

**CITY OF BLOOMINGTON**



**November 9, 2015 @ 5:30 p.m.  
COUNCIL CHAMBERS #115  
CITY HALL**

**CITY OF BLOOMINGTON  
PLAN COMMISSION**

**November 9, 2015 @ 5:30 p.m.**

**∨ City Hall Council Chambers - Room #115**

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**ROLL CALL**

**MINUTES TO BE APPROVED: May, June, July, August, September, October**

**REPORTS, RESOLUTIONS AND COMMUNICATIONS:**

1. Presentation on Conflict of Interest Questionnaire - Barbara McKinney - Legal Department
  2. Informational presentation of Flaherty & Collins Development Proposal for 5.9 acres located in the City's Trades District
- 

**PETITIONS:**

**ZO-27-15**

**City of Bloomington**

Amendments to the Unified Development Ordinance to address new State of Indiana requirements on communication facilities and subdivision performance bonds as well as a text amendment to redefine "Fraternity/Sorority House" and a map amendment to change the zoning designations for properties located at 918 North Madison Street and 313 West 13th Street.

Case Manager: Tom Micuda

## CITY OF BLOOMINGTON CONFLICT OF INTEREST QUESTIONNAIRE

Under Indiana Code 35-44.1-1-4, a public servant who knowingly or intentionally has a pecuniary interest in or derives a profit from a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Level 6 Felony. A public servant has a pecuniary interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of the public servant or a dependent of the public servant who is under the direct or indirect administrative control of the public servant; or receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant. "Dependent" means any of the following: a spouse; a child, stepchild, or adoptee who is unemancipated and less than eighteen (18) years of age; and any individual more than one-half (1/2) of whose support is provided during a year by the public servant.

The City's personnel policy states that "The City strives to avoid situations that have the potential for impropriety or the appearance of impropriety even where not expressly prohibited by state law."

Therefore, the City of Bloomington requests commissioners, board members and committee members to disclose certain interests as follows to ensure compliance with applicable State and local law.

### 1. Business Affiliations

Please list, and briefly explain, all affiliations which you, any member of your immediate family or any dependent (as defined above) has as a director, officer, partner, member, employee, consultant, agent or advisor of any entity or organization which transacts business with the City of Bloomington.

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### 2. Outside Interests

Please identify all material financial interest or investment which you, any member of your immediate family or any dependent has in any entity which transacts business with the City of Bloomington. Exclude any equity or stock ownership by way of mutual fund, index fund, retirement account, pension account or similar brokerage based financial account.

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### 3. Outside or Community Activities

Please list all affiliations you, any member of your immediate family or any dependent has as a volunteer in any capacity with any entity or organization which transacts business with the City of Bloomington. Please describe the individual's role by title or duties.

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### 4. Other

Please list any other activities in which you, any member of your immediate family or any dependent (as defined above) are engaged that might be regarded as constituting a potential conflict of interest.

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I agree to promptly report any material situation or transaction that may arise during the forthcoming calendar year that to my belief or knowledge constitutes a potential conflict of interest consistent with the above questions.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
E-mail address

\_\_\_\_\_  
Title or Position with Governmental Entity

Please complete and return to Barbara E. McKinney, Assistant City Attorney, within two weeks. Email [mckinneb@bloomington.in.gov](mailto:mckinneb@bloomington.in.gov), fax 812-349-3441. Thank you.

Updated 4/13/15

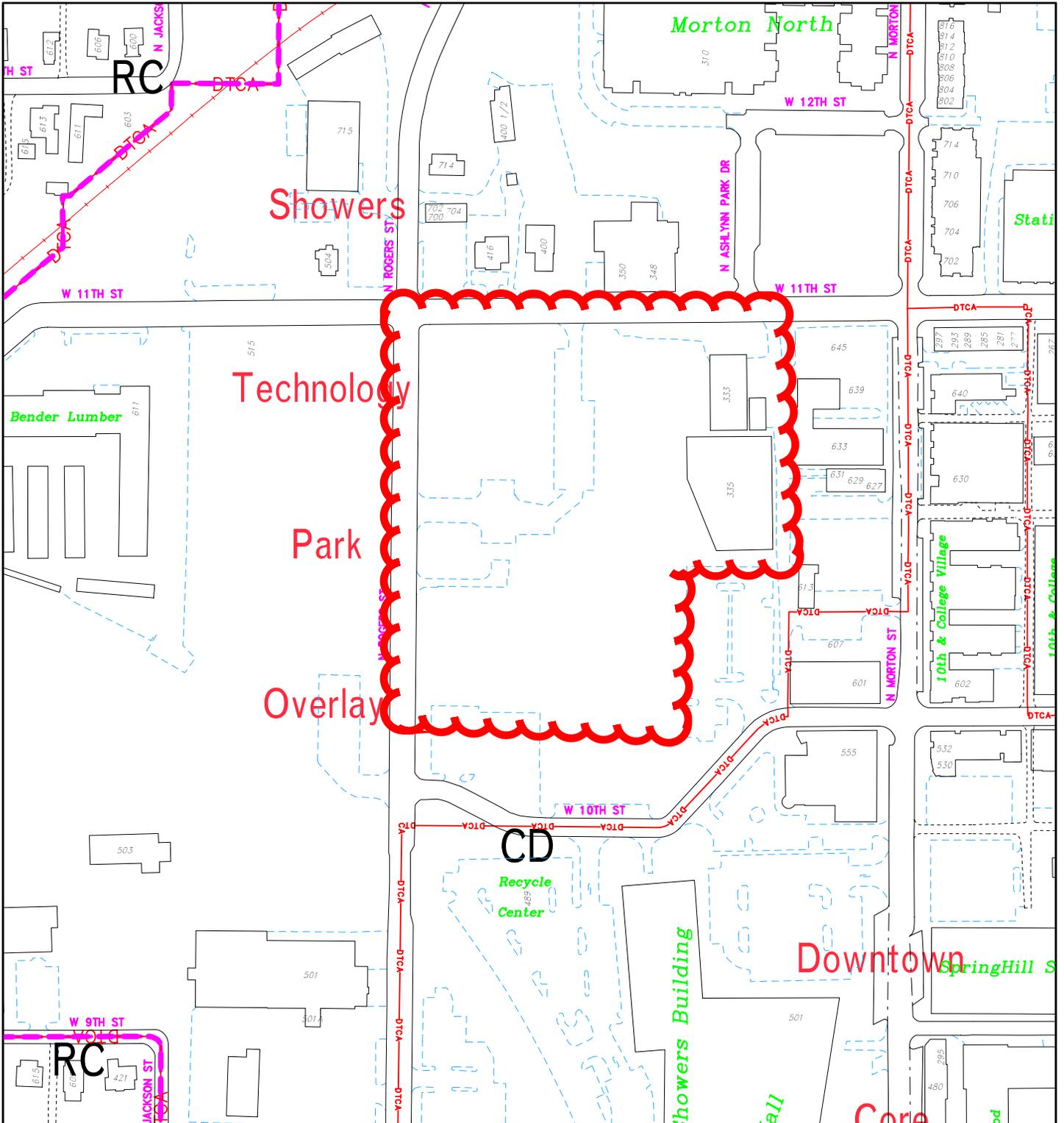
# MEMO:

**To: City of Bloomington Plan Commission**  
**From: Tom Micuda, AICP, Director of Planning and Transportation**  
**Date: November 5, 2015**  
**Re: Trades District Development**

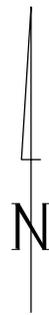
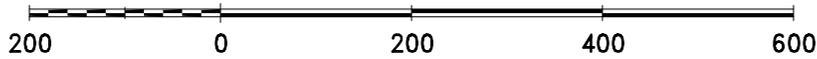
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Flaherty & Collins will be presenting the preliminary concepts for their proposed building in the Trades District. They have received permission from the City Redevelopment Commission on November 2<sup>nd</sup> to proceed forward with Plan Commission site plan review. This presentation will be to illicit initial feedback and discussion from the Plan Commission. Staff anticipates that this petition will be filed before the November 10th filing deadline for a hearing on December 7<sup>th</sup>. Included in this packet is the building design that was presented to the Development Review Committee on October 23<sup>rd</sup>. Staff anticipates that changes will be made to the proposal, some possibly significant, prior to Monday's Plan Commission meeting and certainly before the December 7<sup>th</sup> meeting.

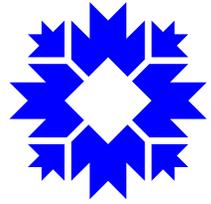
The current proposal is for one new mixed use building and redevelopment of the historic Showers Bros. Mill and Kiln buildings on 5.9 acres. The Mill and Kiln will be redeveloped into tech and co-work office space to be run by a local company known as Rough Cut Ventures. The new mixed use building would be along Rogers St. It would extend from 11<sup>th</sup> Street south to the re-aligned 10<sup>th</sup> Street. This building is 5 stories tall, but because of the grade change on the property, the perceived building height is either 3 or 4 stories. The new building would include 233 apartments catering to professionals who want to live downtown and in the Trades District itself (a mix of 1 and 2 bedroom units with 311 total bedrooms), 24,000 square feet of tech office space that is projected to be the home of a local tech company known as Envisage Technologies and retail/restaurant space, and a parking garage with at least 292 spaces. The proposal will also feature a gathering space identified as the "Tec-Rec Park" between the proposed new building and the renovated historic buildings.



By: roachja  
23 Oct 15

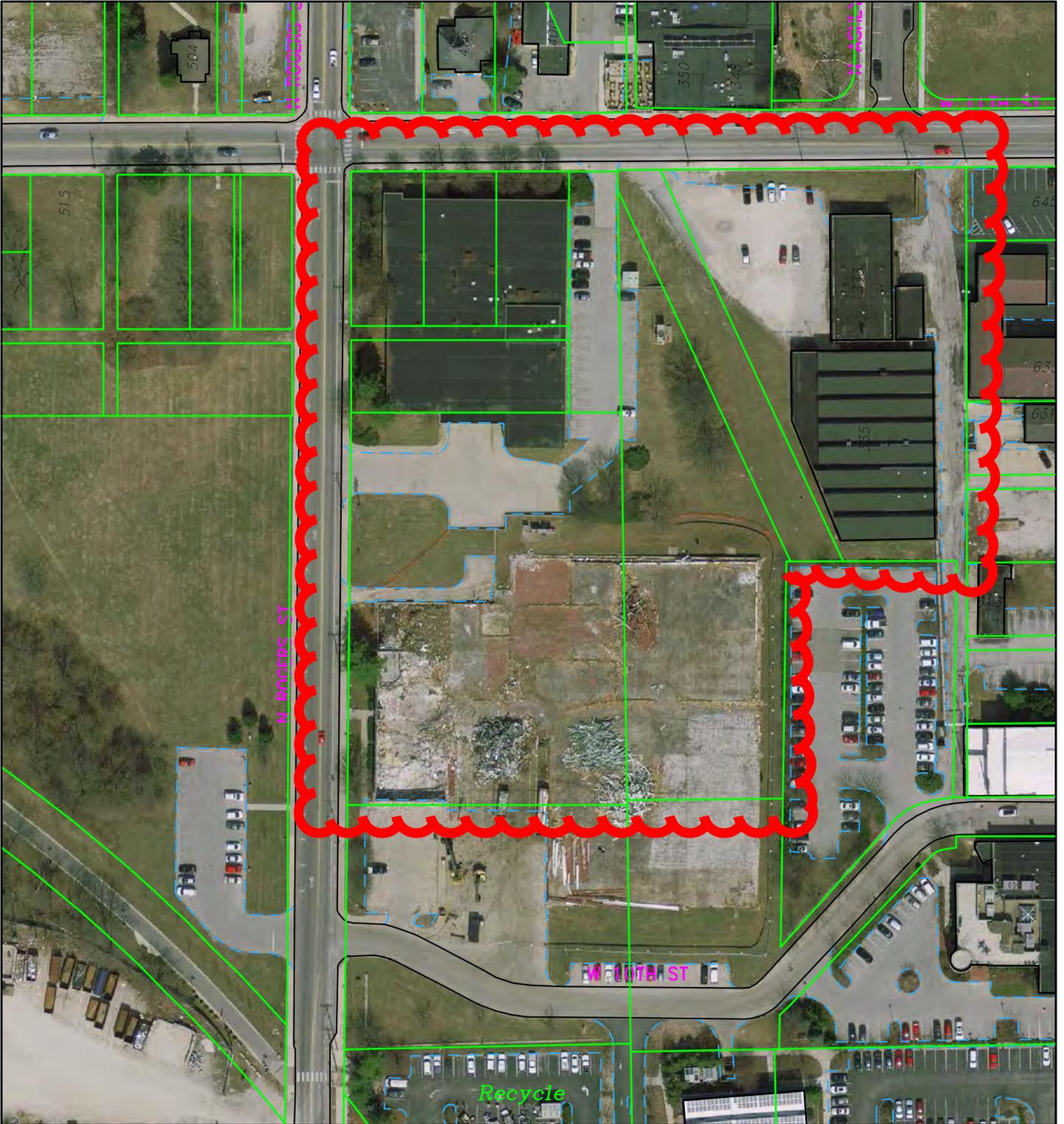


City of Bloomington  
Planning & Transportation

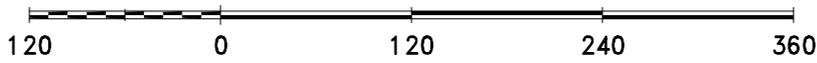


Scale: 1" = 200'

For reference only; map information NOT warranted.



