Representative: Rick Alexander/Vickie Renfrow

Petitioner/Representative: Dr. Robert Gammon

Date: February 7, 2013

Report: Dr Gammon owns the building at 2600 W. 3rd Street which is directly south of Fire Station #2 on Fairfield Drive. Dr. Gammon intends to sell the property and in doing the title work it has been determined that a small portion of his parking lot at the driveway onto Yancy Lane overlaps onto the fire station property. The area in question is pie shaped and is approximately 9 ½' across at its widest point.

Recommendation and Supporting Justification: The City Legal Department has reviewed the request and has prepared an encroachment agreement to allow it to remain as it has little impact on the fire station property. Staff recommends approval.

Recommend ☒ **Approval** ☐ **Denial by** Rick Alexander

RESOLUTION 2013-12
PERMISSION TO ENCROACH

WHEREAS, the City of Bloomington ("City") owns the property located at 210 S. Yancy Lane, Bloomington, Indiana, identified with State parcel ID of 53-01-31-301-052.000-005, which was acquired in 1999 in order to construct the Bloomington Fire Department Station Number 2; and,

WHEREAS, the property immediately adjacent to the south of the City's property identified with State parcel ID 53-01-31-301-050.000-005, is owned by Robert C. Gammon, O.D., and Bonnie L. Gammon ("Owners"), and is used as an optometry practice office by Dr. Gammon; and,

WHEREAS, a small portion of a paved driveway accessing the parking spaces on the north side of the Owners' property encroaches upon the City's property as shown in Exhibit A, attached hereto and incorporated herein by reference; and,

WHEREAS, the Owners wish to formalize their relationship with the City regarding this encroachment and are, therefore, seeking permission to encroach upon the City's property;

NOW, THEREFORE, BE IT RESOLVED, that the City of Bloomington agrees not to initiate any legal action against Owners or their successors in interest regarding the encroachment described above provided that:

1. The Owners agree that the paved area will not be enlarged or modified in such a way to make it more difficult to remove said encroachment if removal becomes necessary.

2. This Resolution in no way indicates any intention by the City to convey its property or grant an easement to the Owners. The City retains the right to enter onto its property when, at its sole discretion, such entry is necessitated or desirable for any purpose, provided however, that, subject to the provisions of paragraph 3 herein, the City shall not force removal of the improvements encroaching upon its property so long as the Owners are in compliance with all applicable laws and regulations and the terms of this document, and further provided that, in the event of destruction of the encroachment, it may not be rebuilt on the City's property.

3. If at any time, and at the sole discretion of the City, it is determined that in order to better serve the public, removal of the encroaching driveway is required, then the Owners shall remove said encroachment upon notification by City, at the Owners' expense and without compensation by City. The Owners hereby agree, on their own behalf and on behalf of their successors in interest, to cease use of and remove the encroachment upon notice by the City, and this *Permission to Encroach* shall be terminated.

4. The Owners agree, for themselves and their successors in interest, to release and forever discharge, indemnify and hold harmless the City of Bloomington, its departments, officers, agents, employees, successors and assigns for any and all actions, including attorney's fees, losses or injuries that occur as a result of Owners' encroachment upon City property. In case any claim or action in court is brought against the City of Bloomington, or any office or agent of it, for the failure, omission or neglect of the Owners to perform any of the covenants, acts, matters or things by this agreement undertaken or for injury or damage caused by alleged negligence of the Owners or their agents, employees or subcontractor, the Owners shall indemnify and save harmless the City of Bloomington and its officers and agents, from all losses, damages, costs, expenses, judgments or decrees arising out of such action, including attorney's fees.

5. This resolution shall run with the land and shall bind the Owners and their successors in interest. It shall be effective from the date of passage by the Board of Public Works and written acceptance by the Owners. This written acceptance shall be accompanied by a copy of this recorded document, which must include the Recorder's identification number.

"CITY"
Board Of Public Works:

_____
Charlotte Zietlow, President

_____
James McNamara, Vice President

_____
Frank Hrisomalos, Secretary

"OWNERS"
Robert C. and Bonnie L. Gammon

_____
Robert C. Gammon, O.D.

_____
Bonnie L. Gammon

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Before me, the undersigned, a Notary Public in and for said state, personally appeared Charlotte Zietlow, Frank Hrisomalos, and James McNamara, members of the City of Bloomington Board of Public Works, and acknowledged the execution of the foregoing instrument this _____ day of _____, 2013.

