



# City of Bloomington Common Council

## Legislative Packet

Regular Session

05 December 2007

Office of the Common Council  
P.O. Box 100  
401 North Morton Street  
Bloomington, Indiana 47402

812.349.3409

[council@bloomington.in.gov](mailto:council@bloomington.in.gov)  
<http://www.bloomington.in.gov/council>



## Packet Related Material

**Memo**

**Agenda**

**Calendar**

### Notices and Agendas:

- **Council Sidewalk Committee Meeting** on Thursday, December 6<sup>th</sup> at noon in the McCloskey Room

### Legislation for Final Action:

- **Res 07-16 Establishing a Bloomington Peak Oil Task Force**  
*Contact: Dave Rollo at 349-3409 or [rollod@bloomington.in.gov](mailto:rollod@bloomington.in.gov)*
- **App Ord 07-06** To Specially Appropriate from the General Fund, Cumulative Capital Development Fund, Cumulative Capital Improvement – Rate Fund, Fleet Maintenance Fund, Motor Vehicle Highway Fund, Risk Management Fund, Redevelopment Lease Rental Bonds of 1991 Fund, and Parking Facilities Lease Rental Bonds of 1992 Fund Expenditures Not Otherwise Appropriated (Appropriating Various Transfers of Funds within the General Fund for Animal Care & Control, Clerk’s Office, and Fire; Appropriating Transfers of Funds within the Fleet Maintenance Fund and the Motor Vehicle Highway Fund; Appropriating Funds from the General Fund for Clerk, Police and Information Technology Services; Appropriating Funds from the Cumulative Capital Development Fund, the Cumulative Capital Improvement – Rate Fund, the Risk Management Fund, the Redevelopment Lease Rental Bonds of 1991, and the Parking Facilities Lease Rental Bonds of 1992 Fund)  
*Contact: Susan Clark at 349-3416 or [clarks@bloomington.in.gov](mailto:clarks@bloomington.in.gov)*

*Please see the [28 November 2007 Council Packet](#) for the legislation, summaries, and other related material*

### **Legislation and Background Material for First Reading:**

- **Ord 07-28** To Amend Title 10 of the Bloomington Municipal Code Entitled “Wastewater” - Re: Addition of Chapter 10.21 Entitled “Construction Site and Post Construction Stormwater Control”
  - Memo to the Council from Vickie Renfrow, Assistant City Attorney; 327 IAC 15-13-15

*Contact: Vickie Renfrow at 349-3557 or renfrowv@bloomington.in.gov*
- **Ord 07-29** To Vacate a Public Parcel - Re: Three Alley Rights-of-Way Segments in the 300 Block of South Walnut and South College Including segments running : 1) north/south from Third Street south about 257 feet; 2) east/west from College Avenue east about 145 feet and intersecting with the first segment; and, 3) north/south from the first segment south about 69 feet (Downtown Redevelopment Partners, LLC, Petitioner)
  - Map of Area; Aerial Map of Area; Depiction of Plat; Legal Description of Alleyway; Photo of North/South Alley and Photo of East/West Alley; Memo to Council from Lynne Darland, Zoning and Enforcement Manager; Petition and attachments; Letter from Petitioner; Elevations and Floor Plans; Insert Indicating Responses from Utilities and Emergency Services

*Contact: Lynne Darland at 349-3529 or darlandl@bloomington.in.gov*
- **Ord 07-30** To Amend Title 2 of the Bloomington Municipal Code Entitled “Boards, Commissions And Councils” - Re: Administration of the City’s Cemeteries
  - Memo from Patty Mulvihill, Assistant City Attorney; Chapter 2.10, Chapter 2.11, Chapter 2.12, and Chapter 2.20 of the BMC Annotated with Changes

*Contact: Patty Mulvihill at 349-3426 or mulvihip@bloomington.in.gov*

### **Minutes from Regular and Special Sessions on:**

October 17, 2007

November 7, 2007

November 14, 2007

## Memo

### **Two Items Ready for Final Action and Three Items Ready for Introduction at the Regular Session on December 5<sup>th</sup> which Begins the Last Legislative Cycle of the Year**

The Council is scheduled to take final action a resolution and an appropriation ordinance and to introduce three ordinance at its Regular Session next week. The two pieces of legislation slated for final action can be found in the [28 November 2007](#) Legislative Packet and the three ordinances to be introduced can be found in this packet. Please note that this meeting begins the last legislative cycle of the year.

#### First Readings

#### **Item One - Ord 07-28 Amending Title 10 (Wastewater) by Inserting Chapter 10.21 which Regulates the Control of Stormwater at Construction Sites in Compliance with 327 IAC 15-13-15(b)**

**Ord 07-28** amends Title 10 of the BMC entitled, “Wastewater,” by inserting Chapter 10.21 entitled, “Construction Site and Post Construction Stormwater Control.” This would be the second chapter we have added to Title 10 in the last two years in order to bring the City into compliance with some of the new stormwater quality requirements imposed by the EPA as part of the National Pollutant Discharge Elimination System (NPDES) permit program, which is largely administered by the Indiana Department of Environmental Management (IDEM). The first change was implemented in 2006 with Ord 06-10 and prohibited illicit discharges into our storm drain system and established appropriate enforcement procedures and actions. The new chapter added with **Ord 07-28** is required by 327 IAC 15-13-15 (b) and addresses stormwater run-off from construction sites.

The other parts of 327 IAC 15-13-15 also require the City to:

- Develop a Storm Water Quality Management Plan to regulate construction activities that disturb more than an acre of land within the City’s NPDES permit area;
- Certify that the ordinance and other steps have been taken and review its regulatory program no later than every five years;
- Develop associated Best Management Practices;
- Review and approve Construction Plans of site operator/owners before those activities commence;

- Establish written inspection and enforcement procedures based upon IDEM priorities;
- Develop procedures to receive and respond to public inquiries regarding local construction activities;
- Properly train personnel to review, inspect and enforce these regulations;
- Develop measurable goals for Minimum Control Measures in accordance with IDEM standards; and
- Submit Construction Plans to IDEM and other identified entities when the City engages in construction activities. Note: Those plans must include traffic phasing for projects that are likely to alter traffic routes.

The City Utilities Department retained a consultant, Commonwealth Engineers, Inc., to help bring the City into compliance with the new rules. Vickie Renfrow, Assistant City Attorney, has provided a memo that explains why the ordinance is being brought forward and what, in general, it does.

### **Brief Summary of the Ordinance**

**Purpose and Intent:** The purpose of the ordinance is to minimize any stormwater discharges into our municipal separate storm sewer system (MS4) from construction sites during the period construction is underway and after the project is complete. The regulation of stormwater discharge during construction activities centers on the obligation of site operators to develop and begin implementing a Construction Plan with a Stormwater Pollution Prevention Plan (SWP3) prior to receiving a land disturbance permit from the City. The regulation of stormwater discharge after the project is complete (post construction discharge) focuses on planning and implementing detention, filtering and buffering measures that reduce the presence of pollutants in stormwater runoff.

**Definitions:** Here are some key definitions:

- Best Management Practices are a set of schedules, prohibitions, educational protocols, and prevention and maintenance procedures that prevent or reduce the discharge of pollutants into stormwater, receiving waters, and stormwater systems. They typically include “treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, drainage” from storage of raw materials;
- Construction Activity is conduct covered by the NPDES Construction Permits for construction projects resulting in the disturbing of more than an acre of land and includes clearing, grubbing, excavating, demolition and other such activities;

- Non-Storm Water Discharge is “any discharge to the storm drain system that is not composed entirely of storm water;”
- Pollutant is a broad category that covers “anything that causes pollution;”
- Storm Water is “any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation; and resulting from such precipitation;” and
- Storm Water Prevention Plan (SWP3) is a document describing best management practices and activities that identify sources of pollution at a site and actions to eliminate or reduce the discharge of pollutants into the storm water to maximum extent practicable.

**Applicability:** The ordinance applies to persons who are responsible for construction sites of more than one acre or less than one acre when the site is part of common plan of development or sale which will ultimately disturb more than one acre of land. However, it does not apply to:

- Persons or entities with other NPDES permits under 327 IAC 15-2-6 (including Indiana University which has its own MS4 permit)
- Indiana Department of Transportation when conducting business in the City under its own NPDES permit pursuant to 327 IAC 15;
- Agricultural and forest harvesting activities; and
- Landfills and coal mining that are already required to implement soil erosion control measures under applicable permits.

The ordinance also clarifies that persons who are subject to this chapter are also subject to provisions of 327 IAC 15-5, except in regard to variations allowed for the local processing of construction plans.

**Administration:** The ordinance authorizes the City to administer and enforce this ordinance and authorizes the Mayor to delegate in writing the power to enforce it to employees or others acting in the interest of the City.

**Ultimate Authority:** This section clarifies that the ordinance sets forth minimum standards for protection of stormwater quality and acknowledges that persons complying with those terms might still be acting in violation of their NPDES permits.

**Responsibility of Construction Site Owner:** This section elaborates on the obligations of the persons responsible for the construction site and related off-site improvements (i.e. road extensions, sewer, water and other off-site work done in support of the project). In that regard, the project site owner must:

- Complete a Construction Plan with a Storm Water Pollution Prevention Plan (SWP3) and submit the plan to the Engineering Department along with an \$85 fee in accordance with procedures established by the Engineering and City Utilities Department;
- Complete a Notice of Intent Letter and submit it to the City and IDEM;
- Apply for a Land Disturbing Permit in accordance with procedures established by the City;
- Comply with this ordinance during construction activity as well the implementation of the construction plan;
- Ensure that others working onsite comply with this chapter and the Construction Plan; and
- Send the Notice of Termination Letter to the City and IDEM.

Persons responsible for individual lots where the land disturbance activities will be more than one acre in size must: complete and submit a Construction Plan and Notice of Intent Letter to the City and apply for a building permit. Persons responsible for individual lots where the land disturbance activities will be less than acre must comply with the Construction Plan and City regulations and apply for the building permit, but need not complete and submit a Plan nor Notice of Intent Letter.

**General Requirements of Stormwater Quality Control.** This section requires that all stormwater quality measures and erosion and sediment controls follow the Construction Plan and:

- Minimize sedimentation in the water that would otherwise flow from the site;
- Minimize waste and unused building materials being carried from the site by run-off or wind;
- Stabilize construction site access and keep roadways clear of run-off and tracking;
- Assure that stormwater run-off leaves the site in a manner consistent with State and federal law;
- Post notice with identifying information at the site (which does not create a right for the public to enter the site);
- Assure that all measures necessary to adequately prevent run-off of polluted stormwater are undertaken whether or not those measures are found in the SWP3;
- Assure that all those working on the site are informed of the terms of the ordinance, Construction Plan, SWP3, and schedule for implementation;
- Phase construction activities to minimize disturbance of large areas;
- Use a trained individual to design and install stormwater quality measures;

- Discharge collected run-off in a manner that does not cause an erosion or pollutant problem for the adjacent owner;
- Design and protect channels and swales so that final slopes and velocities do not cause erosion in the channel or at the outlet;
- Protect natural features from pollutants associated with stormwater run-off;
- Adequately stabilize unvegetated areas that will not be disturbed for at least 15 days (with attention paid to areas with vegetative density of less than 70%);
- Maintain all stormwater quality measures in working order during the period of construction activity;
- Implement a self-monitoring program that includes a written evaluation by a trained individual. The evaluation shall address the adequate maintenance of existing stormwater quality measures and identify any additional measures necessary to maintain compliance with applicable laws and regulations. The evaluation shall be made available within 48 hours of a request;
- Properly store, handle, prevent spills of, and clean up hazardous materials in order to minimize contamination of surface and ground water and soils; and
- Finish a project by planting a uniform vegetative cover at a density of 70% over the disturbed areas or perform some other equivalent measure, except on land that is returned to its pre-construction agricultural use.

**General Requirements for Individual Building Lots within in a Permitted Project.** This ordinance clarifies that the individual lot operator is responsible for compliance with all erosion and sediment control associated with said lot and must, in that regard:

- Provide stable access to the site;
- Install and maintain appropriate erosion and sediment control measures on the perimeter prior to the disturbance of land;
- Minimize discharge or tracking of sediment throughout land disturbing activities and until site is permanently stabilized;
- Clean up sediment from roadways and dispose of it in compliance with this ordinance;
- Repair and stabilize adjacent lots disturbed the by the operator; and
- Perform final stabilization of the site which, in the case of residential lots, involves informing the homeowner of the requirements and benefits of those stabilization measures.

**Monitoring Discharges:** This section authorizes the City to take steps to monitor sites of construction activity covered by this ordinance and in the manner and under the authority elaborated in Chapter 10.20.



**Use of Best Management Practices to Prevent, Control, and Reduce Storm Water Pollutants:**

This section directs the City to establish Best Management Practices (Practices) for preventing, controlling, and reducing storm water contamination and requires owner/operators of construction sites to implement both structural and non-structural Practices that provide reasonable protection against accidental discharges of non-storm water into the storm drain system. In order to prevent further discharge, the City may require these owner/operators to implement additional Practices at their own expense. These Practices become part of the owner/operator's Storm Water Pollution Prevention Plan (SWP3) to the extent necessary for compliance with the NPDES permit. However, entities who have complied with an NPDES permit authorizing discharge related to the permitted activity need not do more than what's required under the permit.

**Post Construction Controls for New Development or Redevelopment:**

This section requires that post construction control measures keep the post-construction pollutant run-off at levels that do not exceed the levels occurring prior to when the planned land disturbance and development began. There are a set of minimum post-construction control measures to be used by operators which shall incorporate Practices and be part of the post-construction Stormwater Pollution Prevention Plan (SWP3). The SWP3 should:

- Describe potential pollutant sources that may be reasonably expected to discharge a significant amount of pollutants;
- Detail all post construction stormwater quality measures which may include use of open, vegetated swales, buffer strips and detention ponds as well as minimizing impervious and maximizing pervious areas and other such measures;
- List such measures in the order in which they will be installed;
- Describe measures that will remove or minimize pollutants from the run-off as well as measures that protect the stream and riparian habitat; and
- Prepare a maintenance plan for the measures that will be made available to future parties who will assume the duties of operating and maintaining the post-construction storm water quality measures.

**Enforcement –Notice of Violation (NOV):** The City will engage in a tiered enforcement approach that will be tied to the operator's efforts to comply with the regulations and be proportionate to the infraction. The tiered approach may include the issuance of:

- Verbal warnings to make corrections;

- Written warnings to make corrections within a reasonable period of time;
- Warnings of non-compliance requiring immediate action; and
- Stop work orders.

**Injunctive Relief:** The City may petition for a preliminary or permanent injunction restraining persons from activities which would create further violations or compelling them to abate or remediate the violation.

**Compensatory Action:** Instead of pursuing other remedies, the City may require the violator to take alternative compensation actions such as storm drain stenciling, creek cleanups, attendance at workshops, etc.

**Civil Penalty:** Persons who violate the ordinance will be subject to civil penalties to the fullest extent of the law, a maximum fine of \$2,500 per day per violation, and the payment of all attorney fees, court costs, and other expenses associated with enforcement of the ordinance.

**Violations Deemed a Public Nuisance:** Conditions that violate the ordinance are deemed a threat to public health, safety, and welfare and are declared a public nuisance, which will allow the City to pursue remedies available for correcting or preventing those conditions.

**Other Remedies:** The City may, in addition to the above remedies, pursue any other remedies allowed under federal, State or local law.

**Additional Requirements:** This section reminds persons subject to this chapter that they are also subject to the relevant provisions of the Indiana Administrative Code (i.e. 327 IAC 15-5 and 327 IAC 15-13), the Indiana Stormwater Quality Manual, other chapters of Title 10 of the BMC (Wastewater), and Title 20 (Unified Development Ordinance – which in 20.05.040 and 20.09.240 set forth erosion control regulations for projects much smaller than one acre).

**Item Two - Ord 07-29 – Vacating Three Alley Segments in the 300 Block of South College Avenue and South Walnut Street at the Request of Downtown Redevelopment Partners, LLC for the Construction of Hotel Indigo**

**Ord 07-29** vacates three alley segments in the 300 block of South College Avenue and South Walnut Street on behalf of Downtown Redevelopment Partners, LLC (Peter Dvorak) who wish to construct a new, 105-room hotel on the corner of South College and East 3<sup>rd</sup> Street to be called Hotel Indigo.