By: roachja  
23 Oct 15

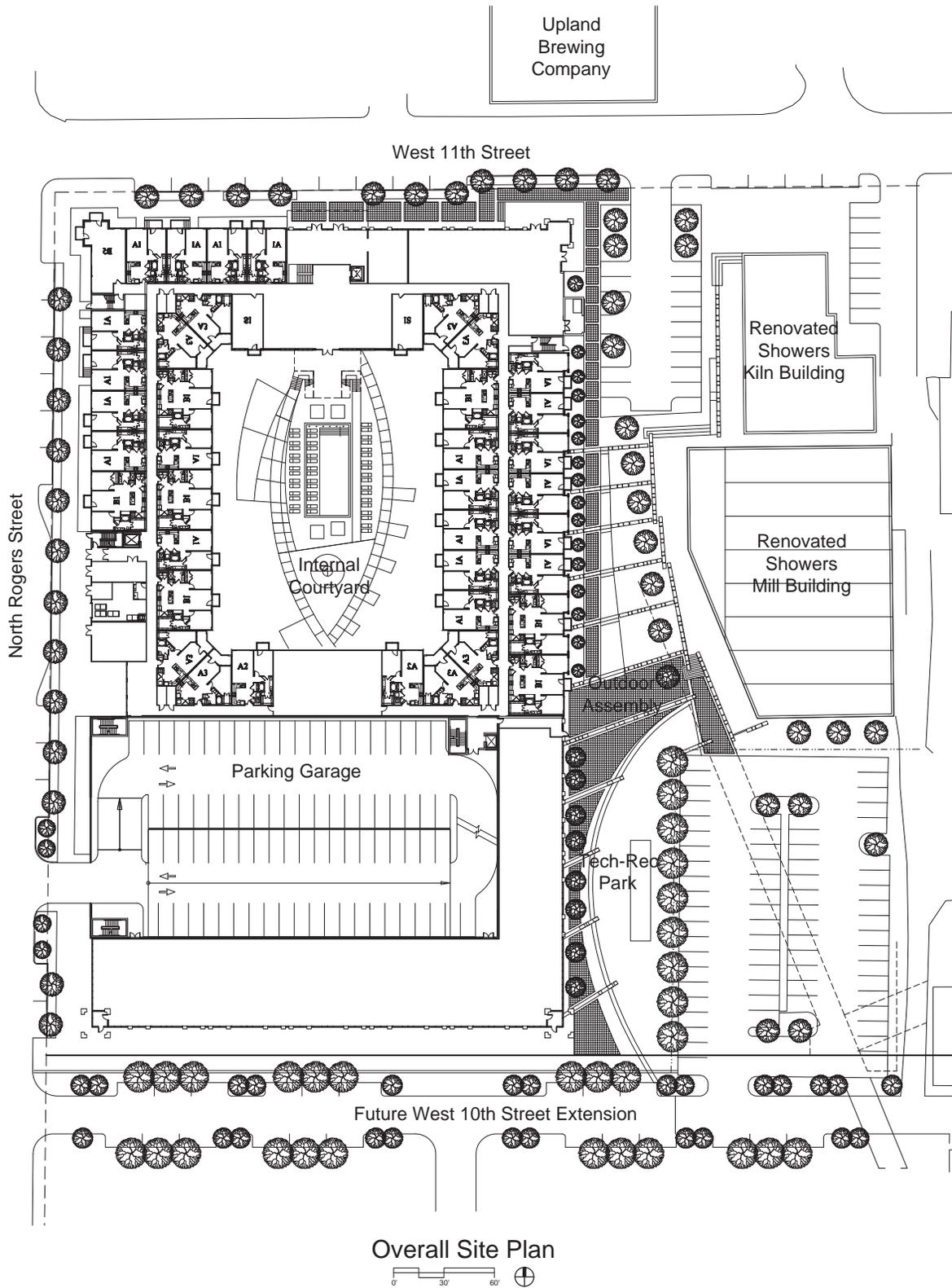


For reference only; map information NOT warranted.

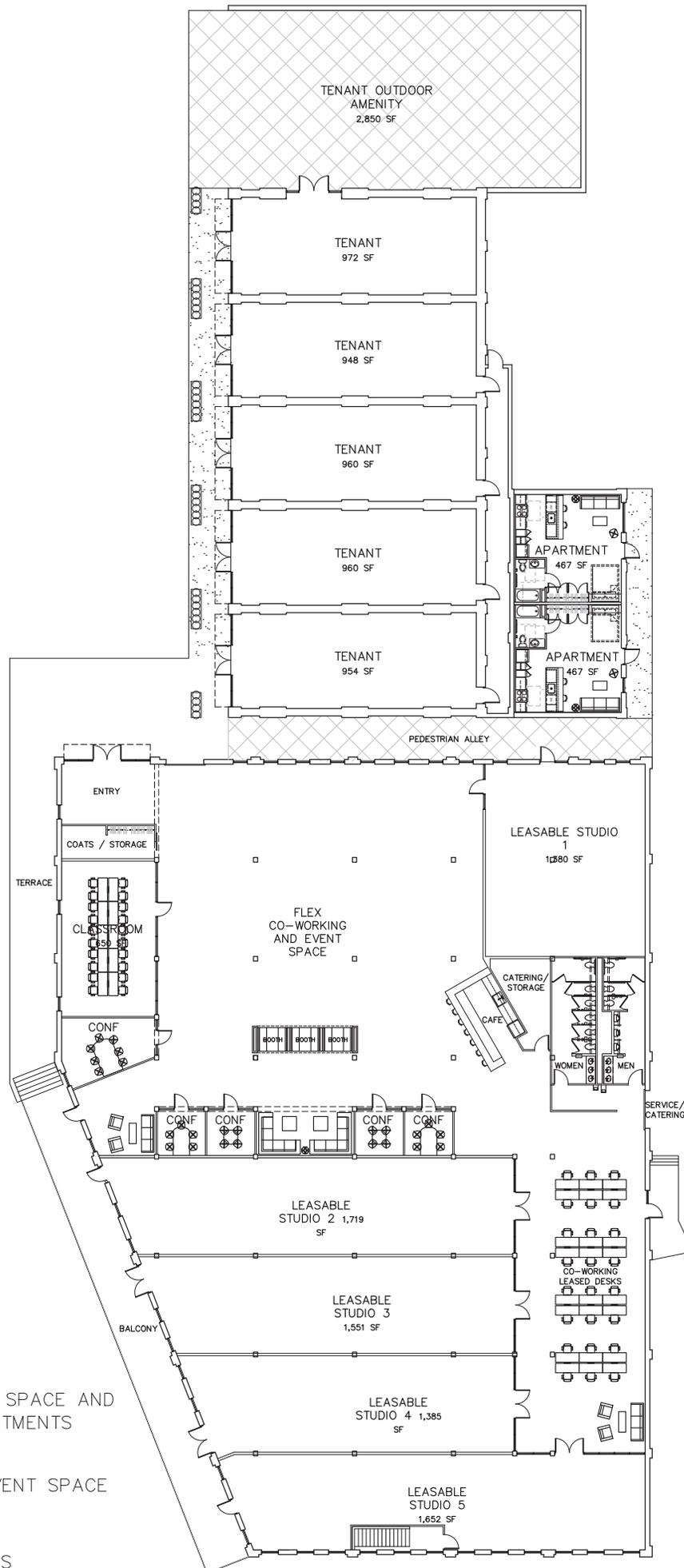
City of Bloomington  
Planning & Transportation

N

Scale: 1" = 120'



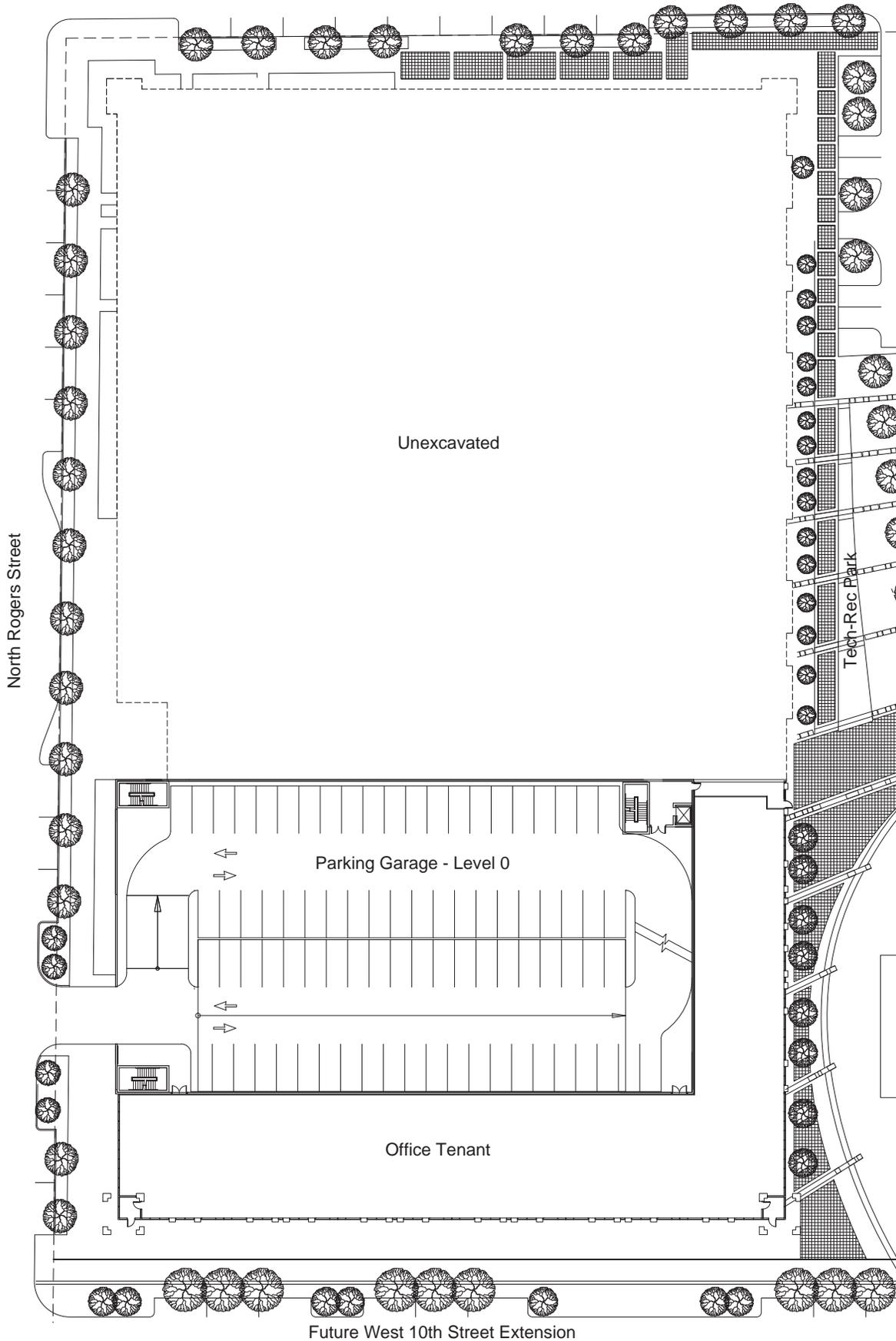
Overall Site Plan



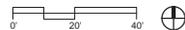
THE KILN  
COMMERCIAL TENANT SPACE AND  
COLLABORATOR APARTMENTS  
THE MILL  
CO-WORKING AND EVENT SPACE  
1" = 20' 28 SEPTEMBER 2015