Witness my hand and official seal.

My Commission expires:_____

County of Residence:_____

_____
Notary Public
Name Printed:_____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me the undersigned, a Notary Public in and for said state, personally appeared Robert C. Gammon, O.D., and Bonnie L. Gammon, and acknowledged the execution of the foregoing instrument this _____ day of _____, 2013.

Witness my hand and official seal.

My Commission expires:_____ _____

Notary Public

County of Residence:_____ Name Printed:_____

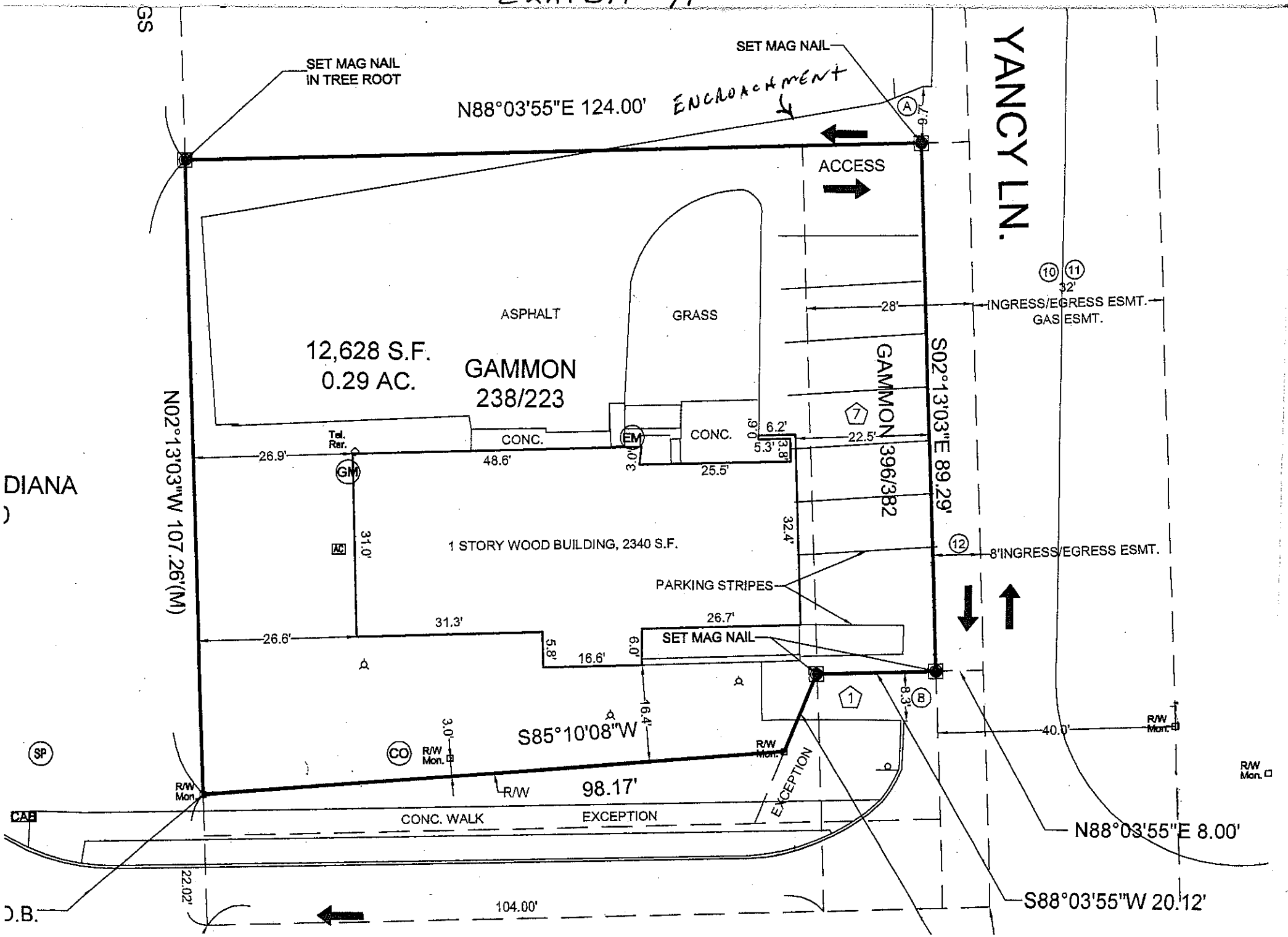
I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