Please note that the Plan Commission is scheduled to consider the site plan for the hotel on December 10<sup>th</sup> and the Plan Department requested that the Council schedule the vacation ordinance for final action on December 19<sup>th</sup>. That means you do not have the staff report from the Plan Department with its assessments and recommendations in this packet. Pat Shay, however, has provided what information he had on this evolving project included herein.

### General Vacation Procedures

Vacations of right-of-ways are governed by specific statutory procedures. Those procedures are found at I.C. 36-7-3-12 et seq. and start with the petitioner filing an application with the Council. The Clerk must assure that owners of property abutting the right-of-way are notified by certified mail of the proposed action and must also advertise the hearing wherein the public can offer its comments and objections against the ordinance to the Council (December 19, 2007). According to statute, the grounds for remonstrance are limited to questions of access and the orderly development of the area. In the event the ordinance is adopted by the Council, the Clerk must then file a copy with the County Recorder and the County Auditor.

In Bloomington, we begin with a pre-petition application submitted to the Planning Department. Staff reviews the request and notifies all the utility services, safety services, and the Board of Public Works of the proposed action. After receiving the responses and evaluating the proposal in terms of local criteria, they prepare a report and an ordinance for the Council Office. The City Clerk then assures that an ad is placed in the paper and that abutting property owners have been notified by certified mail of the public hearing

Please note that the Council's action to vacate a right-of-way or an easement must be done in the public interest. It extinguishes the City's interest in the property and generally has the effect of splitting the right-of-way between the adjacent owners.


The following paragraphs summarize the application of the local criteria to this request as presented in reports and background material provided by Lynne Darland, Zoning and Enforcement Manager.

## **Petition**

As noted in the introductory paragraphs, this packet will not have the benefit of the final Plan Staff materials because those won't be available until the Plan Commission packet goes out the end of next week.

According to the Memo from Lynne Darland, letter from Petitioner, and other information provided by the Plan Department, the Petitioner needs to consolidate some parcels in order to start a multi-phased, 5-story, 105-room hotel project at the south east corner of South College and East 3<sup>rd</sup> Street. The first phase would include the hotel and about 58-78 surface parking lot and the later phases may involve the replacement of the NAPA Auto Parts store with a "more appropriately scaled building and potentially structured parking for both phases." The hotel will also have amenities that include a small café, meeting rooms, indoor pool and a fitness room. The surface materials will include limestone, two colors of brick, and some EIFS along the north side and under the cap. One novel feature will be a multi-story vertical surface on the east and west sides of the building that "would accommodate changeable panels of local photos and murals." Improvements to the streetscape will include trees, pedestrian lighting, new sidewalks, a canopy, and a reduction in the number of drive cuts.

**Concerns of Surrounding Property Owners.** The Memo from Darland does not mention any concerns from neighbors (perhaps because the matter has not yet been heard by the Plan Commission).

**Description of Vacated Property.** The vacated property looks like this - (  ) - with the vertical strip being 12 feet wide and running about 342.5 feet south from East 3<sup>rd</sup> Street down the middle of the 300 block of South College and Walnut, and the horizontal strip being 16.5 feet wide and running about 132 feet between South College and the mid-block alley. Please note that the legal description of these right-of-ways was provided by the petitioner and is set forth in the ordinance and a map is enclosed.

**Interest of Utilities and Safety Services.** I.C. 36-7-3-16 protects utilities which occupy or use all or part of the public way from losing their rights upon the vacation of the right-of-way unless they choose to waive those rights. There are numerous utility interests in these alley ways (please see the summary in the packet) and Lynne Darland expects to have a letter from the Petitioner agreeing to satisfy all of their requests. Please note that the Police and Fire departments were also contacted and found no problem with the vacation.

**Current Status - Access to Property.** The Memo indicates that the “area has been constructed with a grid pattern of public streets. There is ample access to this and all surrounding properties...[and ]both Fire and Police Departments find that they can adequately serve the area without” these right-of-ways.”

### **Necessity for Growth**

**Future Status** – The Memo found that “no public utilization of these right-of-ways is anticipated by the City [and that] ...[a]ll public services can be adequately served through the remaining right-of-ways in the immediate area with the use of easements.”

**Private Utilization** – the Memo indicates that the vacation “will allow the Petitioner to move forward with their redevelopment project.” Please refer to the summary of this project presented earlier in this memo and the Petitioner materials in the background material for a description of the project. Please also note that the Petitioner materials indicate that, even in the event this project doesn’t go forward, the vacation would be needed for any other redevelopment of the site.

**Compliance with regulations** – The Staff Report says that the vacation “will not create any issues regarding compliance with local regulations.” However, an e-mail from Pat Shay indicates that as of Thursday, November 29<sup>th</sup>, the project would require the following waivers (which may shrink by the time the site plan reaches the Plan Commission):

- Height (65’ versus 50’);
- Building Step Back from adjacent street for portion over 45’ in height;
- Front Yard Parking Setback (20 feet behind front façade required);
- Side/Rear Yard Parking Setback (5’ required);
- Build-to-Line (0’ required versus 5’-10’ shown);
- Tree Plot rather than tree grate (which will probably change by the hearing date);
- Void-to-Solid Ratio (70% required on first and 20% on upper floors); and
- Windows (lintels required, but horizontal banding shown; non-reflected glass required, but tinted/reflective glass shown, which mask internal mechanicals, stairs, and laundry areas; and, a 1:1.5 width to length ratio required, but greater variety shown in order to break up the repetitive window pattern).

**Relation to City Plans** – The Memo indicates that “the proposal is consistent with City plans. Hotels, restaurants, retail and offices are permitted uses in this Commercial Downtown (CD) zoning [and Downtown Core Overlay] district.” Here, the Report stressed the importance of more non-residential structures in the downtown.

### **Approvals and Recommendation**

The Memo notes that the Board of Public Works voted not to oppose the vacation and that the Plan Department recommends its approval.

#### **Item three – Ord 07-30 – Amending Title 2 (Administration and Personnel) to Reflect Current Practices in Regard to the Administration of the City’s Cemeteries**

**Ord 07-30** amends Title 2 of the Bloomington Municipal Code “Administration and Personnel” by formally shifting the responsibility for the administration and maintenance of the Rose Hill Cemetery Department from the Department of Public Works to the Department of Parks and Recreation. The Rose Hill Cemetery Department consists of Rose Hill Cemetery located at 930 West Fourth Street and White Oak Cemetery located at 1100 West Seventh Street.

Currently, the Bloomington Municipal Code locates responsibility for both the administration and the appointment of the cemetery Superintendent with the City’s Public Works Department (BMC §2.11.060). However, for a number of years, administration of the City’s cemeteries has been provided by the Department of Public Works *via* the Board of Parks Commissioners. Similarly, for a number of years, the Superintendent of the Rose Hill Cemetery Department has been an employee of the Parks and Recreation Department, not Public Works. This ordinance changes the Code to reflect current practice.

In shifting the administration of the cemeteries from Public Works to Parks and Recreation, much of the substantive provisions of the ordinance governing administration, prepayment and proof ownerships procedures remain the same: instead of Public Works, the Board of Parks Commissioners now has authority to promulgate rules and regulations; instead of prepayment and proof of ownership being presented to Superintendent appointed by the Director of Public Works, they are presented to the Parks and Recreation Department.

However, Ord 07-30 does make a few significant changes. First, it eliminates the previous fee schedule for grave space and interment and instead, gives the Board of Park Commissioners authority to establish such fees subject to annual review by the Board. Secondly, Ord 07-30 makes it clear that all money received from the cemeteries shall be deposited into the Parks and Recreation General Fund. The current code states that all cemetery monies are to be deposited into the cemetery fund. That fund, however, was closed when the Parks Department merged the revenue and expenses of the cemetery fund with the Parks General Fund as part of the City's 2002 budget and shifted the balance of \$93,456 to the Parks General Fund with App Ord 02-11.

**Happy Birthday Alicia Ayers – Hearings Officer, Clerk's Office**

**NOTICE AND AGENDA  
BLOOMINGTON COMMON COUNCIL REGULAR SESSION  
7:30 P.M., WEDNESDAY, DECEMBER 05, 2007  
COUNCIL CHAMBERS  
SHOWERS BUILDING, 401 N. MORTON ST.**

**I. ROLL CALL**

**II. AGENDA SUMMATION**

- III. APPROVAL OF MINUTES FOR:**      October 17, 2007 (Regular Session)  
November 7, 2007 (Regular Session)  
November 14, 2007 (Special Session)

**IV. REPORTS FROM:**

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public**

**V. APPOINTMENTS TO BOARDS AND COMMISSIONS**

**VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS**

1. Res 07-16 Establishing a Bloomington Peak Oil Task Force

Committee Recommendation:    Do Pass 7 – 0 – 1

2. App Ord 07-06 To Specially Appropriate from the General Fund, Cumulative Capital Development Fund, Cumulative Capital Improvement – Rate Fund, Fleet Maintenance Fund, Motor Vehicle Highway Fund, Risk Management Fund, Redevelopment Lease Rental Bonds of 1991 Fund, and Parking Facilities Lease Rental Bonds of 1992 Fund Expenditures Not Otherwise Appropriated (Appropriating Various Transfers of Funds within the General Fund for Animal Care & Control, Clerk’s Office, and Fire; Appropriating Transfers of Funds within the Fleet Maintenance Fund and the Motor Vehicle Highway Fund; Appropriating Funds from the General Fund for Clerk, Police and Information Technology Services; Appropriating Funds from the Cumulative Capital Development Fund, the Cumulative Capital Improvement – Rate Fund, the Risk Management Fund, the Redevelopment Lease Rental Bonds of 1991, and the Parking Facilities Lease Rental Bonds of 1992 Fund)

Committee Recommendation:    Do Pass 7 – 0 – 1

**VII. LEGISLATION FOR FIRST READING**

1. Ord 07-28 To Amend Title 10 of the Bloomington Municipal Code Entitled “Wastewater” – Re: Addition of Chapter 10.21 entitled “Constructed Site and Post Construction Stormwater Control”
2. Ord 07-29 To Vacate Public Parcels – Re: Three Alley Rights-of-Way Segments in the 300 Block of South Walnut and South College Including Segments Running: 1) North/South from Third Street South about 257 Feet; 2) East/West from College Avenue East about 145 Feet and Intersecting with the First Segment; and, 3) North/South in Line with the First Segment South about 69 Feet (Downtown Redevelopment Partners, LLC, Petitioner)
3. Ord 07-30 To Amend Title 2 of the Bloomington Municipal Code Entitled “Boards, Commissions and Councils” – Re: Administration of the City’s Cemeteries

**VIII. PRIVILEGE OF THE FLOOR** (This section of the agenda will be limited to 25 minutes maximum, with each speaker limited to 5 minutes)

**IX. ADJOURNMENT**



City of  
Bloomington  
Indiana

City Hall  
401 N. Morton St.  
Post Office Box 100  
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To: Council Members  
From: Council Office  
Re: Calendar for the Week of December 3-7, 2007

**Monday, December 3, 2007**

5:00 pm Redevelopment Commission, McCloskey  
5:30 pm Homebuyer's Club, Council Chambers  
5:30 pm Bicycle & Pedestrian Safety Commission Work Session, Hooker Room  
6:00 pm Bloomington Entertainment and Arts District Organizational Meeting, Bloomington Convention Center, 302 S. College Ave.

**Tuesday, December 4, 2007**

2:00 pm Indiana Foodways Alliance, Council Chambers  
4:00 pm Steering Committee for Griffy Lake Master Plan Update, McCloskey  
6:00 pm Neighborhood Improvement Grant Meeting, McCloskey  
7:30 pm Telecommunications Council, Council Chambers

**Wednesday, December 5, 2007**

10:30 am Safe Routes to School Task Force, McCloskey  
12:00 pm Bloomington Urban Enterprise Association, McCloskey  
7:30 pm Common Council Regular Session, Council Chambers

**Thursday, December 6, 2007**

11:30 am Solid Waste Management District Board, Monroe County Courthouse, Judge Nat U. Hill, III Room  
12:00 pm Council Sidewalk Committee, McCloskey  
4:00 pm Bloomington Digital Underground, McCloskey  
5:30 pm Commission on the Status of Women, McCloskey

**Friday, December 7, 2007**

*Happy Birthday Alicia Ayers, Appeals Officer!*

**Saturday, December 8, 2007**

8:00 am Historic Preservation Commission Workshop on Homeowner's Tax Credit, Council Chambers



City of Bloomington  
Office of the Common Council

# MEETING NOTICE

## Common Council Sidewalk Committee

**Thursday, 06 December 2007**  
**Noon**  
**McCloskey Room**  
**City Hall, 401 N. Morton**

The purpose of the meeting is to discuss sidewalk projects for 2008. Because a quorum of the Council may be present, this meeting may constitute a meeting of the Council as well as of the Committee under the Indiana Open Door Law. This statement provides notice that the meeting will occur and is open for the public to attend, observe, and record what transpires.

Posted: Friday, 21 November 2007

**ORDINANCE 07-28**

**TO AMEND TITLE 10 OF THE BLOOMINGTON MUNICIPAL CODE  
ENTITLED “WASTEWATER” -**

**Re: Addition of Chapter 10.21 entitled “Construction Site and  
Post Construction Stormwater Control”**

WHEREAS, the City of Bloomington, Indiana (the “City”) has constructed and has in operation a stormwater collection system for the purpose of collecting stormwater within its jurisdiction and said system is subject to certain federal and State regulations; and,

WHEREAS, the United States Environmental Protection Agency (EPA) has promulgated a regulation affecting the City’s stormwater collections system, which is entitled “National Pollutant Discharge Elimination System (NPDES) – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges” (Federal Register, Volume 64, Number 235, pages 68722 – 68852) on December 8, 1999 as required by section 402(p) of the Clean Water Act (CWA); and,

WHEREAS, the Water Pollution Control Program is administered by the Indiana Department of Environmental Management with the adoption of 327 IAC 15-5 for Storm Water Run-off Associated with Construction Activity, and 327 IAC 15-13 for Storm Water Run-Off Associated with Municipal Separate Storm Sewer System (MS4) Conveyances; and,

WHEREAS, 327 IAC 15-13-15 (b) requires the City to pass an ordinance or other local regulatory mechanism establishing a construction program that controls polluted run-off from construction activities with a land disturbance greater than or equal to one acre, or disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land; and,

WHEREAS, the required ordinance or other local regulatory mechanism must contain, at a minimum, the requirements of 327 IAC 15-5 except for state permitting process references and submittal deadlines of construction plans; and,

WHEREAS, the required ordinance or other regulatory mechanism must contain, at a minimum, the post-construction requirements of 327 IAC 15-5-6.5(a)(8); and,

WHEREAS, the creation of a new stormwater management program could help address stormwater management problems; and

WHEREAS, the City operates its stormwater system under the provisions of IC 36-9-23;

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

SECTION 1. The municipal code shall be amended to add the following Chapter 10.21 to Title 10:

**Chapter 10.21**

**CONSTRUCTION SITE AND POST CONSTRUCTION STORMWATER CONTROL**

**Sections:**

- 10.21.010 Purpose and intent.**
- 10.21.020 Definitions**
- 10.21.030 Applicability**
- 10.21.040 Responsibility for administration**

<b>10.21.050</b>	<b>Ultimate responsibility</b>
<b>10.21.060</b>	<b>Responsibility of construction site owner</b>
<b>10.21.070</b>	<b>General requirements for stormwater quality control</b>
<b>10.21.080</b>	<b>General requirements for individual building lots within a permitted project</b>
<b>10.21.090</b>	<b>Monitoring of discharges</b>
<b>10.21.100</b>	<b>Requirement to prevent, control, and reduce storm water pollutants by the use of best management practices</b>
<b>10.21.110</b>	<b>Post-construction controls for new development or redevelopment</b>
<b>10.21.120</b>	<b>Enforcement</b>
<b>10.21.130</b>	<b>Injunctive relief</b>
<b>10.21.140</b>	<b>Compensatory action</b>
<b>10.21.150</b>	<b>Civil penalty</b>
<b>10.21.160</b>	<b>Violations deemed a public nuisance</b>
<b>10.21.170</b>	<b>Remedies not exclusive</b>
<b>10.21.180</b>	<b>Additional requirements</b>

**Section 10.21.010 Purpose and intent**

(a) Construction Site Control. The purpose of this ordinance is to establish requirements for stormwater discharges from construction activities of one acre or more so that the public health, existing water uses, and aquatic biota are protected. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate construction activities disturbing more than one acre of land as governed by 327 IAC 15-5.
- (2) To require construction site operators to develop and implement a Construction Plan including a Storm Water Pollution Prevention Plan in order to receive a land disturbance permit from the City.