ROUGH CUT VENTURES

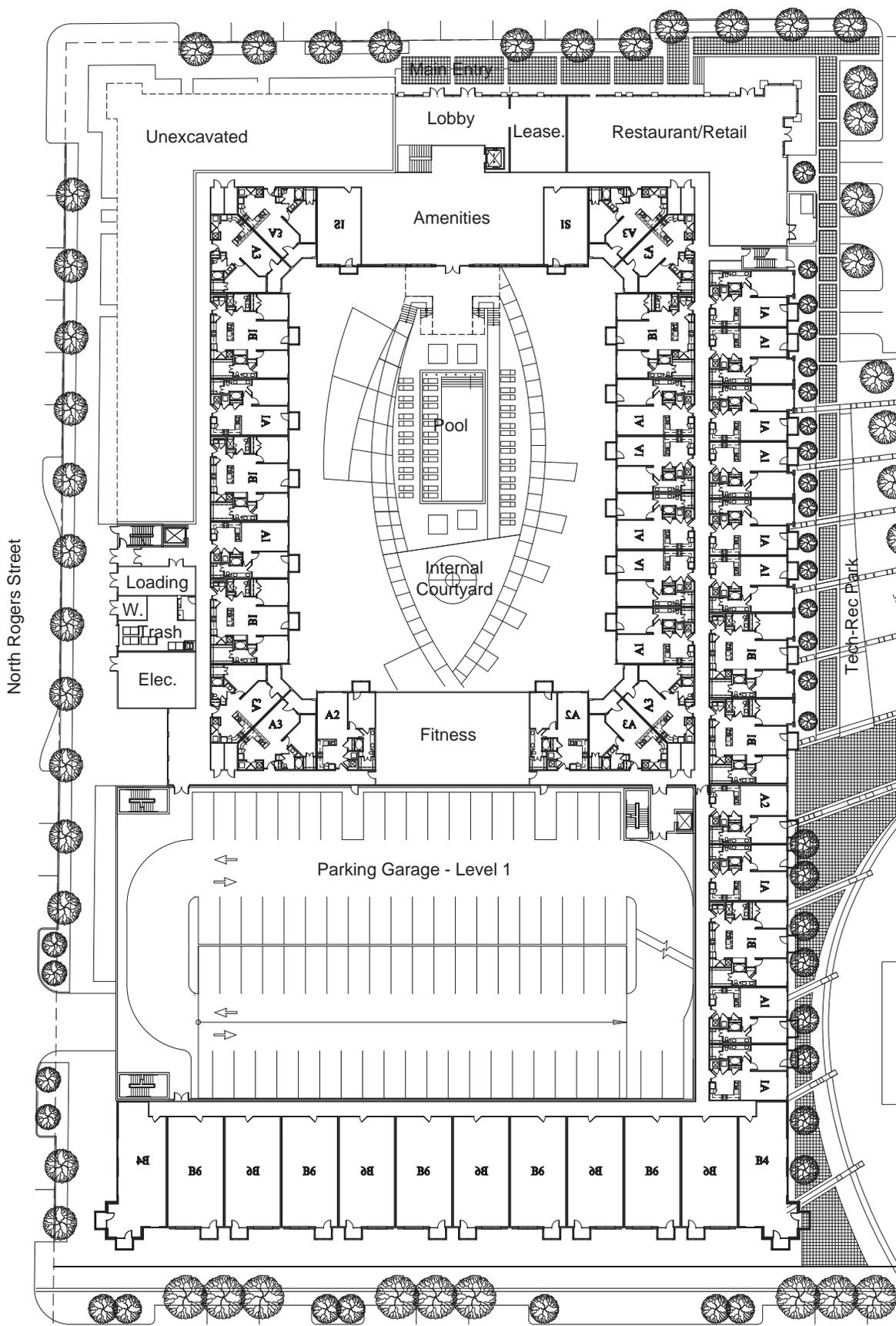
West 11th Street



Level 0 Floor Plan



West 11th Street

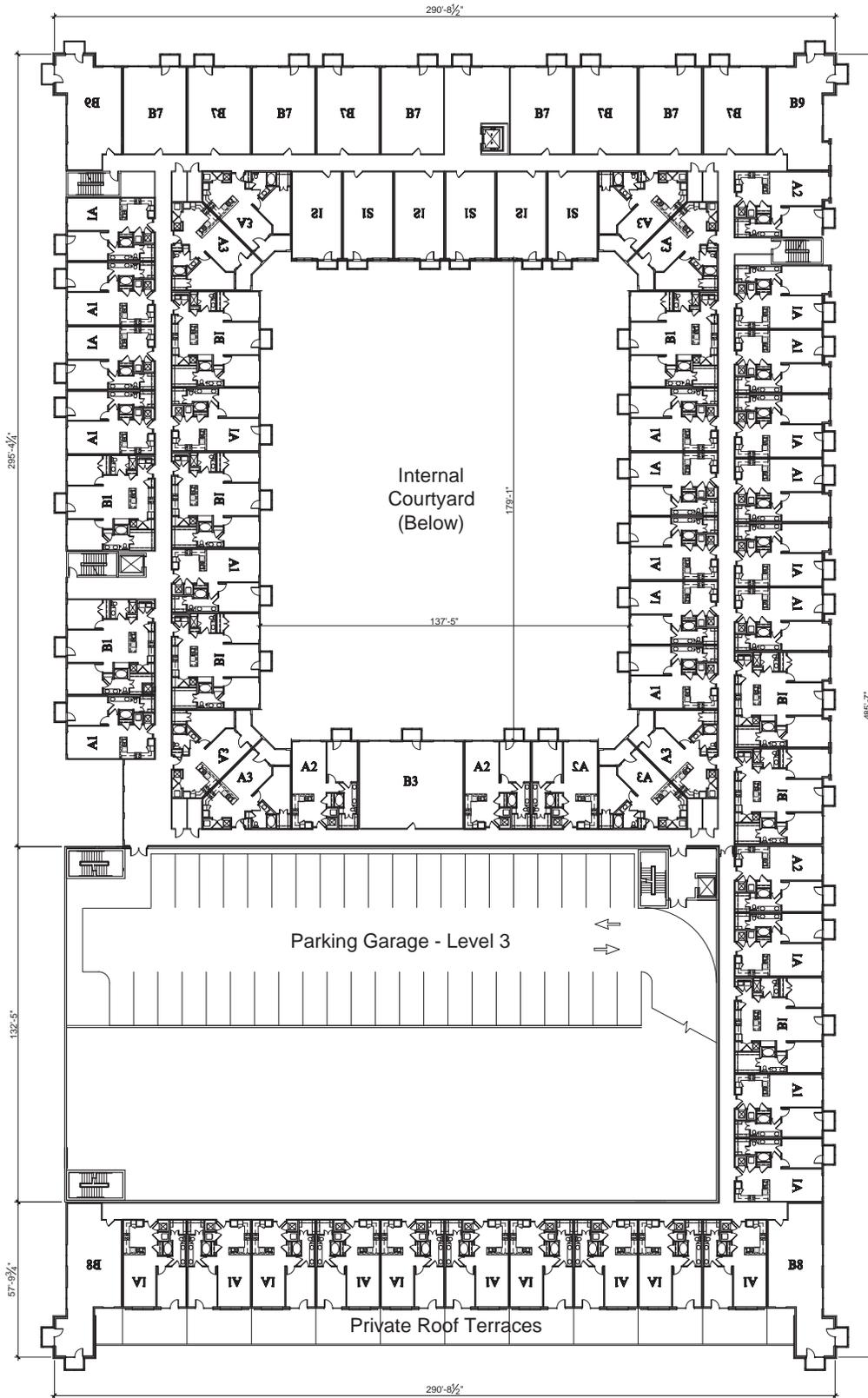


Future West 10th Street Extension

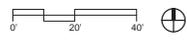
Level 1 Floor Plan







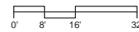
Level 3 Floor Plan



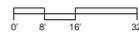




North Elevation - - Facing 11th Street

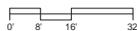


West Elevation - - Facing Rogers Street

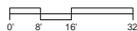


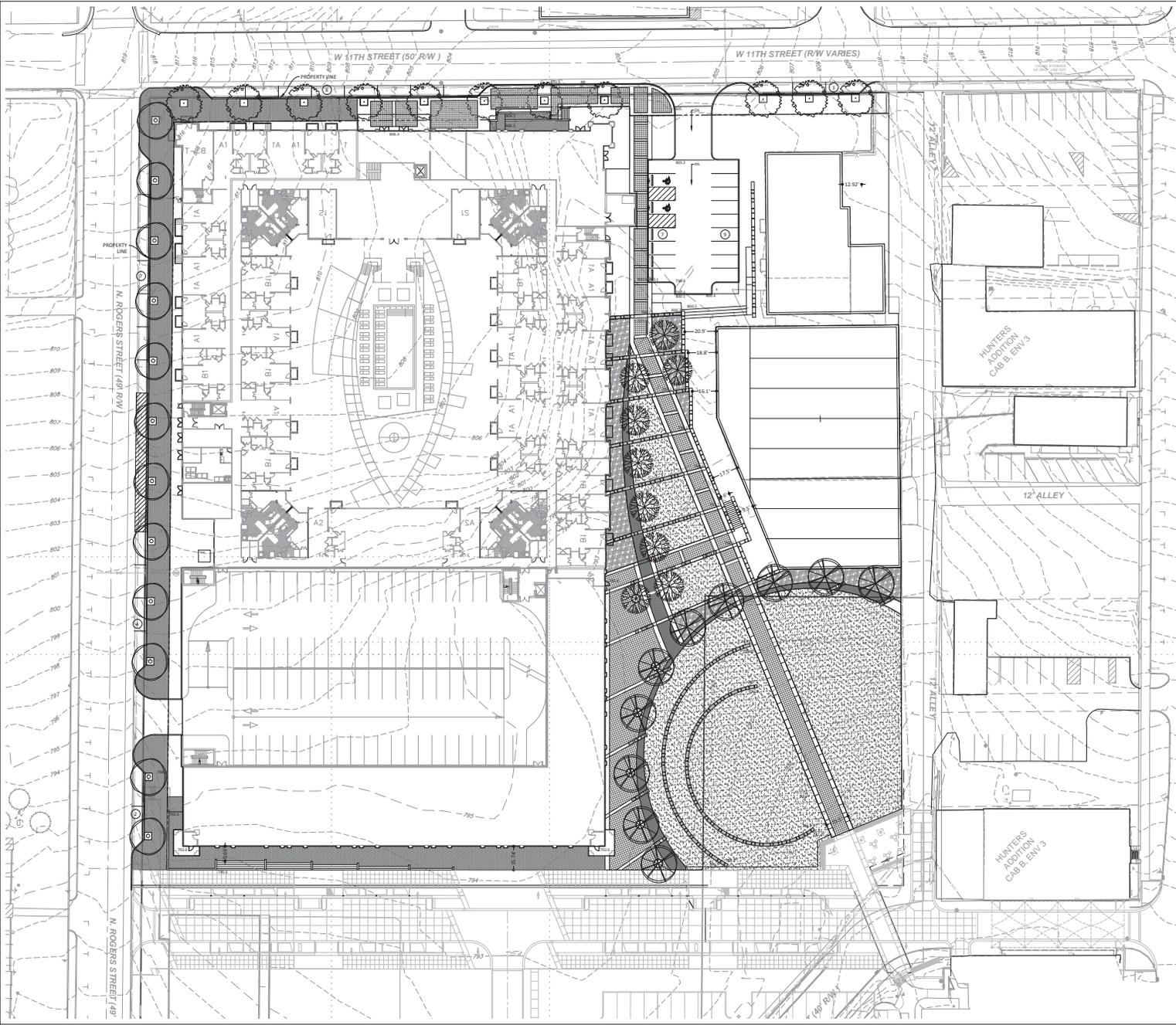


South Elevation - - Facing 10th Street



East Elevation - - Facing the Tech-Rec Park





**GENERAL NOTES**

**PLAN NOTES**

**LEGEND**

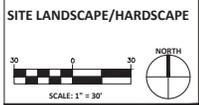
- EXPOSED AGGREGATE CONCRETE PAVEMENT AREAS
- TURF AREAS
- TEXTURED/COLORED CONCRETE PAVEMENT AREAS
- LANDSCAPED BED AREAS
- LIMESTONE BLOCK FEATURES
- LIMESTONE BLOCK SEATWALLS
- LIMESTONE BLOCK RETAINING WALLS

**BRCJ**  
 1351 West Tapp Road  
 Bloomington, Indiana 47403  
 Phone: 812.336.8277  
 Fax: 812.336.0817  
 www.brcjwi.com

BLOOMINGTON BEDFORD PAOLI

PRELIMINARY  
NOT FOR  
CONSTRUCTION

**BLOOMINGTON  
 CERTIFIED  
 TECHNOLOGY PARK**  
 10th & ROGERS  
 BRG Project No: 8858



Date: 10-22-2015 Issue: PRELIMINARY

REVISION SCHEDULE		
Rev. #	Rev. Description:	Issue Date

Drawn By: DLN  
 Designed By: DLN  
 Checked By: XXX

**C100**

**BRCU**  
 1351 West Tapp Road  
 Bloomington, Indiana 47403  
 Phone: 812.336.8277  
 Fax: 812.336.0817  
 WWW.BRCU.COM

BLOOMINGTON BEDFORD PAOLI

PRELIMINARY  
 NOT FOR  
 CONSTRUCTION

**BLOOMINGTON  
 CERTIFIED  
 TECHNOLOGY PARK**  
 10TH & ROGERS

BRG Project No: 8858

**SITE UTILITIES PLAN**

SCALE: 1" = 30'