_____

Chris Smith

This instrument prepared by Vickie Renfrow, Assistant City Attorney
City of Bloomington Legal Department, P.O. Box 100, Bloomington, Indiana 47402-0100

EXHIBIT "A"


SET MAG NAIL IN TREE ROOT
SET MAG NAIL
N88°03'55"E 124.00'
ENCROACHMENT
YANCY LN.
ACCESS
ASPHALT
GRASS
12,628 S.F.
0.29 AC.
GAMMON
238/223
GAMMON 396/382
S02°13'03"E 89.29'
N02°13'03"W 107.26'(M)
28'
INGRESS/EGRESS ESMT.
GAS ESMT.
32'
CONC.
CONC.
26.9'
48.6'
25.5'
22.5'
6.2'
5.3'
3.8'
9.0'
3.0'
31.0'
32.4'
1 STORY WOOD BUILDING, 2340 S.F.
8'INGRESS/EGRESS ESMT.
PARKING STRIPES
26.7'
31.3'
26.6'
5.8'
16.6'
6.0'
SET MAG NAIL
8.3'
40.0'
16.4'
3.0'
S85°10'08"W
98.17'
R/W
EXCEPTION
CONC. WALK
EXCEPTION
N88°03'55"E 8.00'
S88°03'55"W 20.12'
22.02'
104.00'
DIANA
D.B.
GS
R/W Mon.