(b) Post-Construction Control. The purpose of this ordinance is also to implement planning procedures that promote and improve water quality. The planning procedures will include, at a minimum, the post-construction requirements of 327 IAC 15-5-6.5(a)(8). The City may require the use of any storage, infiltration, filtering, and/or vegetative practices to reduce the impact of pollutants on stormwater runoff. Where appropriate, and to the extent of the MS4 operator's authority, the planning procedures may also include the following:

- (1) Buffer strip and riparian zone preservation.
- (2) Filter strip creation.
- (3) Minimization of land disturbance and surface imperviousness.
- (4) Minimization of directly connected impervious areas.
- (5) Maximization of open space.
- (6) Directing the community's growth away from sensitive areas and towards areas that can support growth without compromising water quality.

**Section 10.21.020 Definitions**

For the purposes of this ordinance, the following shall mean:

- (a) Authorized Enforcement Agency: employees or designees of the Mayor of the City of Bloomington, Indiana.
- (b) Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

- (c) Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (d) Construction Activity: Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acre or more, as defined in 327 IAC 15-5. Such activities include but are not limited to clearing and grubbing, land disturbance, excavating, and demolition.
- (e) Hazardous Materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (f) Illegal Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in the Bloomington Municipal Code Chapter 10.20 Illicit Stormwater Connection and Discharge.
- (g) Illicit Connections: An illicit connection is defined as either of the following:
  - (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
  - (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (h) Indiana Stormwater Quality Manual: A reference manual developed by the State of Indiana that provides guidance on planning principals, as well as criteria for specific structural and non-structural stormwater management practices.
- (i) Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 327 IAC 15-6.
- (j) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (k) Non-Storm Water Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.
- (l) Person: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- (m) Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- (n) Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

- (o) Storm Drainage System: Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (p) Storm Water: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (q) Stormwater Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
- (r) Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

**Section 10.21.030 Applicability**

- (a) This ordinance covers any new development or re-development construction site resulting in the disturbance of one acre or more of total land area. Persons must meet the general permit rule applicability requirements under 327 IAC 15-2-3. This ordinance also applies to disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land within the corporate limits of the City.
- (b) All terms, conditions, definitions, and other measures defined in 327 IAC 15-5 shall apply except for state permitting process references and submittal deadlines of construction plans.
- (c) This ordinance does not apply to persons who obtain an individual NPDES permit under 327 IAC 15-2-6.
- (d) This ordinance does not apply to Indiana University which operates as its own MS4 and has its own NPDES permit under 327 IAC 15-2-6.
- (e) This ordinance does not apply to the Indiana Department of Transportation when it conducts its business within the City corporate limit under its NPDES permit under 327 IAC 15.
- (f) This ordinance does not apply to the following types of activities:
  - (1) Agricultural land disturbance activities.
  - (2) Forest harvesting activities.
- (g) This ordinance does not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:
  - (1) Landfills that have been issued a certification of closure under 329 IAC 10.
  - (2) Coal mining activities permitted under IC 14-34.
  - (3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

**Section 10.21.040 Responsibility for administration**

The City shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Mayor of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

**Section 10.21.050 Ultimate responsibility**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will not be violations of NPDES permits.

**Section 10.21.060 Responsibility of construction site owner**

- (a) The project site owner has the following responsibilities:
  - (1) Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the City. Application for an approved construction plan, including post-construction controls required in section 10.21.110 below, also referred to as a stormwater pollution prevention plan (SWP3) shall be made to the City Engineering Department. The City Engineering Department and the City Utilities Department will establish procedures and specific standards for obtaining an approved SWP3 consistent with the provisions of this Chapter. The application fee for the SWP3 shall be \$85.00, and until said fee is paid no action shall be taken on the application.
  - (2) Complete a sufficient notice of intent letter submitted to the City with a copy sent to the Indiana Department of Environmental Management.
  - (3) Make application for a land disturbance permit in accordance with procedures established by the City.
  - (4) Ensure compliance with this ordinance during:
    - (A) the construction activity; and
    - (B) implementation of the construction plan.
  - (5) Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this rule and the approved construction plan.
  - (6) Notify the City with a sufficient notice of termination letter with a copy sent to the Indiana Department of Environmental Management.
- (b) For off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.
- (c) For an individual lot where land disturbance is expected to be one acre or more and the lot lies within a project site permitted under this rule, the individual lot owner shall:
  - (1) Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the City.
  - (2) Complete his or her own notice of intent letter and submit it to the City.
  - (3) Apply for a building permit in accordance with the procedures established by the City.
- (d) For an individual lot where the land disturbance is less than one acre and the lot lies within a project site permitted under this rule, the individual lot operator shall:
  - (1) Comply with the provisions and requirements of the plan developed by the project site owner in accordance with the procedures established by the City.
  - (2) Comply with the provisions set forth in section 10.21.100 below.
  - (3) Not need to submit a notice of intent letter.
  - (4) Apply for a building permit in accordance with the procedures established by the City.

**Section 10.21.070 General requirements for stormwater quality control**

All storm water quality measures and erosion and sediment controls necessary to comply with this ordinance must be implemented in accordance with the construction plan and sufficient to satisfy the following conditions. A project site owner shall, at least, meet the following requirements:

- (a) Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation.

- (b) Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations.
- (c) A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.
- (d) Public or private roadways shall be kept cleared of accumulated sediment that is a result of run-off or tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
- (e) Storm water run-off leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.
- (f) The project site owner shall post a notice near the main entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and contain the following information:
  - (1) Copy of the completed NOI letter and the NPDES permit number, where applicable.
  - (2) Name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person.
  - (3) Location of the construction plan if the project site does not have an on-site location to store the plan.
- (g) This permit and posting of the notice under subsection (f) above does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site.
- (h) The storm water pollution prevention plan shall serve as a guideline for storm water quality, but should not be interpreted to be the only basis for implementation of storm water quality measures for a project site. The project site owner is responsible for implementing, in accordance with this rule, all measures necessary to adequately prevent polluted storm water run-off.
- (i) The project site owner shall inform all general contractors, construction management firms, land disturbance or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of this rule and the conditions and standards of the storm water pollution prevention plan and the schedule for proposed implementation.
- (j) Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.
- (k) Appropriate measures shall be planned and installed as part of an erosion and sediment control system.
- (l) All storm water quality measures must be designed and installed under the guidance of a trained individual.
- (m) Collected run-off leaving a project site must be either discharged directly into a well-defined, stable receiving channel or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.
- (n) Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.



- (o) Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water run-off.
- (p) Unvegetated areas that are scheduled or likely to be left inactive for fifteen (15) days or more must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to site stabilization are acceptable if the project site owner or their representative can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas with a density of less than seventy percent (70%) shall be restabilized using appropriate methods to minimize the erosion potential.
- (q) During the period of construction activities, all storm water quality measures necessary to meet the requirements of this rule shall be maintained in working order.
- (r) A self-monitoring program that includes the following must be implemented:
  - (1) A trained individual shall perform a written evaluation of the project site:
    - (A) by the end of the next business day following each 0.5 inch of rain; and
    - (B) at a minimum of one time per week.
  - (2) The evaluation must:
    - (A) address the maintenance of existing storm water quality measures to ensure they are functioning properly; and
    - (B) identify additional measures necessary to remain in compliance with all applicable laws and ordinances.
  - (3) Written evaluation reports must include:
    - (A) the name of the individual performing the evaluation;
    - (B) the date of the evaluation;
    - (C) problems identified at the project site; and
    - (D) details of corrective actions recommended and completed.
  - (4) All evaluation reports for the project site must be made available to the inspecting authority within forty-eight (48) hours of a request.
- (s) Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.
- (t) Final stabilization of a project site is achieved when:
  - (1) all land disturbance activities have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent (70%) has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed; and
  - (2) construction projects on land used for agricultural purposes are returned to its preconstruction agricultural use or disturbed areas, not previously used for agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements in subsection (t)(1) above.

**Section 10.21.080     General requirements for individual building lots within a permitted project**

All storm water quality measures, including erosion and sediment control, necessary to comply with this ordinance must be implemented in accordance with the plan and sufficient to satisfy the following conditions.

Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:

- (a) The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.

- (b) Installation and maintenance of a stable construction site access.
- (c) Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
- (d) Sediment discharge and tracking from each lot must be minimized throughout the land disturbance activities on the lot until permanent stabilization has been achieved.
- (e) Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable laws and ordinances.
- (f) Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
- (g) For individual residential lots, final stabilization meeting the criteria in subsection 10.21.070(t) above rule will be achieved when the individual lot operator:
  - (1) completes final stabilization; or
  - (2) has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization.

**Section 10.21.090 Monitoring of discharges**

The City shall have the authority to monitor discharges from construction sites covered under this ordinance and as provided in the Bloomington Municipal Code Chapter 10.20 Illicit Stormwater Connection and Discharge.

**Section 10.21.100 Requirement to prevent, control, and reduce storm water pollutants by the use of best management practices**

The City will establish requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a construction site shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWP3) to the extent necessary for compliance with requirements of the NPDES permit.

**Section 10.21.110 Post-construction controls for new development or redevelopment**

On areas that undergo new development or redevelopment, site construction resulting in disturbance of one acre or more total land area, post-construction control measures in the form of structural and/or non-structural best management practices are required. Specifically, post-construction storm water pollutant loading should not exceed pre-construction pollutant loading. Pre-construction refers to the site immediately before the planned land disturbance and development activities occur. Pre-construction is not intended to be interpreted as that period before any human-induced land disturbance activity has occurred. Post-construction pollutant loadings will be controlled through the six minimum control measures under the City's storm water NPDES permit. Post-construction storm water best management practices (BMPs) shall follow Indiana's Storm Water Quality Manual as a guidance document. The City shall have full technical and administrative approval authority on the application and design of all post-construction BMPs, conditions, definitions, and submittal requirements of construction plans and specifications and other related documents. The minimum

measures are implemented to meet the terms defined in 327 IAC 15-5-6.5(a)(8) which are enumerated below.

The Post-construction Storm Water Pollution Prevention Plan (SWP3). The SWP3 must include the following information:

- (a) A description of potential pollutant sources from the proposed land use that may reasonably be expected to add a significant amount of pollutants to storm water discharges.
- (b) Location, dimensions, detailed specifications, and construction details of all post-construction storm water quality measures.
- (c) A description of measures that will be installed to control pollutants in storm water discharges that will occur after construction activities have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, buffer strip and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and storm water retention and detention ponds.
- (d) A sequence describing when each post-construction storm water quality measure will be installed.
- (e) Storm water quality measures that will remove or minimize pollutants from storm water run-off.
- (f) Storm water quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.
- (g) A narrative description of the maintenance guidelines for all post-construction storm water quality measures to facilitate their proper long term function. This narrative BMP description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction storm water quality measures.

#### **Section 10.21.120 Enforcement**

Enforcement of this ordinance shall be subject to the severity of the infraction and the construction site operator's efforts to comply. The City shall reserve the right to interpret enforcement on a case by case basis. Tiered enforcement will be practiced at the Mayor's discretion. The tiered enforcement may include:

- (a) Verbal warning to the construction site operator to make corrections.
- (b) Written warning to the construction site operator to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.
- (c) Warning of Non-Compliance with directions to the construction site operator that site conditions require immediate action.
- (d) Stop Work Order.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

**Section 10.21.130 Injunctive relief**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**Section 10.21.140 Compensatory action**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

**Section 10.21.150 Civil penalty**

Any person that has violated or continues to violate this ordinance shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to two thousand five hundred dollars per violation per day.

The authorized enforcement agency may recover all attorney's fees court costs, consultant costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**Section 10.21.160 Violations deemed a public nuisance**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**Section 10.21.170 Remedies not exclusive**

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

**Section 10.21.180 Additional requirements**

Compliance with the requirements set out in this provision shall not relieve any person of the independent obligation to comply with all applicable standards and practices set out in Indiana Administrative Code, 327 IAC 15-5 and 327 IAC 15-13, regarding storm water runoff associated with construction activity; the Indiana Stormwater Quality Manual developed by the Indiana Department of Environmental Management; all applicable provisions of *Title 10: Wastewater* of the Bloomington Municipal Code regarding storm water runoff and of *Title 20: Zoning*; and all applicable rules, regulations, standards and specifications of the City Utilities Department regarding storm water management practices.

SECTION 2. SEVERABILITY. The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 3. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor and publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_ day of December, 2007.

\_\_\_\_\_  
DAVE ROLLO, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon the \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

#### SYNOPSIS

The Federal Stormwater Phase II NPDES permit program administered by the Indiana Department of Environmental Management includes requirements for management of stormwater run-off associated with municipal separate storm sewer system (“MS4”) conveyances. This ordinance brings the City of Bloomington into compliance with the requirements of 327 IAC 15-5 and 327 IAC 15-13. It requires Stormwater Pollution Prevention Plans (“SWP3”) which includes erosion and sediment control measures and materials handling procedures to be submitted as part of the construction plans and specifications in order to be issued a land disturbance permit for construction sites disturbing one acre or more of land. The ordinance also requires the development of Post-Construction stormwater control measures for new development and redevelopment to be submitted and approved as part of the construction plans and specifications.



**CITY OF BLOOMINGTON  
LEGAL DEPARTMENT  
MEMORANDUM**

**TO: Bloomington Common Council Members**

**FROM: Vickie Renfrow, Assistant City Attorney**

**RE: Ordinance 07-28 Construction Site and Post Construction Stormwater Control – Addition of Chapter 10.21 to the Bloomington Municipal Code**

**DATE: November 21, 2007**

During the December 5, 12, 19 legislative cycle the Common Council will be asked to approve and adopt Ordinance 07-28 Construction Site and Post Construction Stormwater Control which would add Chapter 21 to the Bloomington Municipal Code Title 10 “Wastewater”. As you know, the stormwater utility is part of the sewage works, and the provisions in the Bloomington Municipal Code that deal with stormwater are included in Title 10 “Wastewater”. You may recall that in 2006 we added Chapter 20 to that title which dealt with illicit stormwater connections and discharges. The provision was one of two legislative changes required by the Indiana Department of Environmental Management (IDEM) to come into compliance with its rules regarding stormwater management. The Federal Stormwater Phase II NPDES permit program administered by IDEM includes requirements for management of stormwater run-off associated with municipal separate storm sewer system (“MS4”) conveyances. Ordinance 07-28 is the second of these legislative mandates, and it brings the City of Bloomington into compliance with the requirements of 327 IAC 15-5 and 327 IAC 15-13. It requires Stormwater Pollution Prevention Plans (“SWP3”) which includes erosion and sediment control measures and materials handling procedures to be submitted as part of the construction plans and specifications in order to be issued a land disturbance permit for construction sites disturbing one acre or more of land. The ordinance also requires the development of Post-Construction stormwater control measures for new development and redevelopment to be submitted and approved as part of the construction plans and specifications.

The language of the ordinance for the most part tracks that in the IDEM rules as set out in the Indiana Administrative Code. The Ordinance allows the City to meet the minimum standards of the new rules, and operates in conjunction with the illicit connection and discharge ordinance and other provisions in the Bloomington Municipal Code, e.g., grading permit requirements, to provide the authority to engage in regulatory action to assure compliance with State and Federal laws, rules and regulations. The ordinance has been reviewed by the Utilities Service Board and the USB unanimously recommended that the Common Council approve and adopt the ordinance.

327 IAC 15-13-15 Storm water quality management plan construction site storm water run-off control MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 15. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop, implement, manage, and enforce an erosion and sediment control program for construction activities that disturb one (1) or more acres of land within the MS4 area.

(b) Through an ordinance or other regulatory mechanism, the MS4 operator shall establish a construction program that controls polluted run-off from construction activities with a land disturbance greater than or equal to one (1) acre, or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land. Except for state permitting process references and submittal deadlines of construction plans and permit applications in 327 IAC 15-5, this ordinance or other regulatory mechanism must contain, at a minimum, the requirements of 327 IAC 15-5. The MS4 operator may establish a permitting process and timetable for plan and application submittals that are different than that established under 327 IAC 15-5. The permitting process must include a requirement for the construction project site owner to submit a copy of the application directly to the department. A certification form shall be completed and submitted to the department once the ordinance or other regulatory mechanism is developed and a program has been implemented or three hundred sixty-five (365) days from the date the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the regulatory mechanism and program shall be reviewed for adequacy and accuracy and updated as necessary. Until the MS4 operator program is implemented, NOI letters and construction plans for construction activities within the MS4 area will be submitted in accordance with 327 IAC 15-5-5 and 327 IAC 15-5-6 to the department and the local SWCD or department of natural resources, division of soil conservation, respectively.