Date:	Issue:	
10-22-2015	PRELIMINARY	
REVISION SCHEDULE		
Rev. #	Rev. Description	Issue Date

Drawn By: AEK  
 Designed By: AEK  
 Checked By: XXX

**C601**

**GENERAL NOTES**

- REFER TO DEMOLITION PLANS FOR SEQUENCE OF UTILITY REPLACEMENT TO ENSURE CONTINUOUS SERVICE OF ALL UTILITIES.
- CONTRACTOR SHALL BE RESPONSIBLE FOR CUTTING AND PATCHING AS REQUIRED TO COMPLETELY INSTALL THE WORK INDICATED.
- CONTRACTOR SHALL COORDINATE EXACT UTILITY LOCATIONS WITH THE OWNER AND LOCAL UTILITY COMPANIES PRIOR TO COMMENCING ANY WORK. CONTACT THE INDIANA UNDERGROUND PLANT PROTECTION SERVICES INC. AT 1-800-382-5544 AND OTHER UTILITIES PRIOR TO ANY EXCAVATION ON THE SITE.
- ALL WORK ASSOCIATED WITH WATER AND SEWER SYSTEMS SHALL COMPLY WITH THE STANDARDS & REQUIREMENTS OF THE INDIANA DEPT. OF ENVIRONMENTAL MANAGEMENT, THE INDIANA STATE DEPARTMENT OF HEALTH, THE AMERICAN WATER WORKS ASSOCIATION JOURNAL, THE GREAT LAKES UPPER MISSISSIPPI BOARD OF STATE PUBLIC HEALTH AND ENVIRONMENTAL MANAGERS (GLUMMI).
- CONTRACTOR IS REQUIRED TO VERIFY FIELD CONDITIONS AND NOTIFY ARCHITECT/ENGINEER OF ANY DISCREPANCIES PRIOR TO BEGINNING WORK.
- CONTRACTOR SHALL SET ALL EXISTING AND PROPOSED CASTINGS AND CLEANOUT COVERS TO FINAL FINISH GRADE.
- A MINIMUM OF 18 INCHES VERTICAL SEPARATION SHALL BE MAINTAINED BETWEEN WATER AND SANITARY/STORM SEWER UNLESS OTHERWISE INDICATED, OR UNLESS WRITTEN PERMISSION IS GIVEN BY THE ENGINEER. SEWERS CROSSING WATER MAINS SHALL BE LAID TO MAINTAIN A MINIMUM VERTICAL DISTANCE OF 18 INCHES BETWEEN THE OUTSIDE OF THE WATER MAIN AND OUTSIDE OF THE SEWER MAIN. THIS SHALL BE THE CASE WHETHER THE WATER MAIN IS ABOVE OR BELOW THE SEWER. THE CROSSING SHALL BE ARRANGED SO THAT THE JOINTS IN THE SEWER MAIN WILL BE EQUIDISTANT AND AS FAR AS POSSIBLE FROM THE JOINTS IN THE WATER MAIN. THE CROSSING MUST BE AT A MINIMUM ANGLE OF 45° MEASURED FROM THE CENTERLINE OF THE SEWER AND WATER MAIN. WHERE A WATER MAIN CROSSES UNDER A SEWER, ADEQUATE STRUCTURAL SUPPORT SHALL BE PROVIDED FOR THE SEWER TO MAINTAIN LINE AND GRADE.
- A MINIMUM OF 10 FEET HORIZONTAL SEPARATION SHALL BE MAINTAINED BETWEEN WATER AND SANITARY/STORM SEWER UNLESS OTHERWISE INDICATED, OR UNLESS WRITTEN PERMISSION IS GIVEN BY THE ENGINEER.
- ALL SANITARY AND STORM LATERALS SHALL HAVE A MINIMUM COVER OF 24" UNLESS NOTED OTHERWISE.
- ALL SANITARY AND STORM LATERALS SHALL HAVE A MINIMUM SLOPE OF 1/8" PER FOOT UNLESS NOTED OTHERWISE.
- ALL WATER LINES SHALL HAVE A MINIMUM COVER OF 48". INSTALL LINES WITH NO ISOLATED HIGH POINTS.
- WHERE DISSIMILAR MATERIALS ARE JOINED TOGETHER CONTRACTOR SHALL USE A NON-SHEAR JOINTING EQUIPMENT TO FINISH.
- CONTRACTOR SHALL REFER TO ARCHITECTURAL, MECHANICAL, ELECTRICAL, PLUMBING, AND LANDSCAPE PLANS FOR ADDITIONAL UTILITY MODIFICATIONS AND NOTIFY ARCHITECT/ENGINEER OF ANY DISCREPANCIES PRIOR TO START OF CONSTRUCTION.
- CONTRACTOR TO EXTEND ALL FOUNDATION, SUBDRAIN, UNDERDRAIN, INTERNAL DRAIN, ROOF DRAIN AND RETAINING WALL DRAIN PIPING TO THE NEAREST PROPOSED STORM STRUCTURE WHILE MAINTAINING POSITIVE FLOW, UNLESS NOTED OTHERWISE. ALL CONNECTIONS SHALL BE WATER TIGHT.
- PRE-CONSTRUCTION MEETING: EFFECTIVE MARCH 1, 2015, ALL PROJECTS WILL REQUIRE A PRE-CONSTRUCTION MEETING WITH THE CITY OF BLOOMINGTON UTILITIES PRIOR TO THE START OF CONSTRUCTION. THE CONTRACTOR AND/OR DEVELOPER MUST CONTACT THE UTILITIES TECHNICIAN AT (812)349-3613 TO SCHEDULE THE MEETING.
- UTILITIES INSPECTION: CONTRACTOR SHALL NOTIFY THE CITY OF BLOOMINGTON UTILITIES ENGINEERING DEPARTMENT ONE (1) WORKING DAY PRIOR TO CONSTRUCTION OF ANY WATER, STORM OR SANITARY SEWER LAYOUT WORK. A CBU INSPECTOR MUST HAVE NOTICE SO WORK CAN BE INSPECTED, DOCUMENTED, AND A PROPER AS-BUILT RECORD DRAWING FOR WORKS ON RECORDS. A CBU DESIGNATED HOLIDAY OR BEYOND NORMAL CBU WORK HOURS, THE CONTRACTOR WILL PAY FOR THE INSPECTOR'S OVERTIME. FOR CBU WORK HOURS AND HOLIDAY INFORMATION, PLEASE CONTACT THE CITY OF BLOOMINGTON UTILITIES DEPARTMENT AT (812)349-3600.

**PLAN NOTES**

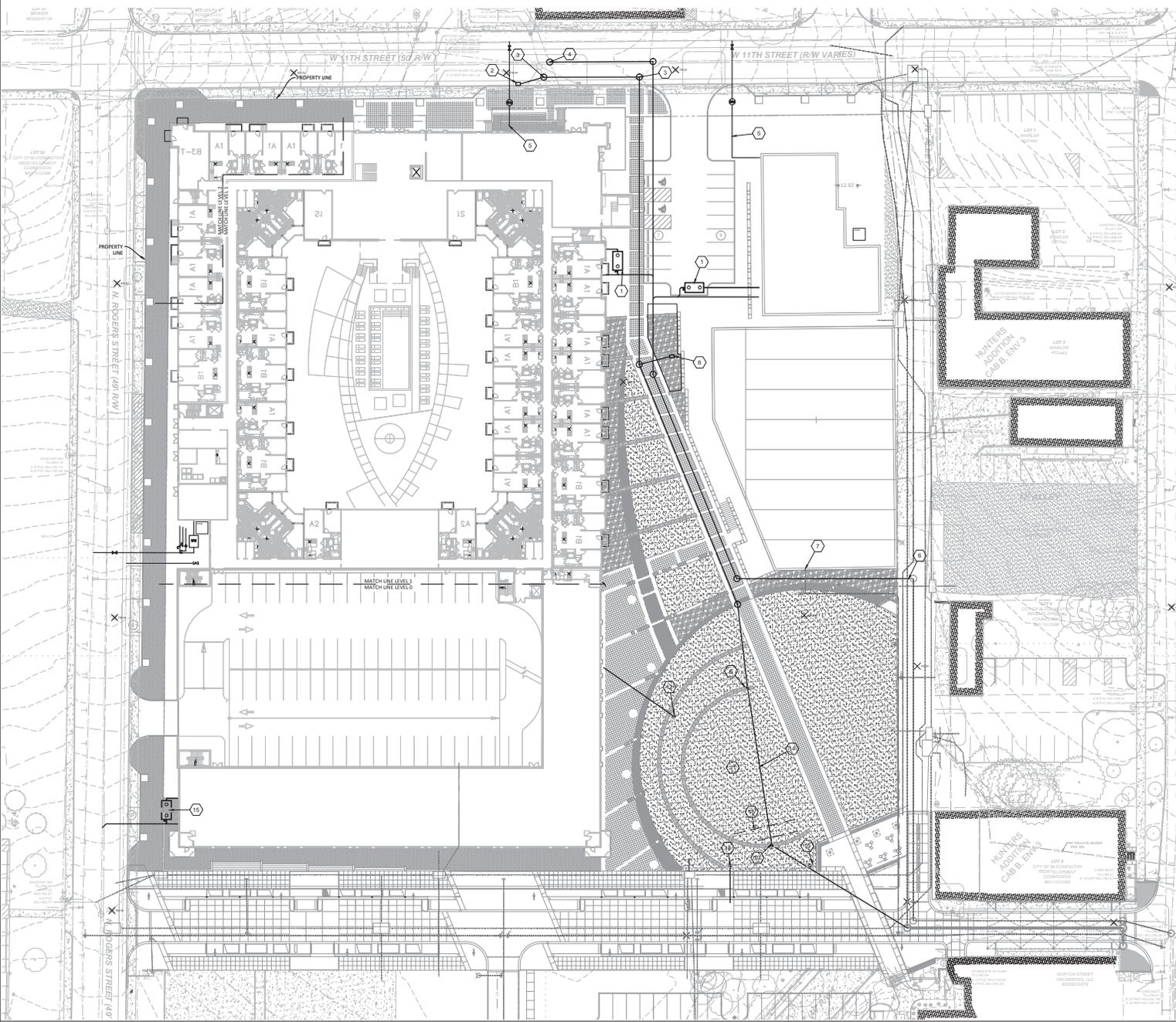
- GREASE INTERCEPTOR
- DROP INLET
- INTERCEPT EXISTING 24" RCP STORM SEWER. INSTALL 24" HOPE STORM SEWER
- INTERCEPT 4" PRIVATE SEWER. INSTALL 8" SANITARY SEWER MAIN.
- WATER SERVICE. SIZE TBD
- CONNECT TO 8" SEWER STUB OUT. SEE 10TH STREET EXTENSION PLANS.
- WATER SERVICE - SEE 10TH STREET EXTENSION PLANS.
- RAIN GARDEN FOR TREATMENT OF PARKING LOT RUNOFF
- IMPACT BASIN - STORM SEWER OVERFLOW TO SURFACE DETENTION
- DETENTION OUTLET STRUCTURE
- SURFACE DETENTION AREA - APPROX VOLUME = 0.5 ACRE FT. GRADE TO DRAIN 25 MIN SLOPE.
- ROOF DRAINAGE, OUTLET TO DETENTION
- 10TH STREET DRAINAGE, OUTLET TO DETENTION
- STORM DRAIN PASS THRU PIPE. CAPACITY TO MATCH 11TH STREET PASS THRU FLOW.
- GREASE INTERCEPTOR EASEMENT, FOR FUTURE INSTALLATION AS NEEDED.
- 6" PERFORATED UNDERDRAIN.



**"IT'S THE LAW"**  
 CALL 2 WORKING DAYS BEFORE YOU DIG  
 1-800-382-5544

PER INDIANA STATE LAW CS-1-2-2011  
 IT IS NOT THE LAW TO EXCAVATE  
 WITHOUT A CALL TO DISCOVER  
 LOCATION SERVICE (NO. 2) WORKING  
 DAYS BEFORE COMMENCING WORK.