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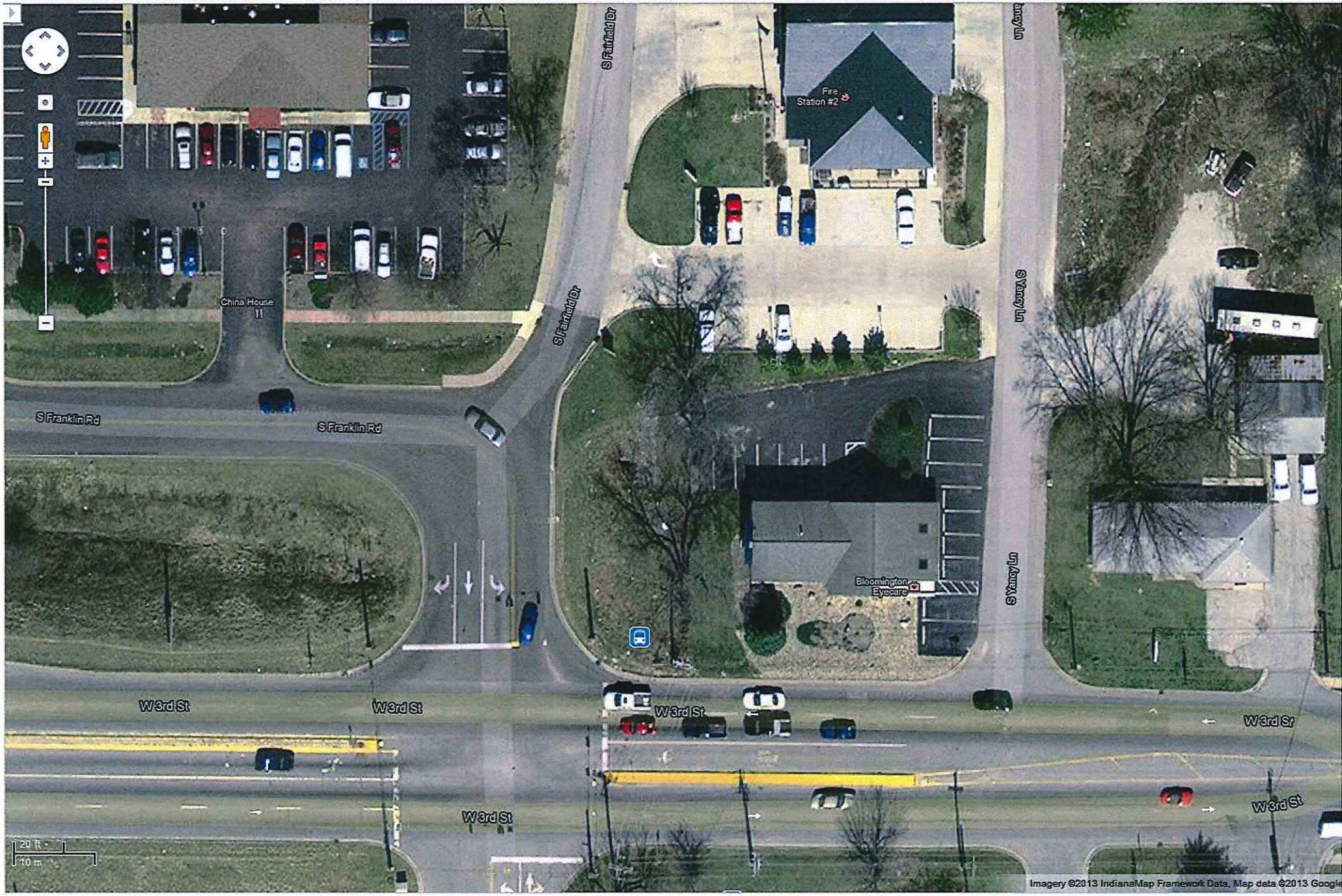
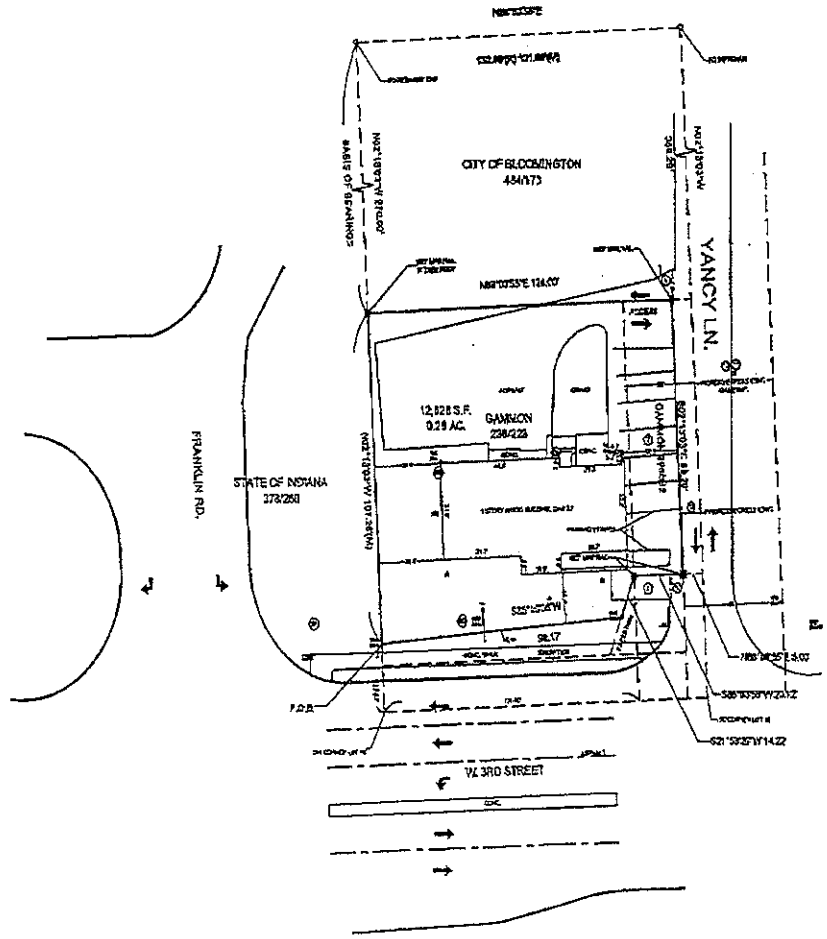
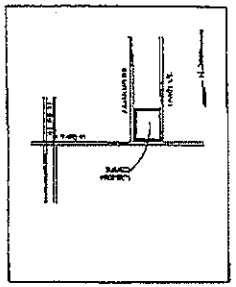
Google



ALTA / ACSM LAND TITLE SURVEY
PART OF LOT 10 IN MAPLE GROVE BABY FARMS SUBDIVISION, CITY OF BLOOMINGTON MONROE COUNTY, INDIANA.

2600 W. 3rd.





LEGEND:

NOTES:

EASEMENT NOTES:

ENCROACHMENT NOTES:

A. ASPHALT OVERLINE AT NE CORNER.

B. ASPHALT PARKING SPACE OVERLINE AT SE CORNER.

BLOOMINGTON EYECARE
BLOOMINGTON, IN
FOR
Bob Gammon

ALTA/ACSM
LTS

1 of 1

7653