(c) If the MS4 operator has not entered into a written agreement with the local SWCD to review and approve construction site plans or conduct construction site inspections, the MS4 operator shall provide an opportunity to the local SWCD to provide comments and recommendations to the MS4 operator on individual projects. This process may be accomplished by the MS4 operator establishing a local plan review and comment procedure, a project technical review committee, or other mechanism to solicit the input of the local SWCD.

(d) Failure of the SWCD to respond within a predetermined time period should not delay final action of the MS4 operator to approve plans or projects.

(e) In addition to any procedural requirements for submittal to the MS4 operator or MS4 designated entity, an NOI letter required under 327 IAC 15-5 must be submitted to the department for any projects within the MS4 area.

(f) The MS4 operator, or a designated MS4 entity, shall meet the following:

(1) Develop requirements for the implementation of appropriate BMPs on construction sites to control sediment, erosion, and other waste.

(2) Review and approve the construction plans submitted by the construction site operator before construction activities commence.

(3) Develop procedures for site inspection and enforcement to ensure that BMPs are properly installed.

(4) Establish written procedures to identify priority sites for inspection and enforcement based on, at a minimum, the nature and extent of the construction activity, topography, and the characteristics of soils and receiving water quality.

(5) Develop procedures for the receipt and consideration of public inquiries, concerns, and information submitted regarding local construction activities.

(6) Implement, at a minimum, a tracking process in which submitted public information, both written and verbal, is documented and then given to appropriate staff for follow-up.

(g) MS4 area personnel responsible for plan review, inspection, and enforcement of construction activities shall receive, at a minimum, annual training addressing such topics as appropriate control measures, inspection protocol, and enforcement procedures.

(h) An MS4 operator shall develop measurable goals for this MCM. To comply with this measure, specific outreach, compliance, and implementation goal percentages and timetables must be identified. At a

minimum, goals must address relevant regulatory mechanism implementation, public informational request procedure implementation, site inspection procedure implementation, and construction site operator compliance improvement.

(i) For those construction activities operated by the MS4 operator or MS4 municipalities within the MS4 area, construction plans must be submitted to the local SWCD, the department of natural resources, division of soil conservation, or other entity designated by the department for review and approval. If the MS4 operator does not receive either a notice of deficiency or an approval within thirty-five (35) days of the submittal, the plan will be considered adequate. After a one (1) year period of compliance, the MS4 operator or the designated MS4 entity need not submit the plans and may review MS4-operated project construction plans internally with the written authorization of the department of natural resources, division of soil conservation.

(j) In addition to the requirements of 327 IAC 15-5-6.5, the MS4-operated project construction plans must include a traffic phasing plan for those projects that have the potential to alter vehicular traffic routes.

(k) In addition to the requirements of 327 IAC 15-5-6.5(a)(7), the MS4-operated project storm water pollution prevention plan must address the following areas outside of right-of-ways:

- (1) Utility relocation areas.
- (2) Material hauling and transportation routes/roads.
- (3) Borrow pits.
- (4) Temporary staging and material stockpile areas.
- (5) Temporary disposal areas for waste materials.

*(Water Pollution Control Board; 327 IAC 15-13-15; filed Jul 7, 2003, 2:15 p.m.: 26 IR 3590; errata filed Sep 8, 2003, 3:15 p.m.: 27 IR 191)*



**ORDINANCE 07-29**

**TO VACATE PUBLIC PARCELS**

**Re: Three Alley Rights-of-Way Segments in the 300 Block of South Walnut and South College Including Segments Running : 1) North/South from Third Street South about 257 Feet; 2) East/West from College Avenue East about 145 Feet and Intersecting with the First Segment; and, 3) North/South in Line with the First Segment South about 69 Feet (Downtown Redevelopment Partners, LLC, Petitioner)**

WHEREAS, I.C. 36-7-3-12 authorizes the Common Council to vacate public ways and places upon petition of persons who own or are interested in lots contiguous to those public ways and places; and

WHEREAS, the petitioners, Downtown Redevelopment Partners, LLC., have filed a petition to vacate three parcels of City property more particularly described below in order to construct a hotel;

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

SECTION I. Through the authority of I.C. 36-7-3-12, three segments of alley right-of-way located in the 300 block of South College and South Walnut shall be vacated. These right-of-ways are adjacent to 301, 327, and 335 South College and 300, 314, 328, and 336 South Walnut and include: 1) a 12 foot wide segment located between College Avenue and Walnut Street starting at Third Street and running south approximately 257.14 feet; 2) a 16.5 foot wide segment located adjacent to College Avenue and running east/west 144.89 feet to intersect with the aforementioned north/south alley right-of-way; and, 3) a 12 foot wide segment located between College Avenue and Walnut Street starting at the south end of the second segment and running in line with the first segment south 68.74 feet. Specifically, these rights-of-way segments are located between Part of Fractional Lot 22 & Part Lots 23 and 24 of Seminary Addition and are more particularly described as follows:

Apparent North -South Alley north of platted 12 foot alley

A part of Fractional Lot Number 22 of the Original Plat of the Town of Bloomington, Indiana per plat thereof as recorded in Book "A" page 5 in the Office of the Recorder of Monroe County, Indiana, and a part of Lot Number 24 of the Seminary Addition per plat thereof as recorded in Plat Cabinet "B" envelope 1 also in the Office of the Recorder of Monroe County, Indiana and more particularly described as follows:

1. Commencing at the northwest corner of said Lot Number 22 (also being the intersection of the South right-of-way of Third Street and the East right-of-way of College Ave.); thence South 89 degrees 41 minutes 05 seconds East 132.29 feet along said southerly right-of-way of Third Street and north line of said Fractional Lot Number 22 to the westerly line of an apparent 12 foot wide alley (said 12 foot alley is cited in various deed records, however it is not on the record plats) and an Iron Pin w/cap stamped "Larrison 20000230" and the Point of Beginning of this description;
2. thence South 00 degrees 14 minutes 02 seconds West 257.14 feet along the west line of said apparent 12 foot wide alley to the south line of said Lot 24 and the north line of a platted alley between Lots 23 and 24 of said Seminary Addition and an Iron Pin w/cap stamped "Larrison 20000230";
3. thence North 89 degrees 51 minutes 55 seconds East 12.00 feet along the south line of said Seminary Addition Lot 24 to the east line of said apparent 12 foot alley;
4. thence North 00 degrees 14 minutes 02 seconds East 257.05 feet along the east line of said apparent 12 foot alley to the said southerly right-of-way of Third Street and north line of said Fractional Lot Number 22 and Iron Pin w/cap stamped "Larrison 20000230"
5. thence North 89 degrees 41 minutes 05 seconds West 12.00 feet along the said southerly right-of-way of Third Street and north line of said Fractional Lot Number 22 to the Point of Beginning of this description.

East -West 16.5 foot Platted Alley

A part of that platted alley that lies between Lot Number 23 and Lot Number 24 of the Seminary Addition per plat thereof as recorded in Plat Cabinet "B" envelope 1 also in the Office of the Recorder of Monroe County, Indiana and more particularly described as follows:

1. Beginning at the northwest corner of said Lot Number 23 (also being a point on the East right-of-way of College Ave.) thence North 89 degrees 51 minutes 55 seconds East 144.89 feet along said south line

- of platted alley to the east line of an apparent 12 foot wide alley (said 12 foot alley is cited in various deed records, however it is not on the record plats) ;
2. thence North 00 degrees 14 minutes 02 seconds East 16.50 feet along said east line to the north line of said platted alley and the south line of said Lot Number 24;
  3. thence South 89 degrees 51 minutes 55 seconds West 144.86 feet along said north line of the platted alley to the said east right-of-way of College Ave.
  4. thence South 00 degrees 21 minutes 33 seconds West 16.50 feet along said east right-of-way of College Ave. to the Point of Beginning.

Apparent North -South Alley south of platted 12 foot alley

A part of Lot Number 23 of the Seminary Addition per plat thereof as recorded in Plat Cabinet "B" envelope 1also in the Office of the Recorder of Monroe County, Indiana and more particularly described as follows:

1. Commencing at the northwest corner of said Lot Number 23 (also being a point on the East right-of-way of College Ave.) thence North 89 degrees 51 minutes 55 seconds East 132.89 feet along said south line of platted alley to the west line of an apparent 12footwide alley (said 12 foot alley is cited in various deed records, however it is not on the record plats) and the Point of Beginning of this description;
2. thence South 00 degrees 14 minutes 02 seconds West 68.74 feet along said west line;
3. thence North 89 degrees 51 minutes 55 seconds East 12.00 feet to the east line of said apparent 12 foot wide alley;
4. thence North 00 degrees 14 minutes 02 seconds East 68.74 feet along said east line to the north line of said Lot Number 23;
5. thence South 89 degrees 51 minutes 55 seconds West 12.00 feet along the north line of said Lot Number 23 and the Point of Beginning of this description.

SECTION II. Pursuant to I.C. 36-7-3-16, the following Utilities have submitted letters to the Common Council indicating that it is not occupying or using any part of these public ways and have no objection to the vacation: Bloomington Digital Underground.

SECTION III. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

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

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
DAVE ROLLO, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

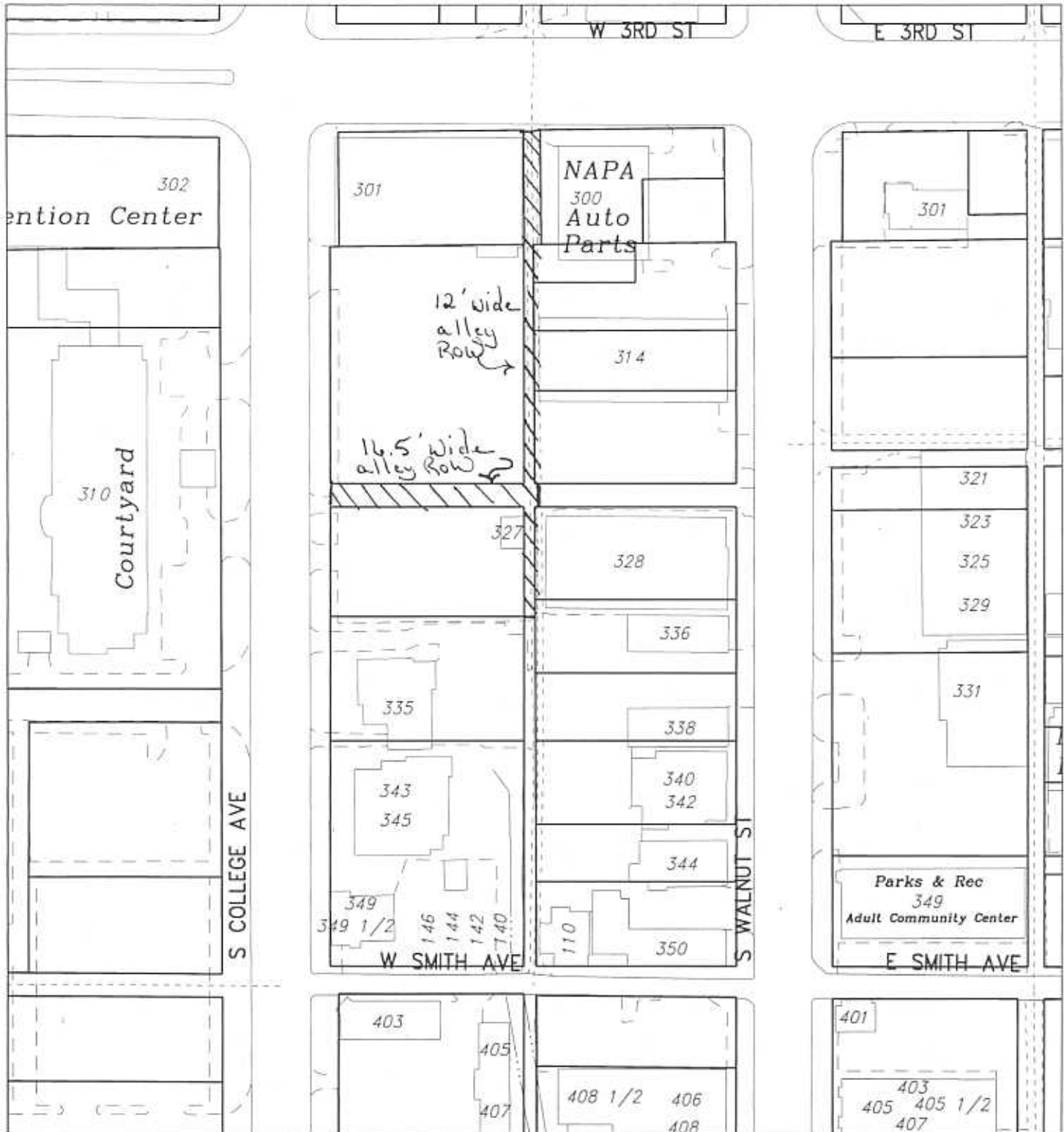
\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

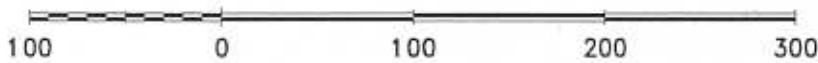
#### SYNOPSIS

The petitioners, Downtown Redevelopment Partners, LLC, request vacation of three segments of right-of-way south of Third Street between College Avenue. and Walnut Street in order to construct a hotel. They include: a 12-foot wide segment running north/south from Third Street south about 257 feet; a 16.5-foot wide segment running east/west from College Ave. east about 145 feet to intersect with the first segment; and a 12-foot wide segment running north/south in line with the first segment south about 69 feet.



Site Plan

By: darland  
12 Feb 07



For reference only; map information NOT warranted.



City of Bloomington  
Planning



Scale: 1" = 100'

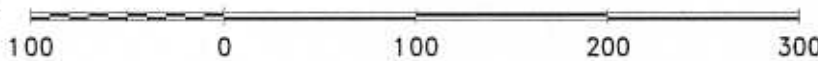


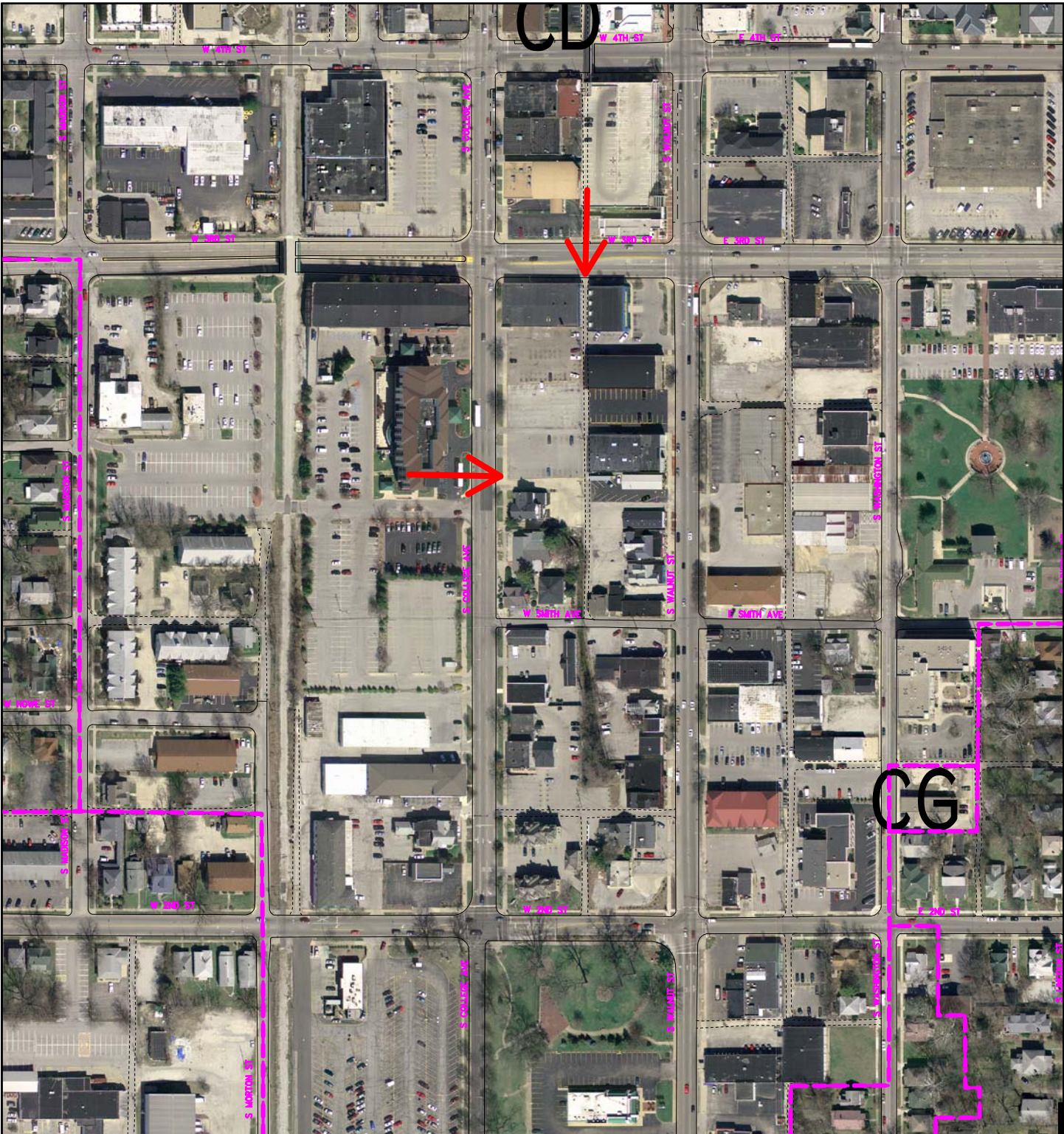
Ord07-29 - Vacation of ROWs in the 300 Block of South College and Walnut  
 Lot Numbers and Building Addresses

City of Bloomington  
 Clerk & Council



By: shermand  
 29 Nov 07



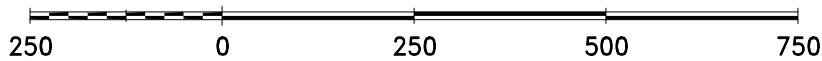


Ordinance 07-29: Aerial Perspective

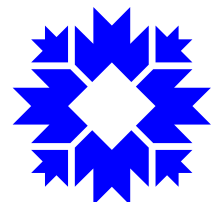
By: rhoadss

30 Nov 07

File: LPOr07-29c



City of Bloomington  
Clerk & Council



Scale: 1" = 250'

For reference only; map information NOT warranted.