**LEGEND**



**Project Tabulation Sheet** UPDATED :10 / 23 / 2015

UNIT TYPE	DESCRIPTION	NET RENTABLE AREA PER UNIT (SF)	GROSS AREA PER UNIT (SF)	BALCONY AREA (SF)	GROSS AREA PER UNIT W/ BALCONY (SF)	UNITS PER LEVEL	L-0	L-1	L-2	L-3	L-4	TOTAL NUMBER OF UNITS	% OF TOTAL UNITS	NET RENTABLE AREA / UNIT TYPE (SF)	TOTAL GROSS AREA / UNIT TYPE (SF)	BALCONY AREA / TYPE (SF)	TOTAL GROSS AREA W/ BALCONY / UNIT TYPE (SF)	REMARKS
<b>UNIT SUMMARY</b>																		
S1	1 BED / 1 BATH (STUDIO)	587	631	26	657		0	2	4	6	0	12	5.15%	7,044	7,572	312	7,884	
A1	1 BED / 1 BATH	750	795	26	821		0	16	29	31	18	94	40.34%	70,500	74,730	2,444	77,174	
A2	1 BED / 1 BATH	782	828	26	854		0	3	5	5	4	17	7.30%	13,294	14,076	442	14,518	
A3	1 BED / 1 BATH	714	758	73	831		0	8	8	8	8	32	13.73%	22,848	24,256	2,336	26,592	
						<b>1 BED TOTALS</b>						155	66.52%	113,686	120,634	5,534	126,168	
B1	2 BED / 2 BATH	1,130	1,189	26	1,215		0	7	9	9	8	33	14.16%	37,290	39,237	858	40,095	
B2	2 BED / 2 BATH	1,202	1,263	26	1,289		0	0	0	0	3	3	1.29%	3,606	3,789	78	3,867	
B3	2 BED / 2 BATH	1,245	1,302	26	1,328		0	0	1	1	1	3	1.29%	3,735	3,906	78	3,984	
B4	2 BED / 2 BATH	1,105	1,182	52	1,234		0	2	2	0	0	4	1.72%	4,420	4,728	208	4,936	
B5	2 BED / 2 BATH	825	888	52	940		0	0	2	0	0	2	0.86%	1,650	1,776	104	1,880	
B6	2 BED / 2 BATH	1,067	1,127	26	1,153		0	10	10	0	0	20	8.58%	21,340	22,540	520	23,060	
B7	2 BED / 2 BATH / LOFT	1,085	1,174	52	1,226		0	0	0	9	0	9	3.86%	9,765	10,566	468	11,034	
B8	2 BED / 2 BATH	960	1,037	52	1,089		0	0	0	2	0	2	0.86%	1,920	2,074	104	2,178	
B9	2 BED / 2 BATH / LOFT	1,200	1,300	52	1,352		0	0	0	2	0	2	0.86%	2,400	2,600	104	2,704	
						<b>2 BED TOTALS</b>						78	33.48%	86,126	91,216	2,522	93,738	
						<b>TOTALS</b>	0	48	70	73	42	233	100.00%	199,812	211,850	8,056	219,906	

**BUILDING SUMMARY**

SQUARE FOOTAGE SUMMARY						PARKING SUMMARY		
GROSS BUILDING AREA	288,106	GSF				SURFACE PARKING	38	
NET RENTABLE AREA	199,812	NSF				GARAGE PARKING	292	
AMENITY AREA	10,964	NSF	LEVEL 4	50,995	SF	ON STREET PARKING		
RETAIL AREA (NET LEASABLE)	24,140	NSF	LEVEL 3	72,960	SF	COVERED PARKING		
UNCONDITIONED AREA	117,103	GSF	LEVEL 2	76,569	SF	TOTAL PARKING	330	
			LEVEL 1	67,619	SF			
AVERAGE NET RENTABLE AREA	858	NSF	LEVEL 0	19,963	SF	PARKING PER UNIT	1.42	
BUILDING EFFICIENCY	81.54%		SUBTOTAL		288,106	SF	PARKING PER BED	1.06

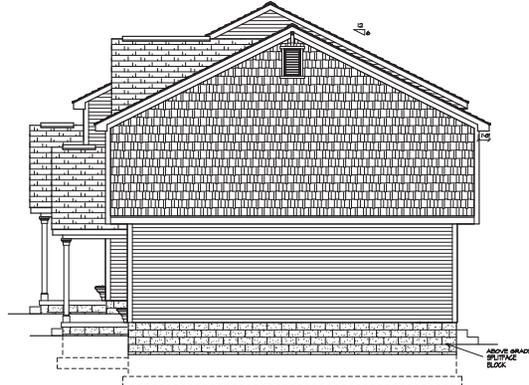
**ASSUMPTIONS**

- Building Efficiency = (Retail + Amenities + Net Rentable) / Gross Area
- Exterior balconies, terraces, and decks excluded from Gross Building Area
- Parking garage square footage is included under Unconditioned Area, it is not included in Gross Building Area

**OTHER**

- Height measured from lowest grade to highest part of the roof = +/- 75'
- First floor void percentage = +/- 55%

NOTE:  
DRAWING NOT TO SCALE  
EXCEPT WHERE SHOWN  
OTHERWISE. THIS IS A  
CONCEPTUAL DRAWING  
AND IS NOT TO BE USED  
FOR CONSTRUCTION  
OR FOR ANY OTHER  
PURPOSE. THE USER  
WARRANTS THE USER  
WARRANTS THE USER  
WARRANTS THE USER.



RIGHT SIDE ELEVATION



FRONT ELEVATION



SEEBER APARTMENTS  
BLOOMINGTON, IN

PROPOSED PLANS FOR  
APARTMENTS  
ELEVATIONS  
JOB SITE: 0471  
SCALE: 3/8" = 1'-0"  
DATE PLOTTED:  
DATE REVISION:  
**A-4**

# MEMO:

**To: City of Bloomington Plan Commission**  
**From: Patty Mulvihill, City Attorney**  
**Date: November 2, 2015**  
**Re: ZO-27-15**

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City staff is proposing four types of amendments to the Unified Development Ordinance (“UDO”). Each amendment is considered to be “clean-up” in nature by staff in that the updates are the result of changes in the Indiana Code or errors found in the UDO.

First, during the 2015 legislative session the Indiana General Assembly created a new chapter in the Indiana Code, Chapter 8-1-32.3, entitled “Permits for Wireless Service Providers”. The new chapter makes it infinitely easier for wireless service providers to establish and modify cell phone towers. Key highlights of the changes include the following:

- The City is required to treat communication service providers and public utilities in the same manner with respect to the following: approving applications; issuing permits; approving tax incentives; providing access to right-of-way; and providing access to physical assets owned or controlled by the City.
- The City cannot impose a fall zone requirement that is larger than the area within which the wireless support structure is designed to collapse as set forth by the provider’s engineers.
- The City is now statutorily limited to what it can require on an application to construct a new wireless support structure. These limitations are specifically noted in Ind. Code § 8-1-32.3-19 and 20. As a result of these limitations, examples of items deleted from the City’s current ordinance include: screening; use of existing drives to access the facility; collocation requirements; and siting requirements.
- The City is now statutorily limited to what it can require on an application to make substantial modifications to an existing wireless support structure. These limitations are specifically noted in Ind. Code § 8-1-32.3-21.
- Generally speaking if an application meets the requirements noted in the Indiana Code, it is deemed complete. The City will now only have ten (10) days to review applications that have been filed.
- Applications for collocation are not required to comply with zoning and land use requirements, nor are they subject to public hearings.
- The City cannot require or regulate the installation, location, or use of wireless service facilities on utility poles or electrical transmission towers.

For ease of reference a copy of the new Indiana Code Chapter is attached to this Memorandum as Exhibit A.

Second, during this past year's legislative cycle the Indiana General Assembly passed new laws that regulate how and when local units of government can require performance bonds. The changes made by the General Assembly generally occurred in Ind. Code § 36-7-4-709(d)-(i), entitled "Subdivision control; secondary approval of plat; proof of financial responsibility; rule for determination of completion of improvements and installations".

The changes associated with the new restrictions on performance bonds include the following:

- Prohibits a bond from having an effective period which exceeds three years.
- Annual partial releases of all bonds must occur and must be done pursuant to a written agreement entered into between the City and the developer.
- Provides the limited standards that must be met before a bond can be required.

For ease of reference, a copy of this new Indiana Code Section is attached to this Memorandum as Exhibit B.

Third, City staff noticed that the definition of "fraternity/sorority" did not include a restriction that the students living in the house be associated with Indiana University or be recognized by the University. As a result of this oversight, staff has proposed an update to the definition of this term to make it clear that students living in a structure are only classified as a fraternity or sorority if they are enrolled at Indiana University-Bloomington and if the University itself recognizes the group as a fraternity or sorority.

Fourth, in working with the new Program Manager in the Housing & Neighborhood Development Department who is assigned to staff the Historic Preservation Commission, City staff determined that the UDO utilizes many different terms or phrases to refer to the City of Bloomington Survey of Historic Sites and Structures. In order to ensure that the same terms and phrases are used consistently throughout the UDO, staff has suggested deleting the inaccurate terms and phrases and replacing them with the term actually identified in the Definition Chapter of the UDO.

**Amendment #:** UDO-001**Synopsis:**

During the 2015 session for the Indiana General Assembly, a new chapter was added to the Indiana Code. This new chapter is known as Ind. Code Chapter 8-1-32.2 and entitled "Permits for Wireless Service Providers". This new Chapter specifically prohibits local units of government from requiring cell phone tower developers and providers to submit any information other than that which is required by Ind. Code §§ 8-1-32.2-19, 20. The information that is required by this new Indiana Code Chapter is considerably less than that which the City has previously required of cell phone tower developers and providers. For example, co-location is specifically exempted from regulation and compatibility with a zoning ordinance. Because we are now prohibited from requiring more than what the State itself requires, the proposed amendment deletes all current requirements on our applications and replaces them with references to the Indiana Code provisions.

**Proposed Amendment:**

*Page 5-18*

*20.05.020*

Purpose. The purpose of these standards is to provide sensible and reasonable development standards for the provision of reliable public and private telecommunication service; and whereas, there is a need to maximize the use of any communication transmission towers in order to reduce the total number of towers needed to serve the communications needs of the area; and whereas, there is a need to minimize the adverse, undesirable visual effects of such communication towers and to provide for the reasonable location of such towers in the city.

This communication facility standards section applies to the following zoning districts:

All communication facilities must comply with the following provisions:

- (a) ~~All communication facilities in this section shall be subject to staff site plan review and shall meet the following requirements and all other requirements of this title.~~ Eligible Applicants: Must comply with the standards of Ind. Code § 8-1-32.3-19.
- (b) ~~Buffer Requirements. The location of the tower and equipment buildings shall comply with all local, state and federal natural resource protection standards. The following buffer plantings shall be located around the outermost perimeter or security fence of a communication facility:~~ Application Requirements and Review: Must comply with the standards of Ind. Code § 8-1-32.3-20.
  - (1) ~~An evergreen screen consisting of a hedge, planted at a maximum of three feet on center, or a row of evergreen trees planted at a maximum of ten feet on center shall be planted around the entire communication facility and each of the guy wires and anchors, if used. The height of all plants at the time of planting shall be no less than five feet.~~
  - (2) ~~An eight foot high wood fence or brick masonry wall shall completely surround the entire communication facility, excluding the guy wires and anchors.~~
- (c) ~~Access to Site. Proposed communication towers and antennas shall meet the following access requirements:~~
  - (1) ~~Vehicular access to the tower and equipment building shall be provided along an existing driveway, whenever feasible.~~

- ~~(2) The communication facility shall be fully automated and unattended on a daily basis, and may be visited only for periodic maintenance, emergencies, installations, or equipment removal.~~
- ~~(d) Design Requirements. Proposed communication towers and antennas shall meet the following design requirements:~~
- ~~(1) All communication towers shall be a monopole design.~~
  - ~~(2) Communication towers and antennas shall be designed to blend into the surrounding environment through the use of color, camouflaging, landscaping, materials, and architectural treatment, except in an instance where the color is dictated by federal or state authorities such as the Federal Aviation Administration (FAA).~~
  - ~~(3) Only lighting that is for safety or security reasons, or required by the FAA or other federal or state authority shall be permitted. All required lighting shall be oriented inward so as not to project onto surrounding properties.~~
  - ~~(4) The use of any portion of a communication facility for signs other than warning or equipment signs shall be prohibited.~~
- ~~(e) Setbacks.~~
- ~~(1) Communication towers shall be set back from any property line a distance equal to at least eighty percent of the height of the tower.~~
  - ~~(2) No tower shall be placed closer to any residential structure than five hundred feet.~~
  - ~~(3) Communication towers are generally not permitted in front yards, except where evidence provided by the petitioner demonstrates that placement in a front yard would provide the best camouflage for the tower.~~
- ~~(f) Maximum Height.~~
- ~~(1) Tower. One hundred ninety nine feet;~~
  - ~~(2) Accessory Structure. Fifteen feet.~~
- ~~(g) Collocation Requirements. Proposed communication towers and antennas shall meet the following collocation requirements:~~
- ~~(1) At a minimum, all proposed monopoles shall be constructed to support the initial user plus the anticipated loading of the number of additional users required in accordance with this title.~~
  - ~~(2) Any proposed communication tower shall be designed, and engineered structurally, electrically and in all other respects, to accommodate both the proposed user and the number of additional users as required in accordance with this title. Communication towers shall be designed to allow for future rearrangement of communication equipment and antennas upon the tower and to accept communication equipment and antennas mounted at varying heights.~~
  - ~~(3) A minimum of four additional antenna sites shall be provided on a tower of one hundred fifty feet or more in height.~~

- ~~(h) Siting Requirements. A proposal for a new communication tower shall not be approved unless the petitioner submits verification that the communication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or buildings or other structure due to one or more of the following reasons:~~
- ~~(1) The planned communication equipment would exceed the structural capacity of the existing or approved towers, buildings, or structures as documented by a qualified and licensed professional engineer, and the existing or approved towers, buildings or structures cannot be reinforced, modified, or replaced to accommodate the planned communication equipment at a reasonable cost.~~
  - ~~(2) The planned communication equipment would cause interference impacting the usability of other existing communication equipment at the site if placed on existing structures. A qualified and licensed professional engineer shall submit supportive documentation indicating that the interference cannot be prevented at a reasonable cost.~~
  - ~~(3) The existing or approved towers, buildings or structures within the search radius cannot accommodate the planned communication equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.~~
  - ~~(4) Other unforeseen reasons that make it infeasible or impossible to locate the planned communication equipment upon an existing or approved tower, building or structure.~~
  - ~~(5) Additional land area is not available at the base of existing towers, buildings or structures to accommodate the proposed communication facility.~~
- (c) Construction Requirements: All antennas, communication towers, accessory structures and any other wiring shall comply with the following requirements:
- (1) All applicable provisions of this title and of the Indiana Building Code, as amended, and the Federal Communications Commission (FCC) when applicable.
  - (2) All communication towers and communication equipment shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the International Building Code, as amended, and the Electronics Industry Association.
  - (3) With the exception of necessary electric and telephone service and connection lines approved by the board of zoning appeals, no part of any communication equipment or communication tower nor any lines, cables, equipment or wires or braces in connection with either shall at any time extend across or over any part of a right-of-way, public street, highway, sidewalk, trail, or property line without appropriate approval in writing.
  - (4) All communication towers and communication equipment shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code, as amended.
  - (5) All communication towers and communication equipment shall be constructed to conform to the requirements of the Occupational Safety and Health Administration (OSHA).

- (6) ~~All signal and remote control conductors of low energy extending between a communication tower and other communication equipment, or between communication towers, shall be at least ten feet above the ground at all points, unless buried underground.~~
- (7) All communication towers and communication equipment shall be designed and constructed to all applicable standards of the American National Standards Institute (ANSI) manual, as amended.
- (8) An engineer's certification shall be submitted for all communication towers and all other communication equipment to document and verify the design specifications, including, but not limited to, the foundation for all towers, anchors for all guy wires (if used), the location of all collocation sites, and strength requirements to withstand natural forces such as ice, wind, and earth movements.
- (9) ~~All communication towers and communication equipment shall be designed and constructed, at a minimum, to withstand wind gusts of at least eighty miles per hour with one half inch of ice and to accommodate all collocation sites as required by this title.~~
- (d) Existing Structures: The following shall apply to Modification of existing antennas, communication towers and communication equipment shall comply with Ind. Code § 8-1-32.3-21.:
- (1) ~~Existing structures shall not be replaced or significantly structurally altered without complying in all respects to the requirements set out in this title.~~
  - (2) ~~Any request for the modification of an existing wireless tower or base station that involves collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment which does not substantially change the physical dimensions of such tower or base station shall be approved as required by federal law.~~
- (k) Inspection of Towers. The following shall apply to the inspection of communication towers:
- (1) ~~All communication towers may be inspected at least once every five years, or more often as needed to respond to complaints received, by the planning and transportation director and/or a qualified and licensed consulting engineer to determine compliance with the original construction standards. Deviation from original construction for which any permit was obtained shall constitute a violation of the Unified Development Ordinance.~~
  - (2) ~~Notices of violation shall be sent by registered mail to the owner and the owner will have thirty days from the date the notification is issued to make repairs. The owner is required to notify the planning and transportation director that the repairs have been made, and as soon as possible thereafter, another inspection will be made and the owner notified of the results of same.~~
- (e) Abandoned Towers: Any tower unused or left abandoned for six months shall be removed by the tower owner at the owner's expense. Should the communication tower owner fail to remove the tower after thirty days from the date a notice of violation is issued, the city may remove the tower and bill the owner for the costs of removal and cleanup of the site.

**Amendment #:** UDO-002

**Synopsis:**

During the 2015 session, the Indiana General Assembly amended when and how local units of government can require performance bonds. Examples of the mandated changes include: (1) prohibiting a bond from having an effective period which exceeds three years; (2) requiring annual partial releases of bonds in accordance with a written agreement entered into between the City and the developer; and (3) providing certain limited standards that must be met before a bond can be required of a developer. In addition to these mandatory changes by the General Assembly, an inconsistency within the Bloomington Municipal Code was found. Right now BMC 20.09.190(e)(3) conflicts with 20.09.320 & 330 in terms of when bonds may be required. This amendment brings the Unified Development Ordinance into compliance with the new Indiana Code provisions and fixes the internal conflict within our local ordinance.

**Proposed Amendment:**

*Page 9-41*

20.09.320

20.09.320 Surety standards—Performance surety.

- (a) Intent. ~~Prior to or at the time of approval~~ In conjunction with the approval of a Final Plat, the petitioner shall be required to provide a financial performance guarantee, by performance bond or an irrevocable, unconditional, acceptable letter of credit issued by a financial institution acceptable to the city, that all public facility improvements and installations required under the provisions of this title and planning and transportation department requirements shall be completed.
- (b) Applicability.
- (1) A performance agreement between the petitioner and the city, supported by a performance bond or irrevocable letter of credit, shall be required ensuring the timely and proper installation of required public facility improvements; provided, however, that any improvements to be dedicated to Monroe County within the city of Bloomington planning jurisdiction area shall be bonded in accordance with Monroe County bonding policy.
  - (2) The performance guarantee for each individual public facility improvement or installation may be handled separately and shall in no way be contingent on the completion of any other individual public facility improvements and installations or their performance guarantees.
  - (3) The posting of a performance guarantee may be accepted for incomplete requirements that will be completed as per a written agreement with the city. The time period and amount of the performance guarantee shall be determined by the board of public works and shall comply with Ind. Code § 36-7-4-709(i).
- (c) City Planning and Transportation Department.

- (1) Review. The city planning and transportation department shall review the estimate upon receipt of a complete application and supportive documents. The city planning and transportation department shall verify that the performance bond or letter of credit shall:
    - (A) Be in a sum of not less than one hundred twenty-five percent of the approved estimate of the total improvement construction cost of the project in order to be sufficient to complete the improvements and installations in compliance with the Unified Development Ordinance and city planning and transportation department requirements;
    - (B) Provide surety satisfactory to the city or to the county;
    - (C) Run to and be in favor of the city or the county;
    - (D) Specify the time for the completion of the improvements and installations (both on- and off-site);
    - (E) Be in effect and shall not terminate until a period of two years after the date of substantial completion of the public improvements, but in no situation shall the performance bond or letter of credit be permitted to have an effective period greater than three (3) years. The performance surety will remain in effect during this two-year period in the amount of five percent of the original performance surety, or ten thousand dollars, whichever is greater, or as determined by the transportation and traffic engineer; and
    - (F) Be in a form approved by the city legal department.
  - (2) Report. The city planning and transportation department shall recommend approval or rejection of the performance surety to the board of public works.
  - (3) Record. The city planning and transportation department shall maintain records of all applications, plans, and permits filed for a performance surety.
- (d) Duration.
- (1) Time Limit. The completion of public facility improvements and installations shall be within two years of the approval of the project.
  - (2) Extension of Completion Time. Should the petitioner not complete the public facility improvements and installations as herein required within a two-year period, the city planning and transportation department may approve the petitioner's written request for an extension of time for up to two additional years, granted at six-month intervals and conditioned in every case upon extension or renewal of the surety accordingly, for completion of the required public facility improvements and installations, but in no situation shall an extension of a performance bond or letter of credit be permitted to have an effective period greater than three (3) years.
  - (3) Nonperformance. Should the petitioner not complete the public facility improvements and installations as herein required within the two-year period or within any time extension approved by the city planning and transportation department, the city may take the necessary steps to proceed with the completion of the public facility improvements and installations, making use of the performance bond or letter of credit.

- (4) Expiration. The performance bond or letter of credit shall be in effect and shall not terminate until thirty calendar days after the certificate of final acceptance is approved by the city planning and transportation department, and the maintenance surety has been accepted.
- (e) Changes or Amendments.
- (1) Performance Surety Reductions. ~~Periodic~~ Annual partial releases of performance sureties held by the city ~~may~~ shall be approved by the city planning and transportation department in accordance with a partial release schedule agreed to in a signed written document, said document being signed by the director of the planning and transportation department, or his or her designee, and the developer, or his or her designee.
  - (2) The following standards shall apply to any request for a bond reduction:
    - (A) No more than three reductions shall be permitted within any twenty-four-month period.
    - (B) No performance surety shall be reduced beyond seventy-five percent of the original bond amount.
    - (C) Periodic partial releases shall not occur before completion of at least thirty percent of the improvements covered by the performance surety.

**Synopsis:**

During a general review of the Unified Development Ordinance, City staff determined that the definition of “Fraternity/Sorority House” fails to specifically and emphatically note that a fraternity or sorority needs to be recognized by Indiana University.

**Proposed Amendment:**

*Page 11-19*

*20.11.020*

**Fraternity/Sorority House:** A building or portion thereof used for sleeping accommodations, with or without accessory common rooms and cooking and eating facilities, for groups of unmarried students ~~in attendance at a college or university~~ who meet the following requirements: all students living in the building are enrolled at the Indiana University Bloomington campus; and Indiana University has sanctioned or recognized the students living in the building as being members of a fraternity or sorority through whatever procedures Indiana University uses to render such a sanction or recognition. Shall also include a building or portion thereof in which individual rooms or apartments are leased to individuals, but occupancy is limited to members of a specific fraternity or sorority, regardless of the ownership of the building or the means by which occupancy is so limited, provided the two requirements noted in the first sentence of this definition are also met.

**Amendment #:** UDO-004

**Synopsis:**

During a general review of the Unified Development Ordinance, City staff determined that while the definition section of the UDO uses the term “City of Bloomington Survey of Historic Sites and Structures” to reference the City’s survey of historic properties, it does not use that term to describe said survey throughout the UDO. Instead, the substance of the UDO uses other terms or phrases. In order to ensure consistency throughout the UDO, this amendment deletes inappropriate phrases and references to the survey and replaces them with the properly defined term.

**Proposed Amendment:**

*Page 3-4*

*20.03.010*

**20.03.010 Courthouse square overlay (CSO)—District intent.**

The courthouse square overlay (CSO) district is intended to guide both new development and redevelopment activities as follows:

Ensure that new development is compatible in mass and scale with structures listed in the ~~2001~~ City of Bloomington Survey of Historic Sites and Structures located in the courthouse square character area.

Provide a diverse mix of traditional commercial retail uses at the street level to capitalize on, maintain and enhance the pedestrian activity generated by the CSO district.

Visually define the sidewalk edges with interesting buildings that respect the established context of traditional commercial storefront buildings that are two to four stories in height.

Preserve historic structures to maintain the integrity and heritage of the downtown.

**Proposed Amendment:**

*Page 3-6*

*20.03.060(a)(2)*

(a)

(2) Building Alignment. New buildings located immediately adjacent to the side of an outstanding, notable and/or contributing structure as identified in the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall align their respective facades to match the front setback established by the surveyed structure rather than the required build-to line.

**Proposed Amendment:**

*Page 3-8*

*20.03.060(c)(2)*

(c)

- (2) Building Height Step Down. Buildings located immediately adjacent to the side of outstanding, notable and contributing structures as identified in the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall incrementally step down upper stories at each respective facade module to within one story or fourteen feet, whichever is less, above the highest elevation of the respective adjacent historic structure.

**Proposed Amendment:***Page 3-13**20.03.130(a)(2)*

(a)

- (2) Building Alignment. New buildings located immediately adjacent to the side of an outstanding, notable and/or contributing structure as identified in the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall align its respective facade to match the front setback established by a surveyed structure. If no historic structure is located immediately adjacent to the side of the site then the build-to line as identified in Section 20.03.120(d)(1), Build-to line shall apply.

**Proposed Amendment:***Page 3-15**20.03.130(c)(2)*

(c)

- (2) Building Height Step Down. Buildings located immediately adjacent to the side of outstanding, notable and contributing structures as identified in the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall incrementally step down upper stories at each respective facade module to within one story or fourteen feet, whichever is less, above the highest elevation of the respective adjacent historic structure.

**Proposed Amendment:***Page 3-19**20.03.200(a)(2)*

(a)

- (2) Building Alignment. New buildings located immediately adjacent to the side of an outstanding, notable and/or contributing structure as identified in the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall align its respective facade to match the front setback established by a surveyed structure.

**Proposed Amendment:**

*Page 3-21*

*20.03.200(c)(2)*

(c)

- (2) Building Height Step Down. Buildings located immediately adjacent to the side of outstanding, notable and contributing structures as identified in the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall incrementally step down upper stories at each respective facade module to within one story or fourteen feet, whichever is less, above the highest elevation of the respective adjacent historic structure.