## Alley Way Vacation Descriptions

Apparent North – South Alley north of platted 16.5 foot alley

A part of Fractional Lot Number 22 of the Original Plat of the Town of Bloomington, Indiana per plat thereof as recorded in Book "A" page 5 in the Office of the Recorder of Monroe County, Indiana, and a part of Lot Number 24 of the Seminary Addition per plat thereof as recorded in Plat Cabinet "B" envelope 1 also in the Office of the Recorder of Monroe County, Indiana and more particularly described as follows:

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2. thence South 00 degrees 14 minutes 02 seconds West 257.14 feet along the west line of said apparent 12 foot wide alley to the south line of said Lot 24 and the north line of a platted alley between Lots 23 and 24 of said Seminary Addition and an Iron Pin w/cap stamped "Larrison 20000230";
3. thence North 89 degrees 51 minutes 55 seconds East 12.00 feet along the south line of said Seminary Addition Lot 24 to the east line of said apparent 12 foot alley;
4. thence North 00 degrees 14 minutes 02 seconds East 257.05 feet along the east line of said apparent 12 foot alley to the said southerly right-of-way of Third Street and north line of said Fractional Lot Number 22 and Iron Pin w/cap stamped "Larrison 20000230"
5. thence North 89 degrees 41 minutes 05 seconds West 12.00 feet along the said southerly right-of-way of Third Street and north line of said Fractional Lot Number 22 to the Point of Beginning of this description.

East – West 16.5 foot Platted Alley

A part of that platted alley that lies between Lot Number 23 and Lot Number 24 of the Seminary Addition per plat thereof as recorded in Plat Cabinet "B" envelope 1 also in the Office of the Recorder of Monroe County, Indiana and more particularly described as follows:

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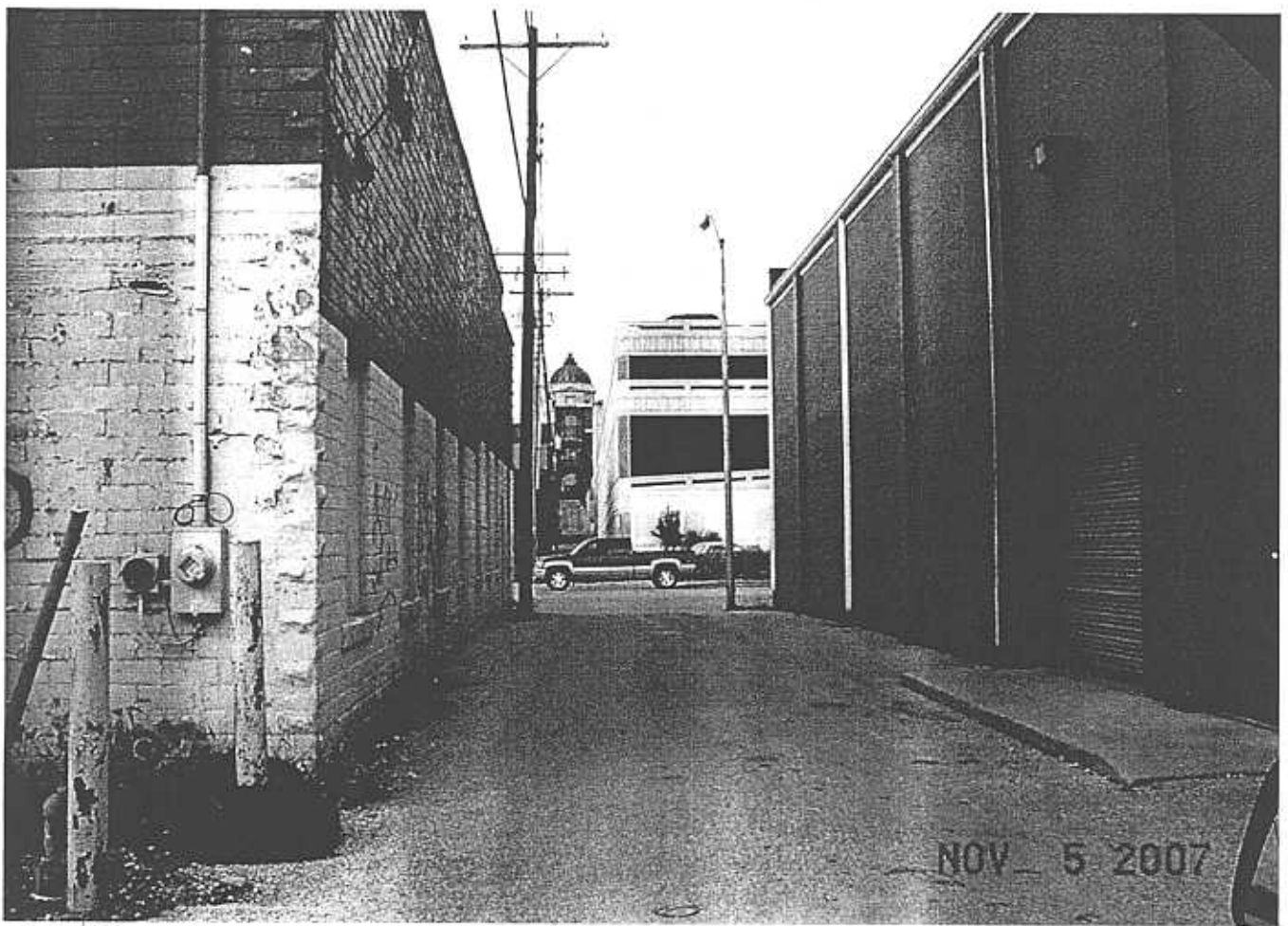
2. thence North 00 degrees 14 minutes 02 seconds East 16.50 feet along said east line to the north line of said platted alley and the south line of said Lot Number 24;
3. thence South 89 degrees 51 minutes 55 seconds West 144.86 feet along said north line of the platted alley to the said east right-of-way of College Ave.
4. thence South 00 degrees 21 minutes 33 seconds West 16.50 feet along said east right-of-way of College Ave. to the Point of Beginning.

Apparent North – South Alley south of platted 16.5 foot alley

A part of Lot Number 23 of the Seminary Addition per plat thereof as recorded in Plat Cabinet "B" envelope 1 also in the Office of the Recorder of Monroe County, Indiana and more particularly described as follows:

1. Commencing at the northwest corner of said Lot Number 23 (also being a point on the East right-of-way of College Ave.) thence North 89 degrees 51 minutes 55 seconds East 132.89 feet along said south line of platted alley to the west line of an apparent 12 foot wide alley (said 12 foot alley is cited in various deed records, however it is not on the record plats) and the Point of Beginning of this description;
2. thence South 00 degrees 14 minutes 02 seconds West 68.74 feet along said west line;
3. thence North 89 degrees 51 minutes 55 seconds East 12.00 feet to the east line of said apparent 12 foot wide alley;
4. thence North 00 degrees 14 minutes 02 seconds East 68.74 feet along said east line to the north line of said Lot Number 23;
5. thence South 89 degrees 51 minutes 55 seconds West 12.00 feet along the north line of said Lot Number 23 and the Point of Beginning of this description.





N/S alley



E/W alle



E/W alley



N/S alley



**CITY OF BLOOMINGTON  
PLANNING DEPARTMENT  
MEMORANDUM**

**DATE:** November 15, 2007  
**TO:** City of Bloomington Common Council Members  
**FROM:** Lynne Darland, Zoning & Enforcement Manager  
**SUBJECT:** Request for vacation of three alley rights-of-way  
**PETITIONERS:** Downtown Redevelopment Partners, LLC

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**LOCATION:** There are three segments of right-of-way being requested to be vacated. The first segment of this right-of-way vacation petition is a 12 foot wide north/south running right-of-way located between College Avenue and Walnut Street starting at Third Street and running south approximately 257.14 feet. The second right-of-way segment requested for vacation is a 16.5 foot wide segment located adjacent to College Avenue running east/west 144.89 feet to intersect with the aforementioned north/south running alley right-of-way. The third segment of this right-of-way vacation petition is a 12 foot wide north/south running right-of-way located between College Avenue and Walnut Street starting at the south end of the second segment and running south 68.74 feet. Specifically, these rights-of-way segments are located between Part of Fractional Lot 22 & Part Lots 23 and 24 of Seminary Addition.

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**ALLEY VACATION BACKGROUND:** The purpose of this vacation request is to assist in the redevelopment of an underutilized downtown property that has been the site of the Bloomington Tire Co. and Lee's Karate for many years. The entire property is zoned Commercial Downtown (CD) and is in the Downtown Core Overlay (DCO). The vacation would provide the petitioner continuity of property that is needed to allow the first phase as well as future phases of this redevelopment to occur. The initial phase of this development would construct a hotel with surface parking lot. Later phases intend to replace the surface parking lot and the adjacent one-story NAPA Auto Parts building with a more appropriately scaled building and potentially structured parking for both phases.

**BACKGROUND ON DEVELOPMENT PETITION:** The petitioner is proposing to raze the former Bloomington Tire Co. and Lee's Karate buildings and construct a 105 room hotel. The property is oddly shaped and has three street frontages. This makes a completely building forward design difficult. To achieve a predominantly building forward design, the building has been proposed to be placed at the intersection of W. 3<sup>rd</sup> Street and S. College Avenue. Surface parking lots would be constructed on the south side of the hotel and along Walnut Street to meet parking needs. The initial hotel phase would include between 58 and 78 surface parking spaces.

In contrast to the majority of other recent downtown projects, the petitioner is proposing a non-residential structure to supplement the available hotel rooms currently in place within the downtown. These hotel rooms would also provide additional occupancy for potential Convention

Center users. The addition of additional non-residential users is a desirable and welcome balance to the residential units that have recently been approved within the downtown.

The petitioner is seeking site plan approval from the Plan Commission including waiver requests from the standards of the Downtown Core Overlay. The proposal is scheduled to be heard at the December 10, 2007 Plan Commission meeting. The 5-story hotel has been designed with a combination of a limestone base and two colors of brick with EIFS accents along W. 3<sup>rd</sup> Street and along the cap of the building. The petitioner has also included an art element into the building with large vertical spaces on the east and west façades of the structure that would accommodate changeable panels of local photos or murals. Furthermore, this project would also create a new streetscape along both 3<sup>rd</sup> St. and College Ave. These improvements include street trees, pedestrian lighting, new sidewalks, and a reduction in the number of drive cuts.

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**UTILITY INTERESTS:** The following utility and city service organizations have responded to this request with no objections for the vacation of the existing right-of-way:

- The City of Bloomington Public Works Department
- The City of Bloomington Utilities Department
- SBC Ameritech
- PSI Cinergy
- Insight Communications
- City of Bloomington Police Department
- City of Bloomington Fire Department
- Vectren

The request for vacation was heard by the Board of Public Works (BPW) on October 16, 2007. The BPW voted to not oppose vacation of the right-of-way. The petitioner has worked with CBU and has agreed to a twenty (20) foot wide easement over the right-of-way to allow for maintenance or replacement of an existing sewer main. The petitioner also worked with Vectren, Duke, and Insight, to grant the appropriate easements. City of Bloomington Police and Fire Departments had no objections to vacating this right-of-way.

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**CRITERIA:** The criteria utilized to review a public ROW or easement vacation request are as follows:  
**1. Current Status - Access to Property.**

This site is located within an area that has been constructed with a grid pattern of public streets. There is ample access to this and all surrounding properties. As previously stated, both the Fire and Police Departments find that they can adequately serve the area without the right-of-way in question.

**2. Necessity for Growth of the City:**

*Future Status:* No public utilization of these rights-of-way is anticipated by the City. All public services can adequately be served through the remaining rights-of-way in the immediate area with the use of easements.

*Proposed Private Ownership Utilization:* The vacation of these alleys will allow the petitioners to move forward with their redevelopment project.

*Compliance with Regulations:* The vacation of this alley will not create any issues regarding compliance with local regulations.

*Relation to Plans:* The proposal is consistent with City Plans. Hotels, restaurants, retail, and offices are permitted uses in the Commercial Downtown (CD) zoning district.

The GPP calls for development in the downtown to foster its continued vitality by stimulating new development and redevelopment of underutilized parcels and buildings.

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**RECOMMENDATION:** Both staff and the Board of Public Works have recommended that the City vacate the right-of-way in question.



City of Bloomington  
Office of the Common Council

Petition for Vacation of Public Right-of-Way

<b>Ordinance:</b>		07-29
<b>Hearings:</b>		
<b>Council Chambers</b>	<b>Regular Session - First Reading</b>	December 5, 2007
<b>401 North Morton Street</b>	<b>Committee of the Whole - Discussion</b>	December 12, 2007
<b>7:30 p.m.</b>	<b>Regular Session - Public Hearing &amp; Final Action</b>	December 19, 2007

**Address of Property** 301 and 327 South College Avenue and 300, 314, 328, and 336 South Walnut Street

**Description of Proposed Vacation:** Three Alley Rights-of-Way Segments in the 300 Block of South Walnut and South College Including segments running :

1) north/south from Third Street south about 257 feet;  
 2) east/west from College Avenue east about 145 feet and intersecting with the first segment; and, 3) north/south from the first segment south about 69 feet

**Name of Petitioner** Downtown Redevelopment Partners, LLC  
**Address** P.O. Box 853, Zionsville, IN 46290  
**Phone** 317-231-9000

**Consultant** Robert Delano Jones, Attorney  
**Address** P.O. Box 279, Bloomington, IN 47402  
**Phone** (o) 812-332-4431 / (fax) 812-332-0554  
**Abutting Property Owners:** See the Attached List and Map

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 provide a list of and 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:  Date: 11-30-07

Indigo Hotel Surrounding Properties

MONROE CO CONVENTION CENTER  
PO BOX 220  
Bloomington, IN 47402

Ashford Bloomington LP  
PO Box 601  
Chicago, IL 60690

ZZ City of Bloomington  
PO Box 100  
Bloomington, IN 47402

Bloomington Municipal, PO Box 100, Bloomington, IN 47402  
Jermanik, LLC, 1308 E. Elliston Drive, Bloomington, IN 47401  
Bloomington Real Estate Co. Inc., 2807 E. Pine Lane, Bloomington, IN 47401  
Higgins, Dyan A & Samuel W, 336 S Walnut Street, Bloomington, IN 47401  
328 South Walnut Property LLC., 328 S. Walnut Street, Bloomington, IN 47401  
Downtown Redev Partners LLC., PO Box 853, Indianapolis, IN 46206  
Canita McPheeters, 404 E 1<sup>st</sup> Street, Bloomington, IN 47401  
CRTM Realty, 2200 S Walnut Street, Bloomington, IN 47401  
United Commerce Bank, PO Box 1089, Bloomington, IN 47402  
RBOWA LLC., PO Box 910, Bloomington, IN 47402  
Bigo Properties LLC, 629 S Woodcrest Dr, Bloomington, IN 47401  
Harmony School Corp, PO Box 1787, Bloomington, IN 47402  
Jo Ryan LLC, 5998 N Crandall Ave., Ellettsville, IN 47429  
Phelps Properties LLC, 2535 Roundhill Ln., Bloomington, IN 47401  
BFS Retail and Commercial, 535 Marriott Dr., 9<sup>th</sup> Floor 102768, Nashville, TN, 37214  
City of Bloomington, PO Box 100, Bloomington, IN 47402  
Marilyn A. Sicks, PO Box 910, Bloomington, IN 47402  
Bank One, Bloomington, NA, PO Box 1919, Wichita Falls, TX 76307  
Wonderlab: Museum Of, 116 W. 6<sup>th</sup> St. Ste. 001, Bloomington, IN 47404  
Indiana Gas Company, Inc., PO Box 569, Evansville, IN 47704  
Monroe Co Convention Center, 302 S College Ave., Bloomington, IN 47403  
Monroe Co Convention Center, Courthouse Room 220 Bloomington, IN 47404

OK  
*[Signature]*

**JONES, McGLASSON & BENCKART, P.C.**

ATTORNEYS AT LAW  
205 S. WALNUT ST., SUITE 3  
P.O. BOX 279

BLOOMINGTON, INDIANA 47402-0279

ROBERT DELANO JONES  
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WEBSITE: www.jmblegal.com

DAVID ROGERS, OF COUNSEL  
JUDITH C. BENCKART, OF COUNSEL

February 1, 2007

**Hand Delivery**

Planning Department  
City of Bloomington  
401 N. Morton Street  
Bloomington, IN 47404

Attention: Patrick Shay

Re: Pre-Petition Review for Alley Vacation

Dear Patrick:

As you know, I represent Downtown Redevelopment Partners, LLC, which recently purchased the old Bloomington Tire property at 3<sup>rd</sup> and Walnut.

Any reasonable development of this property will require the vacation of parts of certain alleys located within its confines. Attached hereto is a plat showing this property and the alleys to be vacated. I have also attached the surveyed legal description of the portion of these alleys requested to be vacated. Also enclosed is a title search of this property.

It is our opinion that this property is, at this time, a detriment to the city's efforts to revitalize downtown Bloomington. Any commercial renovation and development of this property will not only bolster those efforts and the tangible and intangible benefits they create, but will raise significant tax revenue for the city and county. Due to the relatively small size of this tract of property, our current potential project or any substantial commercial development project, will be very difficult, if not impossible, to accomplish unless and until these alleys are vacated. These alleys bisect the property in a manner that will preclude



Planning Department  
City of Bloomington  
February 1, 2007  
Page 2

construction of sufficiently large structures to support meaningful redevelopment. With respect to our current plans, as you can see from the attached preliminary drawing and information, we are evaluating the feasibility of a multi-story multi-use commercial facility consisting of convention space, hotel, and some retail, along with 380+ parking spaces on site. If for some reason our current intended use would not come to fruition, an alternative redevelopment of the site would nonetheless also require that the alleys be vacated as we are requesting.

As you can see from the enclosed plat, most of these alleys are located within the property owned by my client. These alleys do not provide access to churches, schools, or other public places. Additionally, the vacation of these alleys will not prevent access to any privately owned property. The vacation also would not interfere with utilities currently located over a portion of these alleys since the utilities would be placed underground.

The development of this property along the lines proposed by my client would fit perfectly with the city's plans and vision for the future of downtown Bloomington.

Vacation of these alleys as requested would not impact compliance with all applicable regulations currently or in the future.

Attached is a list of the adjoining property owners showing the property each owns.

Should you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "RD Jones", written over the printed name.

Robert Delano Jones

RDJ:cls  
Enclosures

PLAN COMMISSION

Petitioner's Statement

Concerning the petition of Downtown Redevelopment Partners, LLC. for the purpose of consideration of their Petition for

SITE PLAN APPROVAL

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for the property located at 301 South College Ave., Bloomington, Indiana.

This Hotel Indigo is a proposed 5 story 105-guestroom hotel to be located on the southeast corner of 3rd and South College Ave directly across from the existing convention center. The proposed hotel will also house a small cafe for guests as well as the public. Other amenities of the hotel will include meeting rooms, indoor pool, and fitness room. The site will include a pedestrian scale outdoor patio and landscaping and entrance for access to the convention center along South College Ave. The covered guest drop off canopy will be tucked along the vacated alley to the East side of the building to better facilitate parking and allow for a building foreword design along College Avenue. The parking for the hotel is currently designed with 58 spaces with the possible future addition of 20 more spaces. The building exterior will mainly be comprised of two different brick colors and limestone along the streetscape and at lower levels. A small portion along the top floor will be some EIFS banding. There are two large vertical art murals incorporated into the building design; One faces west and South College Ave and one faces east and the vacated alley, but will be visible from 3rd and North Walnut streets. The look of the building is a sleek and modern look that blends well and compliments the current downtown landscape. The building will replace a vacant eyesore and provide a needed amenity to the convention center through the additional hotel rooms and the smart aesthetic design that adds to the pedestrian scale.

---

Doug Bruce  
TABOR/BRUCE ARCHITECTURE & DESIGN  
213 S. Rogers Street  
Bloomington, IN 47401  
(812) 332-6258





1 EXTERIOR ELEVATION  
1/8" = 1'-0"

EXTERIOR FINISHES LEGEND

	BRICK COLOR-1 (DARK)		BRICK COLOR-2 (LIGHT)		BRICK COLOR-3 (MID)		BRICK COLOR-4 (DARK)		LIMESTONE
--	----------------------	--	-----------------------	--	---------------------	--	----------------------	--	-----------



2 EXTERIOR ELEVATION  
1/8" = 1'-0"

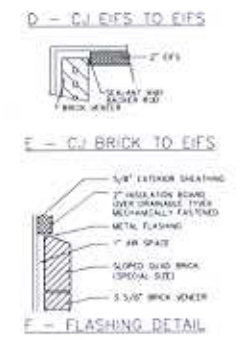
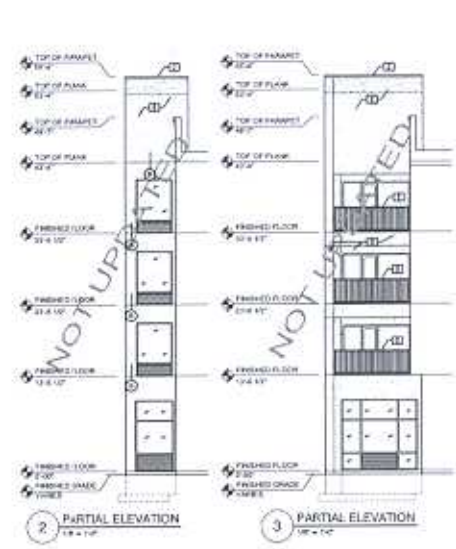
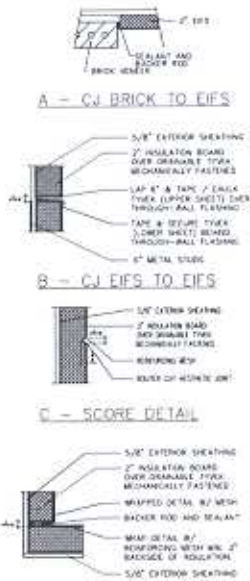
Architect	Project No.	Sheet No.	Revision No.
Philip Jovan Ray	1999023	101	1
Project Name	Location	Date	Scale

Philip Jovan Ray  
PROJECT ARCHITECT  
Indianapolis 1999023  
300 S. W. 10th St., Suite 1000, Indianapolis, IN 46202  
Phone: 317.329.1100 Fax: 317.329.1101  
Email: 402023@indigoarchitects.com

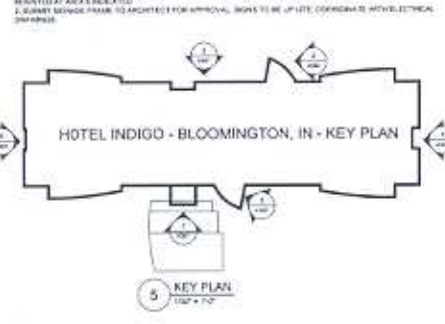
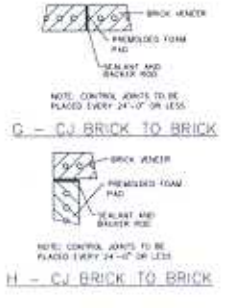
**H O T E L**  
**indigo**  
BIRMINGHAM, INDIANA  
project no. 1999023  
**EXTERIOR BUILDING ELEVATIONS**

**DIMENSIONS**  
ARCHITECTURE + INTERIORS + CONSTRUCTION SERVICES  
10000 North American Blvd., Suite 1000  
Dallas, Texas 75243-1000  
Phone: 972.382.8800  
Fax: 972.382.8801  
www.dimensions.com

**A301**



KEY	VIEW	MATERIAL	FINISH / COLOR
1	APRINT	AS SELECTED BY ARCHITECT	AS SELECTED BY ARCHITECT
2	PANTRY/DOOR LAP	FLUORIN METAL	COLOR TO MATCH WALL BELOW
3	FLASHING	FLUORIN ALUM	MATCH ADJACENT COLOR
4	SKYLIGHT	PRE-FINISHED	FOR HOTEL BRICK STAMPEDES
5	WETURES		
6	ALUMINUM	ALUMINUM	PERFECTIVE BRICK STAMPEDES
7	WETURES		
8	EIFS	EIFS	SEE COLOR LEGEND
9	DECORATIVE DRIVE JOINT	EIFS & BRICK	SEE DETAIL A,B,C,D,E,F,G,H,I
10	METAL SIGN BRIDGE	ALUMINUM	MILL FINISH
11	DECORATIVE METAL COL.	ALUMINUM	MILL FINISH
12	DECORATIVE MURBLE	EIFS	MATCH ADJACENT COLOR (SEE DETAIL A,B,C,D,E,F,G,H,I)
13	METAL LAYOUT	ALUMINUM	MILL FINISH
14	SPRINKLER BOLLARD	CONCRETE	
15	EXPOSED STRUCT. STEEL	STEEL	PAINT TO MATCH ADJACENT COLOR
16	1.5" DIA. FIRE SENSING	1.5" DIA. DIA.	AS SELECTED BY ARCHITECT
17	1.5" DIA. FIRE SENSING	BRICK	AS SELECTED BY ARCHITECT



**indigo**  
HOTELS  
BLOOMINGTON, INDIANA

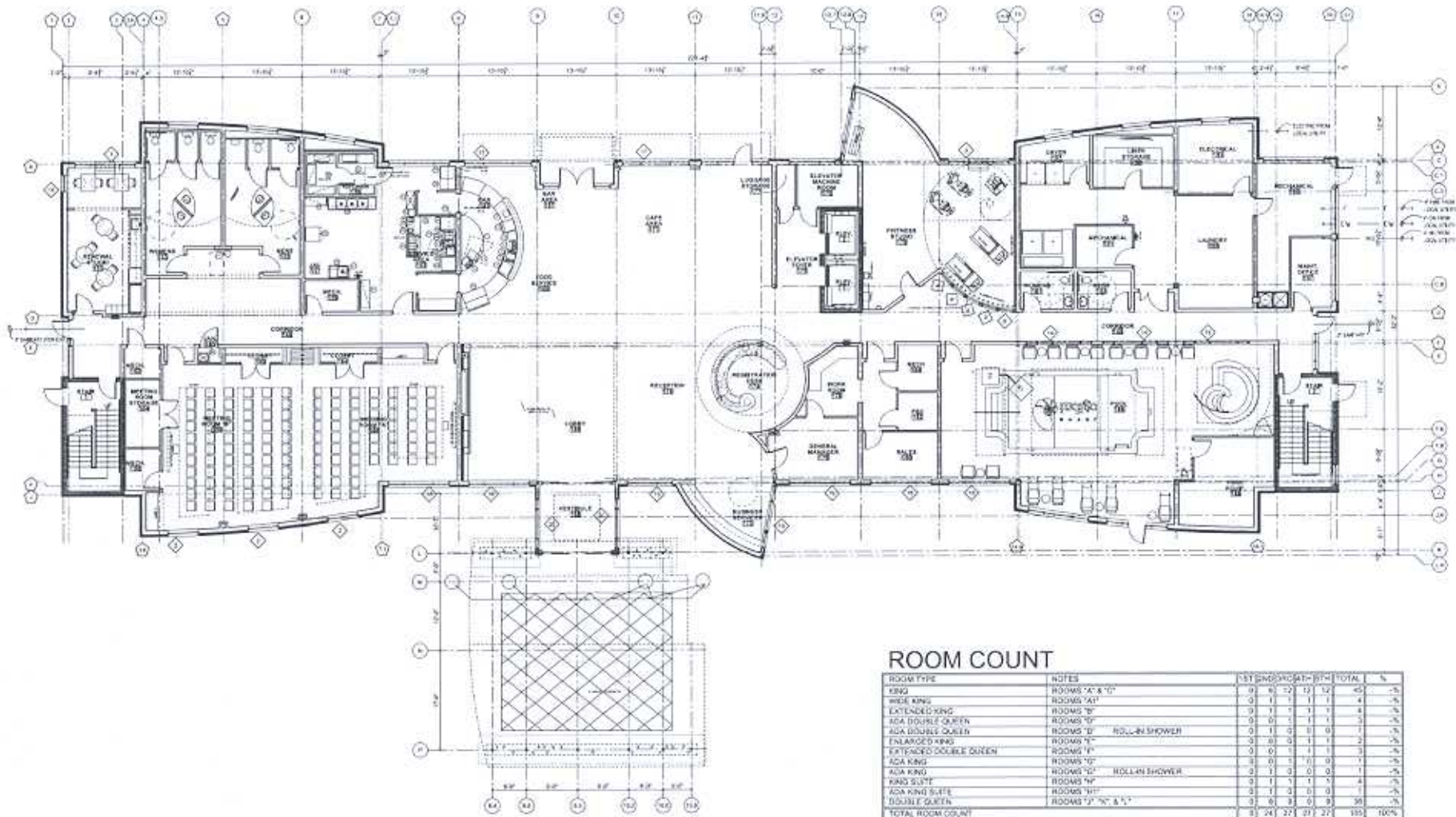
**indigo**  
HOTELS  
BLOOMINGTON, INDIANA

**DIMENSIONS**  
ARCHITECTS + INTERIORS + CONSTRUCTORS SERVICES

**A302**

Philip Jovan (Arch)  
PROJECT ARCHITECT  
Indiana 1988023  
402 304-1111, 402 304-1000, 402 304-1001  
www.indigoarchitects.com

PROJECT NO. 18110001  
DATE: 08/11/2018



1 PRELIMINARY FIRST FLOOR PLAN  
1/21/17

### ROOM COUNT

ROOM TYPE	NOTES	1ST	2ND	3RD	4TH	5TH	TOTAL	%	
KING	ROOMS "A" & "D"	0	0	12	12	0	24	15%	
WIDE KING	ROOMS "A1"	0	1	1	1	1	4	2%	
EXTENDED KING	ROOMS "B"	0	1	1	1	1	4	2%	
ADA DOUBLE QUEEN	ROOMS "C"	0	0	1	1	1	3	1%	
ADA DOUBLE QUEEN	ROOMS "D" ROLL-IN SHOWER	0	1	0	0	0	1	0%	
ENLARGED KING	ROOMS "E"	3	0	0	1	1	5	2%	
EXTENDED DOUBLE QUEEN	ROOMS "F"	0	0	1	1	1	3	1%	
ADA KING	ROOMS "G"	0	0	1	0	0	1	0%	
ADA KING	ROOMS "H" ROLL-IN SHOWER	0	1	0	0	0	1	0%	
KING SUITE	ROOMS "I"	0	1	1	1	1	4	2%	
ADA KING SUITE	ROOMS "J"	0	1	0	0	0	1	0%	
DOUBLE QUEEN	ROOMS "K" "N" & "L"	0	0	3	0	0	3	1%	
TOTAL ROOM COUNT		0	5	24	27	21	22	155	100%