**Proposed Amendment:**

*Page 3-24*

*20.03.270(a)(2)*

(a)

- (2) Building Alignment. New buildings located immediately adjacent to the side of an outstanding, notable and/or contributing structure as identified in the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall align its respective facade to match the front setback established by a surveyed structure. If no historic structure is located immediately adjacent to the side of the site then the build-to-line as identified in Section 20.03.260(d)(2), Maximum Front Setback shall apply.

**Proposed Amendment:**

*Page 3-26*

*20.03.270(c)(2)*

(c)

- (2) Building Height Step Down. Buildings located immediately adjacent to the side of outstanding, notable and contributing structures as identified in the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall incrementally step down upper stories at each respective facade module to within one story or fourteen feet, whichever is less, above the highest elevation of the respective adjacent historic structure.

**Proposed Amendment:**

*Page 3-30*

*20.03.340(a)(2)*

(a)

- (2) Building Alignment. New buildings located immediately adjacent to the side of an outstanding, notable and/or contributing structure as identified in the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall align its respective facade to match the front setback established by a surveyed structure.

**Proposed Amendment:**

*Page 3-32*

*20.03.340(c)(2)*

(c)

- (2) Building Height Step Down. Buildings located immediately adjacent to the side of outstanding, notable and contributing structures as identified in the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall incrementally step down upper stories at each respective facade module to within one story or fourteen feet whichever is less above the highest elevation of the respective adjacent historic structure.

**Proposed Amendment:**

*Page 3-36*

*20.03.410(a)(2)*

(a)

- (2) Building Alignment. New buildings located immediately adjacent to the side of an outstanding, notable and/or contributing structure as identified in the ~~Indiana Historic~~

~~Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall align its respective facade to match the front setback established by a surveyed structure.

**Proposed Amendment:**

*Page 3-38*

*20.03.410(c)(2)*

(c)

- (2) Building Height Step Down. Buildings located immediately adjacent to the side of outstanding, notable and contributing structures as identified in the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ City of Bloomington Survey of Historic Sites and Structures shall incrementally step down upper stories at each respective facade module to within one story or fourteen feet whichever is less above the highest elevation of the respective adjacent historic structure.

**Proposed Amendment:**

*Page 9-28*

*20.09.220(b)(5)*

(b)

- (5) Any action, whether or not listed in subsections (b)(1) through (b)(4) of this section, that would result in partial or complete demolition of any exterior portion of a building or structure that is listed as "Outstanding," "Notable," or "Contributing" on the ~~Indiana Historic Sites and Structures Inventory: 2001 City of Bloomington Interim Report~~ adopted on October 17, 2002, by the Bloomington Historic Preservation Commission (hereinafter "HPC") as the same may be hereafter amended or replaced (hereinafter "~~Historic Survey~~") City of Bloomington Survey of Historic Sites and Structures. Such action shall be subject to the procedures outlined in Section 20.09.230, Demolition and demolition delay. An accessory building or structure not attached to the principal building or structure upon the listed parcel shall not be considered "listed" within the meaning of this title unless the accessory building or structure is of the same era of construction as the principal building or structure, as determined by the staff. Such determination shall be based upon resources that may include but shall not be limited to Sanborn Company Fire Insurance maps, visual inspection of the accessory building or structure, and records and expertise of HPC or its staff.

**Proposed Amendment:**

*Page 9-29*

*20.09.230(b)*

- (b) Demolition Delay Required. No certificate of zoning compliance (hereinafter "CZC") authorizing release of a permit allowing the demolition or partial demolition of a building or structure that is listed as outstanding, notable or contributing on the ~~historic survey~~ City of

Bloomington Survey of Historic Sites and Structures, or any accessory building or structure of the same era of construction as the principal building or structure that is so listed, shall be issued earlier than ninety or one hundred twenty-calendar days after notice has been given as provided in subsection (b)(1) below. The ninety-day period shall apply in all cases unless the director of HAND or his/her designee finds that an additional thirty day delay period is needed in order for the HPC to responsibly consider and determine whether to recommend designation of the property. The HAND director shall make such finding only where there are multiple demolition permits and/or historic designation proposals pending or expected to come before the HPC during the ninety-day period; or, where the demolition request presents unusually complex public policy issues due to the location or survey classification of the structure. Location within an area that contains multiple surveyed properties and/or location within an area designated on the National Register of Historic Places and/or survey classification of the structure or building proposed for demolition as notable or outstanding shall be sufficient, but not necessary, to justify a determination that the one hundred twenty-day period will apply. The HAND director will give notice of his determination to apply the one hundred twenty-day period to a demolition request in accordance with subsection (b)(1) below.



**IC 8-1-32.3****Chapter 32.3. Permits for Wireless Service Providers***Effective 1-1-2016.***IC 8-1-32.3-1****"Antenna"***Effective 1-1-2016.*

Sec. 1. As used in this chapter, "antenna" means any communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless communications service.

*As added by P.L.145-2015, SEC.3.***IC 8-1-32.3-2****"Base station"***Effective 1-1-2016.*

Sec. 2. As used in this chapter, "base station" means a station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.

*As added by P.L.145-2015, SEC.3.***IC 8-1-32.3-3****"Business day"***Effective 1-1-2016.*

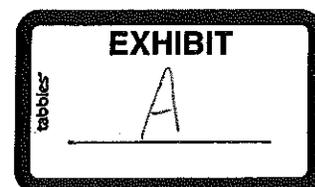
Sec. 3. As used in this chapter, "business day" means a day other than a Saturday, a Sunday, or a legal holiday (as defined in IC 1-1-9-1).

*As added by P.L.145-2015, SEC.3.***IC 8-1-32.3-4****"Collocation"***Effective 1-1-2016.*

Sec. 4. As used in this chapter, "collocation" means the placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

*As added by P.L.145-2015, SEC.3.***IC 8-1-32.3-5****"Electrical transmission tower"***Effective 1-1-2016.*

Sec. 5. As used in this chapter, "electrical transmission tower" means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-6****"Equipment compound"***Effective 1-1-2016.*

Sec. 6. As used in this chapter, "equipment compound" means the area that:

- (1) surrounds or is near the base of a wireless support structure; and
- (2) encloses wireless facilities.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-7****"Existing structure"***Effective 1-1-2016.*

Sec. 7. As used in this chapter, "existing structure" does not include a utility pole or an electrical transmission tower.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-8****"Permit authority"***Effective 1-1-2016.*

Sec. 8. As used in this chapter, "permit authority" means a unit, a board, a commission, or any other governing body that makes legislative or administrative decisions concerning the construction, installation, modification, or siting of wireless facilities or wireless support structures. The term does not include:

- (1) the Indiana department of transportation;
- (2) the Indiana finance authority;
- (3) the state or any of its agencies, departments, boards, commissions, authorities, or instrumentalities;
- (4) the director of the department of natural resources; or
- (5) a court or other judicial body that reviews decisions or rulings made by a permit authority.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-9****"Small cell facility"***Effective 1-1-2016.*

Sec. 9. (a) As used in this chapter, "small cell facility" means:

- (1) a personal wireless service facility (as defined by the Federal Telecommunications Act of 1996 as in effect on July 1, 2015); or

- (2) a wireless service facility that satisfies the following requirements:

- (A) Each antenna, including exposed elements, has a volume of three (3) cubic feet or less.
- (B) All antennas, including exposed elements, have a total volume of six (6) cubic feet or less.
- (C) The primary equipment enclosure located with the facility has a volume of seventeen (17) cubic feet or less.

(b) For purposes of subsection (a)(2)(C), the volume of the primary equipment enclosure does not include the following equipment that is located outside the primary equipment enclosure:

- (1) Electric meters.
- (2) Concealment equipment.
- (3) Telecommunications demarcation boxes.
- (4) Ground based enclosures.
- (5) Back up power systems.
- (6) Grounding equipment.
- (7) Power transfer switches.
- (8) Cut off switches.

*As added by P.L.145-2015, SEC.3.*

#### **IC 8-1-32.3-10**

##### **"Small cell network"**

*Effective 1-1-2016.*

Sec. 10. As used in this chapter, "small cell network" means a collection of interrelated small cell facilities designed to deliver wireless service.

*As added by P.L.145-2015, SEC.3.*

#### **IC 8-1-32.3-11**

##### **"Substantial modification of a wireless support structure"**

*Effective 1-1-2016.*

Sec. 11. (a) As used in this chapter, "substantial modification of a wireless support structure" means the mounting of a wireless facility on a wireless support structure in a manner that:

(1) increases the height of the wireless support structure by the greater of:

- (A) ten percent (10%) of the original height of the wireless support structure; or
- (B) twenty (20) feet;

(2) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of:

- (A) twenty (20) feet; or
- (B) the width of the wireless support structure at the location of the appurtenance; or

(3) increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet.

(b) The term does not include the following:

- (1) Increasing the height of a wireless support structure to avoid interfering with an existing antenna.
- (2) Increasing the diameter or area of a wireless support structure to:
  - (A) shelter an antenna from inclement weather; or
  - (B) connect an antenna to the wireless support structure by cable.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-12**

**"Utility pole"**

*Effective 1-1-2016.*

Sec. 12. As used in this chapter, "utility pole" means a structure that is:

- (1) owned or operated by:
  - (A) a public utility;
  - (B) a communications service provider;
  - (C) a municipality;
  - (D) an electric membership corporation; or
  - (E) a rural electric cooperative; and
- (2) designed and used to:
  - (A) carry lines, cables, or wires for telephony, cable television, or electricity; or
  - (B) provide lighting.

The term does not include a wireless support structure or an electrical transmission tower.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-13**

**"Wireless facility"**

*Effective 1-1-2016.*

Sec. 13. As used in this chapter, "wireless facility" means the set of equipment and network components necessary to provide wireless communications service. The term does not include a wireless support structure.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-14**

**"Wireless support structure"**

*Effective 1-1-2016.*

Sec. 14. As used in this chapter, "wireless support structure" means a freestanding structure designed to support wireless facilities. The term does not include a utility pole or an electrical transmission tower.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-15**

**Application; permits for new construction, substantial modification, or collocation**

*Effective 1-1-2016.*

Sec. 15. This chapter applies to permits issued by a permit authority, under local law and consistent with IC 36-7, for the following:

- (1) Construction of a new wireless support structure.
- (2) Substantial modification of a wireless support structure.
- (3) Collocation of wireless facilities on an existing structure.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-16**

**Application fees; prohibited unless required for similar types of development; limitations**

*Effective 1-1-2016.*

Sec. 16. (a) A permit authority may not require an applicant to pay a fee associated with the submission, review, processing, or approval of an application for a permit unless the permit authority requires payment of the same or a similar fee for applications for permits for similar types of commercial development within the jurisdiction of the permit authority.

(b) A fee associated with the submission, review, processing, or approval of an application for a permit, including a fee imposed by a third party that provides review, technical, or consulting assistance to a permit authority, must be based on actual, direct, and reasonable costs incurred for the review, processing, and approval of the application.

(c) A fee described in this section may not include:

- (1) travel expenses incurred by a third party in its review of an application; or
- (2) direct payment or reimbursement of third party fees charged on a contingency basis.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-17**

**Discrimination among providers or utilities prohibited; limits on fall zone requirements**

*Effective 1-1-2016.*

Sec. 17. (a) A permit authority may not discriminate among communications service providers or public utilities with respect to the following:

- (1) Approving applications, issuing permits, or otherwise establishing terms and conditions for construction of wireless or wireline communications facilities.
- (2) Authorizing or approving tax incentives for wireless or wireline communications facilities.
- (3) Providing access to rights-of-way, infrastructure, utility poles, river and bridge crossings, and other physical assets owned or controlled by the permit authority.

(b) A permit authority may not impose a fall zone requirement that:

- (1) applies to a wireless support structure; and
- (2) is larger than the area within which the wireless support structure is designed to collapse, as set forth in the applicant's engineering certification for the wireless support structure.