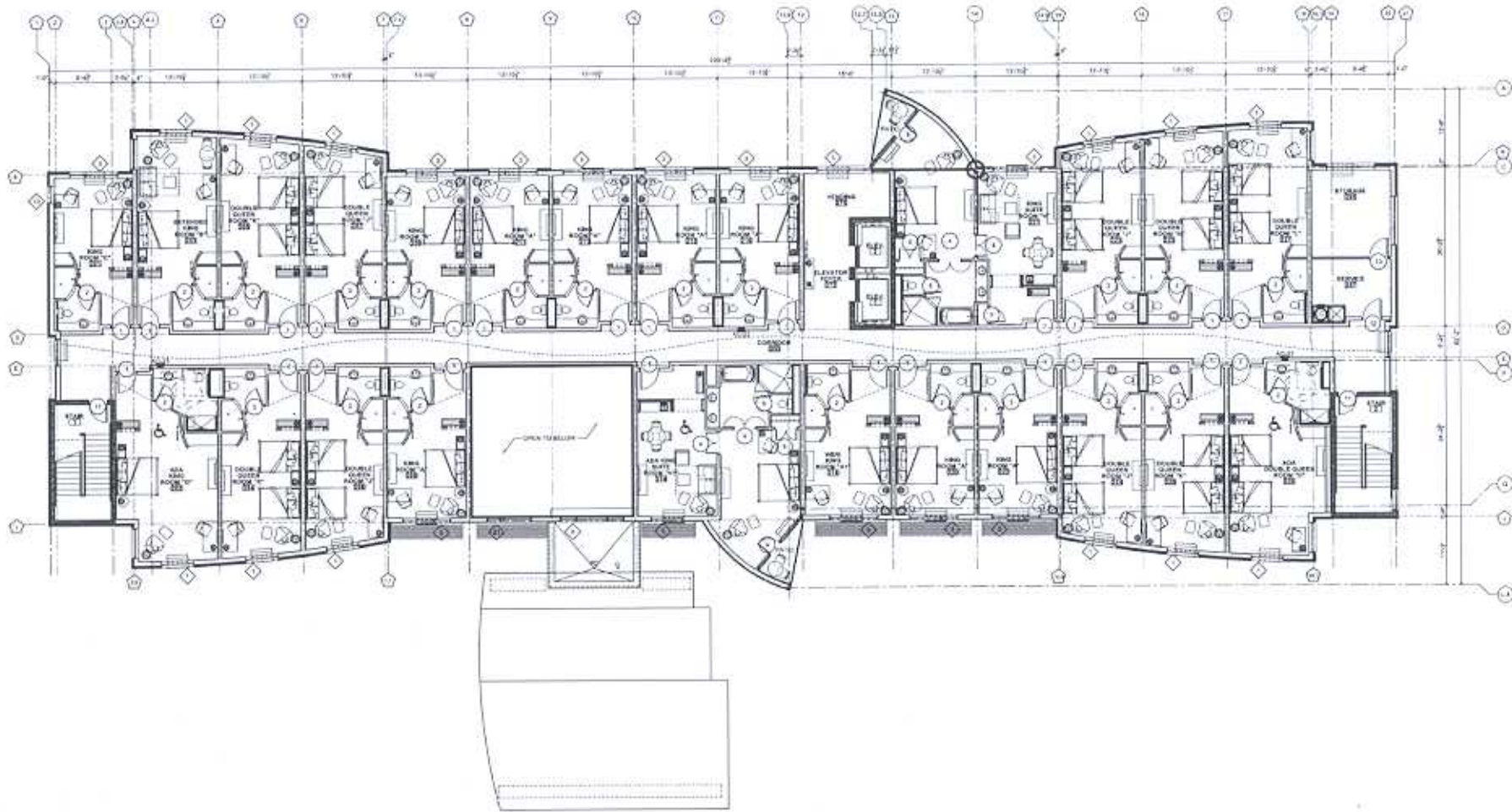
DATE	NO. OF SHEETS	NO. OF SHEETS	NO. OF SHEETS	NO. OF SHEETS	NO. OF SHEETS	NO. OF SHEETS	NO. OF SHEETS	NO. OF SHEETS	NO. OF SHEETS

Philip Jovan Rayl  
 PROJECT ARCHITECT  
 Indiana 1588023  
 100 N. W. 10th Ave. Ft. Lauderdale, FL 33304  
 305.463.2222 philip@raylarchitect.com

**HOTEL**  
**indigo**  
 ELAMINGTON, INDIANA  
 PROJECT NO. 158-218  
**PRELIMINARY - FIRST FLOOR PLAN**

**DIMENSIONS.**  
 ARCHITECTURE • INTERIORS • CONSTRUCTION SERVICES  
 1000 N. HIGHWAY 100, SUITE 100, ELAMINGTON, INDIANA 46124  
 PHONE: 317.838.8888

**A101**



1 PRELIMINARY SECOND FLOOR PLAN  
10'-0" X 10'-0"

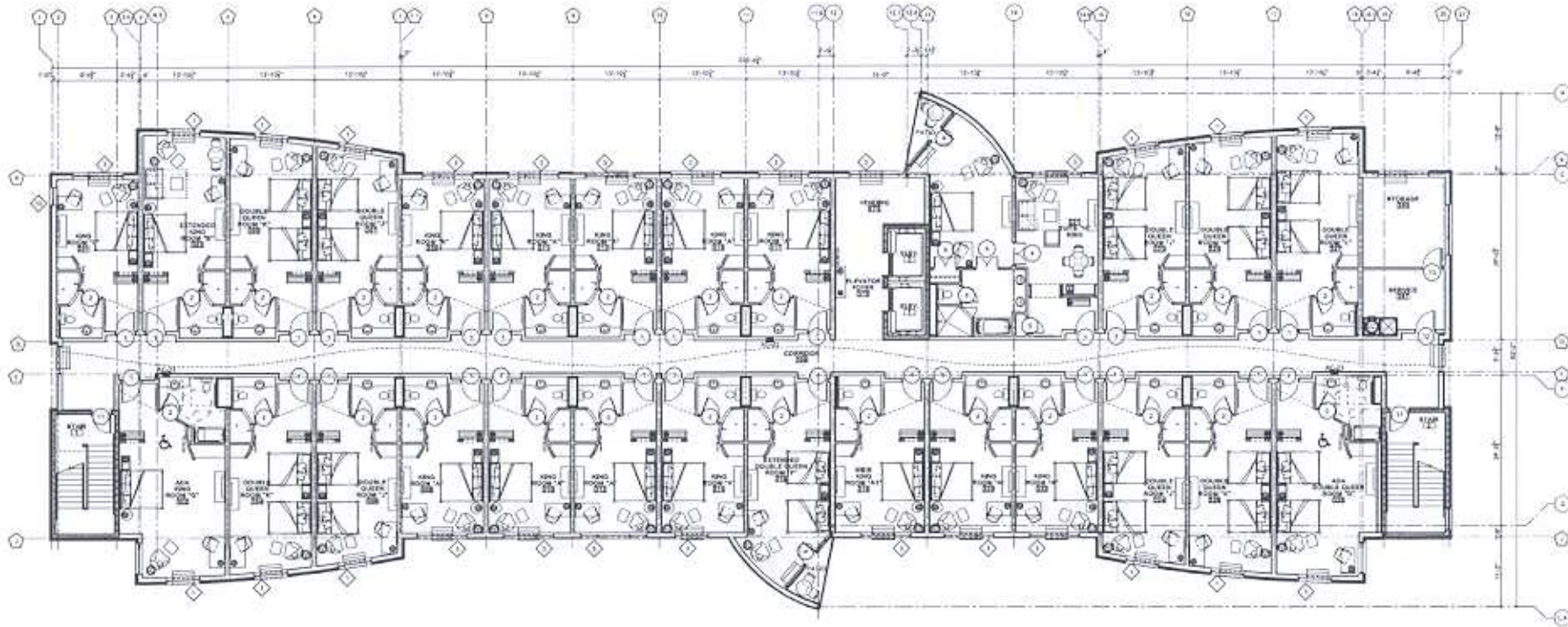
**DIMENSIONS.**  
ARCHITECTURE, INTERIOR & CONSTRUCTION SERVICES  
1000 N. UNIVERSITY BLVD. SUITE 100  
BLOOMINGTON, IN 47403-1000  
PHONE: 317.340.0000  
WWW.DIMENSIONSARCHITECTS.COM

**indigo**  
BLOOMINGTON, INDIANA  
HOTEL

**PRELIMINARY - SECOND FLOOR PLAN**

Philip Jovan Raft  
PROJECT ARCHITECT  
Indiana 1989023  
ALL RIGHTS RESERVED  
PHONE: 317.340.0000  
FAX: 317.340.0000  
EMAIL: PHOENIX@INDIGOHOTELS.COM

NO.	DATE	BY	CHKD BY	REVISION



1 PRELIMINARY - 3rd, 4th, & 5th FLOOR PLANS  
12/10

Revisions			

Philip Jovan Ray  
**PROJECT ARCHITECT**  
 Indiana 1980023  
 300 West 10th Street, Suite 1000  
 Indianapolis, Indiana 46202  
 Phone: 317.444.1111 Fax: 317.444.1112  
 Email: philip@indigoarchitect.com

**HOTEL**  
**indigo**  
 INDIANAPOLIS, INDIANA  
 project no. 140-048  
**PRELIMINARY - 3rd, 4th, & 5th FLOOR PLANS**

**DIMENSIONS.**  
 ARCHITECTS • INTERIORS • CONSTRUCTION SERVICES  
 1000 North Meridian Street, Suite 1000  
 Indianapolis, Indiana 46202  
 Phone: 317.634.1111 Fax: 317.634.1112  
 Email: info@dimensions.com



**ORDINANCE 07-29**

**TO VACATE PUBLIC PARCELS**

**Re: Three Alley Rights-of-Way Segments in the 300 Block of South Walnut and South College Including Segments Running : 1) North/South from Third Street South about 257 feet; 2) East/West from College Avenue East about 145 feet and Intersecting with the First Segment; and, 3) North/South in Line with the First Segment South about 69 Feet  
(Downtown Redevelopment Partners, LLC, Petitioner)**

**Responses from Utilities and Safety Services (Available in the Council Office)**

**No Interest in the Alley Ways**

Bloomington Digital Underground  
Fire and Police Departments

**Interest in the Alley Ways**

- Vectren - *has a natural gas line in one of the alley ways and proposed broad language to protect their easement.*
- Duke - *has overhead lines in the north/south alley way and opposes the vacation.*
- Insight Com - *has overhead lines, but is not opposed them being moved at the Petitioner's expense.*
- City Utilities Dept - *has an 18" sanitary sewer in the east/west alley and wants an additional 3.5' of easement to work on it in the future (which Petitioner has agreed to).  
- has storm culvert just south of Petitioner's property and wants a 5' storm drainage easement to accommodate repair and enlargement of that facility.*
- AT&T - *has overhead lines in the north/south alley way, but would not oppose the vacation as long as the Petitioner reimbursed them for the cost of relocating the lines.*

**ORDINANCE 07-30**

**TO AMEND TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE  
ENTITLED  
“BOARDS, COMMISSIONS AND COUNCILS” -  
Re: Administration of the City’s Cemeteries**

WHEREAS, the City of Bloomington Municipal Code designates the Department of Public Works as the entity responsible for the maintenance and control of the Rose Hill Cemetery Department; and

WHEREAS, the City of Bloomington Municipal Code further designates the Director of Public Works to appoint a Superintendent to administer the Rose Hill Cemetery Department; and

WHEREAS, the Department of Parks and Recreation, via the Board of Parks Commissioners, has actually been the entity responsible for the maintenance and control of the Rose Hill Cemetery in the recent past; and

WHEREAS, the Superintendent of the Rose Hill Cemetery Department has actually been employed by the City of Bloomington Department of Parks and Recreation instead of the Department of Public Works in the recent past;

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

SECTION I. Section 2.11.060 of the Bloomington Municipal Code entitled “Rose Hill Cemetery Department” shall be deleted.

SECTION II. Chapter 2.20 entitled “Bloomington Board of Park Commissioners” shall be amended to add a new Section 2.20.140 entitled “Cemetery Services” to read as follows:

2.20.140 Cemetery Services.

(1) Administration. Cemetery Services shall be administered by an employee of the City of Bloomington’s Department of Parks and Recreation and appointed by the City of Bloomington Board of Parks Commissioners. The Department of Parks and Recreation shall administer all cemeteries owned and operated by the City according to the rules and regulations established by the City of Bloomington Board of Parks Commissioners.

(2) Procedures.

(a) Prepayment. All grave space fees and interment fees shall be paid to the Department of Parks and Recreation of prior to the time the body is interred.

(b) Proof of Ownership. It shall be the duty of the person requesting a burial permit in one of the City’s cemeteries to provide proof of ownership and location of the cemetery lot in which such person intends to make the interment to the satisfaction of the Department of Parks and Recreation.

(3) Fees. All fees for any service available at any cemetery owned and operated by the City shall be established by the Board of Park Commissioners and are subject to an annual review by said Board.

(4) All money received from any source from any of the cemeteries owned by the City shall be placed in the Department of Parks and Recreation General Fund.

SECTION III. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

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

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
DAVE ROLLO, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

#### SYNOPSIS

This ordinance amends the Bloomington Municipal Code to reflect current practice by shifting the administration of the City's two cemeteries from the Department of Public Works to the Parks and Recreation Department. It also eliminates the grave and interment fee schedule and gives the Board of Parks Commissioners authority to set such fees. Lastly, it makes clear that any monies collected by the cemeteries shall be deposited into the Parks and Recreation General Fund.

## MEMORANDUM

**To:** Common Council  
**From:** Patricia Mulvihill, Assistant City Attorney  
**Date:** November 26, 2007  
**Re:** Ordinance

The current municipal code states that the Department of Public Works shall administer the City's two cemeteries and further provides the Board of Public Works with the authority to establish rules and regulations for the cemeteries; in actuality, the cemeteries are administered by the Department of Parks and Recreation and any rules and regulations are promulgated by the Board of Parks Commissioners. The ordinance before you amends the current municipal code to reflect how the City's cemeteries are actually administered.

~~strike~~ – proposed deletion  
**bold** – proposed addition  
▶ -- relevant section

**TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE  
ENTITLED “ADMINISTRATION AND PERSONNEL”**

**AS AMENDED BY ORDINANCE 07-30**

Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

- 2.02 Boards and Commissions
- 2.04 Common Council
- 2.08 Executive Branch
- 2.09 Board of Public Works
- 2.10 Department of Public Works—Establishment
- 2.11 Department of Public Works—Divisions
- 2.12 Boards, Commissions and Councils
- 2.13 Plan Commission
- 2.14 Planning Department
- 2.15 Advisory Board of Zoning Appeals
- 2.16 Historical Preservation Commission
- 2.17 Board of Public Safety
- 2.18 Bloomington Redevelopment Commission
- 2.19 Housing and Neighborhood Development
- 2.20 Bloomington Board of Park Commissioners
- 2.21 Department of Law
- 2.22 Employee Services Department
- 2.23 Community and Family Resources Department
- 2.24 Utilities
- 2.25 Information and Technology Services Department
- 2.26 Controller’s Department
- 2.27 Ordinance Violations Bureau
- 2.28 Bloomington Living Wage Ordinance
- 2.29 (Reserved)
- 2.30 Statutory Boards and Commissions
- 2.31 (Reserved)
- 2.32 Police Collective Bargaining
- 2.33 (Reserved)
- 2.34 Firefighters Collective Bargaining
- 2.44 Airports
- 2.52 Property Sales
- 2.56 Miscellaneous Provisions
- 2.76 Bloomington Public Transportation Corporation

...

## Chapter 2.10

### DEPARTMENT OF PUBLIC WORKS—ESTABLISHMENT

#### Sections:

- 2.10.000 Establishment.
- 2.10.010 Appointment of Director.
- 2.10.020 Duties.

#### 2.10.000 Establishment.

The department of public works is established as the general administrative department for the following divisions, boards, commissions and councils: cemetery, engineering, sanitation, street, fleet maintenance, parking enforcement, housing quality appeals, telecommunications, traffic, environmental, community arts, animal control, and all physical facilities with the exception of property managed by the utility service board or the parks and recreation board. (Ord. 97-06 § 1, 1997; Ord. 93-20 § 1, 1993; Ord. 83-6 § 2 (part), 1983).

#### 2.10.010 Appointment of Director.

The Head of the Department of Public Works shall be the Director of Public Works to be appointed by the Mayor with the approval of the Board of Public Works and serve at the pleasure of the Mayor. (Ord. 83-6 § 2 (part), 1983).