However, a permit authority may impose a fall zone requirement that is larger than the area described in subdivision (2) if the permit authority provides evidence that the applicant's engineering

certification is flawed. The permit authority's evidence must include a study performed and certified by a professional engineer.  
*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-18**

**Zoning, land use, planning, and permitting authority not affected; land use laws and ordinances apply**

*Effective 1-1-2016.*

Sec. 18. This chapter does not:

- (1) affect the ability of a permit authority to exercise zoning, land use, planning, or permitting authority otherwise allowed under law, including IC 36-7, with respect to the siting of new wireless support structures; or
- (2) exempt an applicant from complying with applicable laws and ordinances concerning land use.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-19**

**Eligible applicants; application requirements**

*Effective 1-1-2016.*

Sec. 19. (a) The following may apply for a permit under this chapter on a form and in the manner prescribed by the appropriate permit authority:

- (1) A person that provides wireless communications service.
  - (2) A person that owns or otherwise makes available infrastructure required for wireless communications service.
- (b) An application for a permit must include the following:
- (1) The name, business address, and point of contact for the applicant.
  - (2) The location of the proposed or affected wireless support structure or wireless facility.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-20**

**Application to construct new wireless support structure; requirements; review for completeness; notification of approval or denial; additional time for review**

*Effective 1-1-2016.*

Sec. 20. (a) An application for a permit to construct a new wireless support structure must include only the following:

- (1) All information required by section 19 of this chapter.
- (2) A construction plan that describes the proposed wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.
- (3) Evidence supporting the choice of location for the proposed wireless support structure, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless

support structure was not a viable option because collocation:

- (A) would not result in the same wireless service functionality, coverage, and capacity;
- (B) is technically infeasible; or
- (C) is an economic burden to the applicant.

(4) If an applicable zoning ordinance specifies that a special exception, special use, contingent use, or conditional use must be approved for the proposed wireless support structure in accordance with IC 36-7-4-918.2, evidence showing that the application complies with the criteria set forth in the ordinance with respect to the special exception, special use, contingent use, or conditional use.

(5) If the proposed wireless support structure is not a permitted use under an applicable zoning ordinance, evidence showing that the application complies with the criteria for a variance of use from the terms of the zoning ordinance in accordance with IC 36-7-4-918.4.

A permit authority may not require an applicant to submit information about, and may not evaluate an applicant's business decisions with respect to, the applicant's designed service, customer demand, service quality, or desired signal strength to a particular location.

(b) An application that contains the information required under subsection (a) is considered complete.

(c) A permit authority shall review an application within ten (10) business days of its receipt to determine if the application is complete. If a permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If a permit authority does not notify an applicant in writing of all defects in the application, the application is considered complete.

(d) An applicant that receives a written notice under subsection (c) may cure the defects set forth in the notice and resubmit the corrected application to the permit authority within thirty (30) days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

(e) Subject to subsection (f), not more than ninety (90) days after making an initial determination of completeness under subsection (c), a permit authority shall:

- (1) review the application to determine if it complies with applicable laws and ordinances governing land use and zoning; and
- (2) notify the applicant in writing whether the application is approved or denied.

(f) Notwithstanding the ninety (90) day period set forth in subsection (e), the following apply:

- (1) If the applicant requested additional time under subsection (d) to cure defects in the application, the ninety (90) day period

set forth in subsection (e) is extended for a corresponding amount of time.

(2) If the application for the proposed wireless support structure requires a variance of use from the terms of an applicable zoning ordinance in accordance with IC 36-7-4-918.4, the permit authority may have not more than thirty (30) additional days to comply with subsection (e).

*As added by P.L.145-2015, SEC.3.*

#### **IC 8-1-32.3-21**

#### **Application for substantial modification of wireless support structure; requirements; review for completeness; notification of approval or denial; additional time for review**

*Effective 1-1-2016.*

Sec. 21. (a) An application for a permit for substantial modification of a wireless support structure must include only the following:

- (1) All information required by section 19 of this chapter.
- (2) A construction plan that describes the proposed modifications to the wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.
- (3) If an applicable zoning ordinance specifies that a special exception, special use, contingent use, or conditional use must be approved for the proposed substantial modification of a wireless support structure in accordance with IC 36-7-4-918.2, evidence showing that the application complies with the criteria set forth in the ordinance with respect to the special exception, special use, contingent use, or conditional use.
- (4) If the proposed substantial modification of a wireless support structure is not a permitted use under an applicable zoning ordinance, evidence showing that the application complies with the criteria for a variance of use from the terms of the zoning ordinance in accordance with IC 36-7-4-918.4.

A permit authority may not require an applicant to submit information about, and may not evaluate an applicant's business decisions with respect to, the applicant's designed service, customer demand, service quality, or desired signal strength to a particular location.

(b) An application that contains the information required under subsection (a) is considered complete.

(c) A permit authority shall review an application within ten (10) business days of its receipt to determine if the application is complete. If a permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If a permit authority does not notify an applicant in writing of all defects in the application, the application is considered complete.

(d) An applicant that receives a written notice under subsection (c) may cure the defects set forth in the notice and resubmit the corrected application to the permit authority within thirty (30) days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

(e) Subject to subsection (f), not more than ninety (90) days after making an initial determination of completeness under subsection (c), a permit authority shall:

(1) review the application to determine if it complies with applicable laws and ordinances governing land use and zoning; and

(2) notify the applicant in writing whether the application is approved or denied.

(f) Notwithstanding the ninety (90) day period set forth in subsection (e), the following apply:

(1) If the applicant requested additional time under subsection (d) to cure defects in the application, the ninety (90) day period set forth in subsection (e) is extended for a corresponding amount of time.

(2) If the application for the proposed substantial modification of a wireless support structure requires a variance of use from the terms of an applicable zoning ordinance in accordance with IC 36-7-4-918.4, the permit authority may have not more than thirty (30) additional days to comply with subsection (e).

*As added by P.L.145-2015, SEC.3.*

#### **IC 8-1-32.3-22**

**Application for collocation; requirements; conformance with building permit requirements; consolidated application; review for completeness; notification of approval or denial; additional time for review**

*Effective 1-1-2016.*

Sec. 22. (a) An application for a permit for collocation must include only the following:

(1) All information required by section 19 of this chapter.

(2) Evidence of conformance with applicable building permit requirements.

(b) An application for a permit for collocation:

(1) is not required to comply with zoning or land use requirements; and

(2) is not subject to public hearing.

(c) A permit authority shall allow an applicant to submit a single consolidated application to collocate multiple wireless service facilities that are located within the jurisdiction of the permit authority. The permit authority shall issue a single permit for all wireless service facilities included in the application rather than individual permits for each wireless service facility.

(d) A permit authority shall review an application within ten (10)

business days of its receipt to determine if the application is complete. If a permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If a permit authority does not notify an applicant in writing of all defects in the application, the application is considered complete.

(e) An applicant that receives a written notice under subsection (d) may cure the defects set forth in the notice and resubmit the corrected application to the permit authority within fifteen (15) days of receiving the notice. If an applicant is unable to cure the defects within the fifteen (15) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

(f) Not more than forty-five (45) days after making an initial determination of completeness under subsection (d), a permit authority shall:

- (1) review the application to determine its conformity with applicable building permit requirements; and
- (2) notify the applicant in writing whether the application is approved or denied.

However, if the applicant requested additional time under subsection (e) to cure defects in the application, the forty-five (45) day period is extended for a corresponding amount of time.

*As added by P.L.145-2015, SEC.3.*

#### **IC 8-1-32.3-23**

**Written notice of approval or denial; basis for decision; application considered approved upon authority's failure to act**

*Effective 1-1-2016.*

Sec. 23. (a) In a written notice issued under section 20, 21, or 22 of this chapter, a permit authority shall state clearly the basis for its decision to approve or deny an application. If the permit authority denies an application, the written notice must include substantial evidence in support of the denial.

(b) For purposes of this section, a notice is considered written if it is included in the minutes of a public meeting of a permit authority.

(c) If a permit authority fails to act on an application within the applicable deadline under section 20, 21, or 22 of this chapter, the application is considered approved.

*As added by P.L.145-2015, SEC.3.*

#### **IC 8-1-32.3-24**

**Guidelines to protect confidential or proprietary information**

*Effective 1-1-2016.*

Sec. 24. A permit authority shall establish guidelines to protect any confidential or proprietary information disclosed in an application.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-25****Utility poles and electrical transmission towers; requirements and regulations prohibited**

*Effective 1-1-2016.*

Sec. 25. A permit authority may not require or regulate the installation, location, or use of wireless service facilities on utility poles or electrical transmission towers.

*As added by P.L.145-2015, SEC.3.*

**IC 8-1-32.3-26****Small cell facilities constituting single network; consolidated application; single permit**

*Effective 1-1-2016.*

Sec. 26. A permit authority shall allow an applicant to submit a single consolidated application for multiple small cell facilities that are located within the permit authority's jurisdiction and constitute a single small cell network. The permit authority shall issue a single permit for the small cell network rather than multiple permits for each small cell facility.

*As added by P.L.145-2015, SEC.3.*

West's Annotated Indiana Code  
Title 36. Local Government (Refs & Annos)  
Article 7. Planning and Development  
Chapter 4. Local Planning and Zoning

**IC 36-7-4-709**

**36-7-4-709** Subdivision control; secondary approval of plat; proof of financial responsibility; rule for determination of completion of improvements and installations

Effective: July 1, 2015

Currentness

Sec. 709. (a) Secondary approval under section 710 of this chapter may be granted to a plat for a subdivision in which the improvements and installments have not been completed as required by the subdivision control ordinance, if:

(1) the applicant provides a bond, or other proof of financial responsibility as prescribed by the legislative body in the subdivision control ordinance, that:

(A) is an amount determined by the plan commission or plat committee to be sufficient to complete the improvements and installations in compliance with the ordinance; and

(B) provides surety satisfactory to the plan commission or plat committee; or

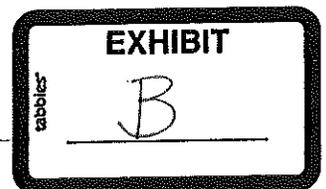
(2) with respect to the installation or extension of water, sewer, or other utility service:

(A) the applicant shows by written evidence that it has entered into a contract with the political subdivision or utility providing the service; and

(B) the plan commission or plat committee determines based on written evidence that the contract provides satisfactory assurance that the service will be installed or extended in compliance with the subdivision control ordinance.

(b) Any money received from a bond or otherwise shall be used only for making the improvements and installments for which the bond or other proof of financial responsibility was provided. This money may be used for these purposes without appropriation. The improvement or installation must conform to the standards provided for such improvements or installations by the municipality in which it is located, as well as the subdivision control ordinance.

(c) The plan commission shall, by rule, prescribe the procedure for determining whether all improvements and installations have been constructed and completed as required by the subdivision control ordinance. The rule must designate the person or persons responsible for making the determination.



(d) As used in this section, "land developer" has the meaning set forth in IC 6-1.1-4-12(a).

(e) As used in this section, "under development" means a situation with respect to land in which a primary plat has been filed and approved and work has commenced to make substantive physical improvements to the land, excluding any work performed for the purpose of preparing the land.

(f) Notwithstanding subsection (a), a local unit may not adopt or enforce an ordinance, rule, or other policy requiring a land developer of Class 1 or Class 2 structures to do any of the following:

(1) Obtain a performance bond or other surety before the date on which the land developer records an approved secondary plat. However, a local unit may require the land developer to obtain a performance bond or other surety before an approved secondary plat is recorded if the area under development is:

(A) within the existing public right-of-way; or

(B) related to erosion control.

(2) Obtain a maintenance bond that has an effective period greater than three (3) years.

(g) After a secondary plat is approved, a local unit may require, as a condition precedent to recording the secondary plat, that the land developer obtain a performance bond or other surety for any incomplete or unfinished streets, sanitary piping, storm water piping systems, water mains, sidewalks and ornamental landscaping in common areas, and erosion control that:

(1) are:

(A) in the approved development; or

(B) required to service the approved development; and

(2) are included within:

(A) the legal description of the recorded plat; or

(B) a section in the legal description of the recorded plat;

identified in the land developer's secondary plat filing.

(h) Any ordinance, rule, or policy requiring a land developer to obtain a performance bond or other surety under subsection (g) must include a provision for:

(1) the release of a performance bond or other surety upon completion to the satisfaction of the local unit of the subject matter upon which the performance bond or other surety was obtained; and

(2) the partial release of the performance bond or other surety on an annual basis in accordance with a partial release schedule agreed to in a signed writing by:

(A) the local unit, or the local unit's designated official or body; and

(B) the land developer or the land developer's designated agent;

before or during development.

(i) A performance bond or other surety requirement under subsection (f)(1) or subsection (g):

(1) must be based on a value provided for in an engineer's estimate or an actual contract amount, if available, to complete:

(A) the portion of the area or improvement of the project; or

(B) designated section in the project;

being bonded;

(2) may be based on an amount in excess of the full value of the engineer's estimate or actual contract amount, as appropriate, provided that any excess amount is based upon a reasonable adjustment for the estimated cost of inflation of materials and labor encompassed within the subject matter of the performance bond or other surety; and

(3) may not include any land that is not under development at the time the bond or other surety is required, such as sections of adjacent or contiguous land that remain undeveloped, except to the extent that the land not then under development is used to access the site or provide utilities or other necessary services to the land that is under development.

#### Credits

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1982, P.L.211, SEC.13; P.L.337-1985, SEC.1; P.L.126-2011, SEC.20; P.L.105-2015, SEC.1, eff. July 1, 2015.

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I.C. 36-7-4-709, IN ST 36-7-4-709

The statutes and Constitution are current with all 2015 First Regular Session of the 119th General Assembly legislation.

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