#### 2.10.020 Duties.

(1) The Director is subject to any rules promulgated by the Mayor and the Board of Public Works which do not conflict with state law.

(2) The Director shall have the full powers and authority as other Department Heads and shall assume administrative responsibility for the divisions, boards, commissions, councils and physical facilities as enumerated above. (Ord. 83-6 § 2 (part), 1983).

## Chapter 2.11

### DEPARTMENT OF PUBLIC WORKS—DIVISIONS

#### Sections:

- 2.11.000 Divisions.
- 2.11.010 Engineering Department.
- 2.11.020 Sanitation Department.
- 2.11.030 Street Department/Fleet Maintenance Department.
- 2.11.040 Parking Enforcement Division.
- 2.11.050 Animal Control Department.
- 2.11.060 Rose Hill Cemetery Department.

#### 2.11.000 Divisions.

The following departments are hereby created, together with their corresponding duties, as divisions of the Department of Public Works of the Executive Branch. (Ord. 83-6 § 2 (part), 1983).

2.11.010 Engineering Department.

The engineering department shall be administered by the city engineer who is appointed by and serves at the pleasure of the mayor. The department is responsible for all engineering activities of the city. (Ord. 93-20 § 2, 1993; Ord. 83-6 § 2 (part), 1983).

2.11.020 Sanitation Department.

The Sanitation Department shall be administered by a Director of Sanitation who is appointed by the Director of Public Works. The Department shall be responsible for the collection of refuse within the City. (Ord. 83-6 § 2 (part), 1983).

2.11.030 Street Department/Fleet Maintenance Department.

The Street Department and the Fleet Maintenance Department shall be administered by the Director of Transportation who is appointed by the Director of Public Works. The Street Department shall be responsible for the maintenance and care of the public ways within the City. The Fleet Maintenance Department shall be responsible for the orderly maintenance, acquisition and disposal of all vehicles owned by the City, its departments, agencies, boards, commissions, and councils. (Ord. 88-36 § 4, 1988; Ord. 83-6 § 2 (part), 1983).

2.11.040 Parking Enforcement Division.

(1) The Parking Enforcement Division is managed by the Division Supervisor who reports directly to the Director of Public Works.

(2) Powers and Duties. Parking enforcement officers shall enforce all ordinances and, where applicable and appropriate, state statutes dealing with the regulation of parking in the City. To this end the officers shall have all powers ordinary and necessary to carry out their duties. (Ord. 88-36 § 5, 1988; Ord. 83-6 § 2 (part), 1983).

2.11.050 Animal Control Department.

The Animal Control Department shall be administered by the Senior Animal Control Officer who is appointed by the Director of Public Works.

(1) Powers and Duties. The Department shall enforce all the Ordinances and, where applicable and appropriate, state statute dealing with animal control in the City of Bloomington. To this end the officers of the Department shall have all powers ordinary and necessary to carry out their duties. These shall include but not be limited to the power to issue a notice of ordinance violation and the power to enter private real property in fresh pursuit of an animal to enforce this chapter.

(2) Limitations. In performing their duties, the animal control officers shall, however, be specifically prohibited from: entering a dwelling unit unless officer obtains either the permission of the owner or a court ordered warrant in which case the officer must be accompanied by a uniformed law enforcement officer; carrying firearms; or making arrests of human beings. (Ord. 83-6 § 2 (part), 1983).

~~2.11.060 — Rose Hill Cemetery Department.~~

~~—(1) The Rose Hill Cemetery Department shall be administered by the Superintendent who is appointed by the Director of Public Works. The Department shall administer the city cemeteries at 930 W. Fourth Street and 1100 West Seventh Street according to rules and regulations established by the Board of Public Works.~~

~~—(2) Procedures.~~

~~—(a) Prepayment. All grave space fees and interment fees shall be paid to the Superintendent prior to the time the body is interred.~~

- ~~—(b) Proof of Ownership. It shall be the duty of the person requesting a burial permit in the cemetery to provide proof of ownership and location of the cemetery lot in which such person intends to make the interment to the satisfaction of the Superintendent.~~
- ~~—(3) Fees.~~
  - ~~—(a) Grave Space. Fees for purchase of grave spaces shall be as follows:~~
    - ~~—(1) For each adult grave space in Rosehill Cemetery the fee shall be two hundred seventy dollars.~~
    - ~~—(2) For each adult grave space in White Oak Cemetery the fee shall be two hundred ten dollars.~~
    - ~~—(3) For each infant grave space in Rosehill and White Oak Cemeteries the fee shall be seventy five dollars.~~
    - ~~—(4) For each grave space for ashes in Rosehill and White Oak Cemeteries the fee shall be one hundred dollars.~~
    - ~~—(5) Welfare Grave Spaces: For each welfare grave space the fee shall be one hundred fifty dollars.~~
  - ~~—(b) Mausoleum Entombment. Fee for entombment shall be as follows:~~
    - ~~—(1) Rose Hill Cemetery mausoleum entombment shall be two hundred dollars.~~
    - ~~—(2) For entombment of ashes the fee shall be seventy five dollars.~~
  - ~~—(c) Interment. Fees for interment, which is defined as the opening and closing of the grave, shall be in both cemeteries as follows:~~
    - ~~—(1) The fee for interment of ashes shall be seventy five dollars.~~
    - ~~—(2) The fee for interment of the remains of infants shall be seventy five dollars.~~
    - ~~—(3) The fee for the interment of children shall be one hundred fifty dollars.~~
    - ~~—(4) The fee for interment of the remains of adults shall be two hundred forty dollars for interment on Mondays through Fridays, and two hundred seventy five dollars for interment on Saturdays.~~
    - ~~—(5) The fee for the interment of welfare burials shall be two hundred dollars.~~
    - ~~—(d) The fee for the purchase of niches in the Mausoleum shall be one thousand two hundred dollars per niche for the lower two rows of niches; one thousand five hundred dollars per niche for the middle three rows of niches; and one thousand two hundred dollars per niche for the upper five rows of niches.~~
  - ~~—(4) Cemetery Fund. All money paid into the city for the purchase of lots in the cemetery, and all money received from any source from the cemetery shall be placed in a fund to be known as the cemetery fund. This fund shall be used to defray expenses of the cemetery alone, and at the end of the year all money remaining in the fund, if any, shall revert to the general fund of the city. (Ord. 93-18 §§ 1-4, 1993; Ord. 90-8 §§ 1, 2, 1990; Ord. 83-48, 1983; Ord. 83-6 § 2 (part), 1983).~~

## Chapter 2.12

### BOARDS, COMMISSIONS AND COUNCILS

Sections:

- 2.12.000 Establishment.
- 2.12.010 Animal control commission.
- 2.12.020 Bloomington community arts commission.
- 2.12.021 Percentage for the Arts Program.
- 2.12.040 Tree commission.
- 2.12.050 Environmental Quality and Conservation Commission.
- 2.12.060 Bloomington telecommunications council.
- 2.12.070 Traffic commission.
- 2.12.080 Bloomington Bicycle and Pedestrian Safety Commission.
- 2.12.090 Martin Luther King, Jr.'s birthday celebrations commission.



2.12.100 Bloomington Commission on Sustainability.

2.12.000 Establishment.

The following boards, commissions and councils are hereby created under the jurisdiction of the Board of Public Works. The Director of Public Works shall oversee and administer these units. (Ord. 83-6 § 2 (part), 1983).

...  
Chapter 2.20

BLOOMINGTON BOARD OF PARK COMMISSIONERS

Sections:

- 2.20.000 Establishment.
- 2.20.010 Appointments.
- 2.20.020 Qualifications.
- 2.20.030 Terms.
- 2.20.040 Removal from office.
- 2.20.050 Meetings.
- 2.20.060 Officers.
- 2.20.070 Rules and bylaws.
- 2.20.080 Majority vote.
- 2.20.090 Special nonreverting operating fund.
- 2.20.095 Gifts and bequests.
- 2.20.100 Special nonreverting capital fund.
- 2.20.110 Committees.
- 2.20.120 Department of Parks and Recreation—Establishment.
- 2.20.130 Appointment of Director.
- ▶ **2.20.140 Cemetery Services.**

2.20.000 Establishment.

Pursuant to Indiana Code 36-10-4, et seq., the statute entitled “Parks Department in Certain Cities” is adopted by the Common Council in its entirety. Under this authority there is hereby created the Bloomington Board of Park Commissioners, which shall exercise such powers and duties as are set forth in Indiana Code 36-10-4. (Ord. 87-16 § 1 (part), 1987; Ord. 86-20 § 1 (part), 1986).

2.20.010 Appointments.

The Bloomington Board of Park Commissioners (hereinafter “Board”) shall consist of four Commissioners appointed by the Mayor. (Ord. 87-16 § 1 (part), 1987; Ord. 86-20 § 1 (part), 1986).

2.20.020 Qualifications.

The four commissioners shall be appointed on the basis of their interest in and knowledge of parks and recreation. No more than two members may be affiliated with the same political party. Each commissioner must be a freeholder residing in the city. In making initial appointments the Mayor, in order to provide continuity of experience and programs, shall give special consideration to the appointment of members from previous park or recreation boards. (Ord. 86-20 § 1 (part), 1986).

2.20.030 Terms.

Appointments to the board shall be made with staggered terms. Initial appointments shall be made as follows: one term shall expire on December 31, 1986; one term shall expire on December 31, 1987; one term shall expire on December 31, 1988; and one term shall expire on December 31, 1989. Thereafter all appointments shall be made for a term of four years and each term shall expire on December 31 of the fourth year. (Ord. 90-20 § 1, 1990: Ord. 86-20 § 1 (part), 1986).

2.20.040 Removal from office.

Commissioners may be removed from office only for inefficiency, neglect of duty and malfeasance in office, as provided by statute. (Ord. 86-20 § 1 (part), 1986).

2.20.050 Meetings.

The Board shall fix the time and place for holding regular meetings. Special meetings may be called by the president, or by any two commissioners, upon written request to the secretary. (Ord. 86-20 § 1 (part), 1986).

2.20.060 Officers.

At its first regular meeting the Board shall elect a president and vice-president. The vice-president shall perform the duties of the president during the absence or disability of the president. (Ord. 86-20 § 1 (part), 1986).

2.20.070 Rules and bylaws.

The Board shall adopt rules and bylaws prescribing procedural rules for its meetings and administrative procedures for the operation of the Parks and Recreation Department. (Ord. 86-20 § 1 (part), 1986).

2.20.080 Majority vote.

Action of the Board shall not be official unless it is authorized by a majority of the Commissioners at a regular or special meeting. In case of a tie vote the Mayor casts the deciding vote, as provided by statute. (Ord. 86-20 § 1 (part), 1986).

2.20.090 Special nonreverting operating fund.

The special nonreverting operating fund authorized under Indiana Code 36-10-4-16 is continued. Fees collected for lessons, leagues or special entrepreneurial programs or activities, where a contractual employee is necessary or a non-reusable supply is required to provide the service, may be deposited into this fund to pay for the services required to offer the program. Admission fees from golf courses, swimming pools, skating rinks or other similar facilities requiring major expenditures for management and maintenance shall not be deposited into this fund, but instead shall be deposited in the general fund. Expenditures by the board from this special nonreverting operating fund shall be disbursed only on approved claims allowed and signed by the president and secretary of the board. At the end of each year, the controller shall, if directed by the board, transfer all or a portion of any surplus moneys in this fund to the parks and recreation general fund. (Ord. 99-09 § 1, 1999: Ord. 86-20 § 1 (part), 1986).

2.20.095 Gifts and bequests.

The Board may accept gifts, donations, and subsidies for park and recreation purposes. No gift or transfer of public property to the Board shall be made without its approval. Any gift or grant of money shall belong to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund to be used by the Board as provided by state statute. The City Controller shall draw warrants against such special nonreverting fund only upon vouchers signed by the president or vice-president and secretary of the Board. (Ord. 86-20 § 1 (part), 1986).

2.20.100 Special nonreverting capital fund.

The special nonreverting capital fund created under the previous statute and authorized under Indiana Code 36-10-4-16 is continued. Expenditures may be made by appropriation by the Common Council. Expenditures from this fund may be disbursed only on approved claims allowed and signed by the president and secretary of the Board. Expenditures may be made for the sole purpose of acquiring land or making specific capital improvements. Moneys placed in this fund shall not be withdrawn except for the purposes for which the fund was created, unless the Common Council repeals this provision and abolishes the fund. (Ord. 99-09 § 2, 1999; Ord. 86-20 § 1 (part), 1986).

2.20.110 Committees.

The Board may create an advisory council and special committees of citizens interested in the problems of parks and recreation. In selecting such advisory council or special committees, the Board shall give consideration to the groups in the community particularly interested in parks and recreation. In a resolution creating an advisory council or a special committee, the Board shall specify the terms of its members and the purposes for which created. Such advisory council or a special committee shall report to the Board only. (Ord. 86-20 § 1 (part), 1986).

2.20.120 Department of Parks and Recreation—Establishment.

There is hereby created a Department of Parks and Recreation which shall be responsible for all parks and recreation of the City of Bloomington, and which shall follow such rules and procedures as are set out in Indiana Code 36-10-4, or as shall be added by future amendments to the Indiana Code. (Ord. 90-20 § 2, 1990; Ord. 86-20 § 1 (part), 1986).

2.20.130 Appointment of Director.

The Department of Parks and Recreation shall be administered by the Director of Parks and Recreation who is appointed by the Mayor, with the approval of the Board of Park Commissioners, and shall serve at the pleasure of the Mayor. (Ord. 87-16 § 1 (part), 1987; Ord. 86-20 § 1 (part), 1986).

► **2.20.140 Cemetery Services.**

**(1) Administration. Cemetery Services shall be administered by an employee of the City of Bloomington's Department of Parks and Recreation and appointed by the City of Bloomington Board of Park Commissioners. The Department of Parks and Recreation shall administer all cemeteries owned and operated by the City according to the rules and regulations established by the City of Bloomington Board of Park Commissioners.**

**(2) Procedures.**

**(a) Prepayment. All grave space fees and interment fees shall be paid to the Department of Parks and Recreation of prior to the time the body is interred.**

**(b) Proof of Ownership. It shall be the duty of the person requesting a burial permit in one of the City's cemeteries to provide proof of ownership and location of the cemetery lot in which such person intends to make the interment to the satisfaction of the Department of Parks and Recreation.**

**(3) Fees. All fees any service available at any cemetery owned and operated by the City shall be established by the Board of Park Commissioners and are subject to an annual review by said Board.**

**(4) All money received from any source from any of the cemeteries owned by the City shall be placed in the Department of Parks and Recreation General Fund.**

In the Council Chambers of the Showers City Hall on Wednesday, October 17, 2007 at 7:30 pm with Council President Dave Rollo presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
October 17, 2007

Roll Call: Wisler, Diekhoff, Ruff, Sandberg, Rollo, Sturbaum, Volan, Sabbagh, Mayer

ROLL CALL

Council President Rollo gave the Agenda Summation

AGENDA SUMMATION

There were no minutes to be approved.

APPROVAL OF MINUTES  
REPORTS:  
COUNCILMEMBERS

Andy Ruff said that at a recent candidate forum, he had been asked a question regarding a resolution that the council has passed that addressed state and national issues. He said that as a general rule, his Republican colleagues have not supported those resolutions for various reasons. He said he chose to use the resolution that opposed the invasion of Iraq as an example in this question, and noted that council member Sabbagh voted for that resolution. He wanted to make sure that these two points were not misconstrued.

Tim Mayer noted that there would not be another council meeting between this one and the election, and wished good luck to all those running for the municipal election this year. He said he admired those who accept the challenge of putting their name on the ballot.

Brad Wisler spoke about his interest in recycling, saying that he recently witnessed an incident where two people in an SUV dumped 8-10 trash bags into his office dumpster. In looking for a motivation for this behavior, he asked for a report from Public Works Director Susie Johnson that would include information on the costs and volume of trash and recycling programs. He noted that the figures from the report indicated that between 2005 and 2006 there had been a significant drop in revenue from trash stickers and a very modest increase in the tonnage of recycling. He said that his concern was that this indicated more illegal dumping of trash, and probably taking recyclables to the same places. He said that our recycle program is not complete as the materials gathered and sometimes even the recycle truck leave the city, leaving part of the local process incomplete. He noted not only increased emissions and costs as those products left town, but also a loss of opportunity to turn recyclable materials in to products that can be sold and consumed in Bloomington. He said that there is a cost and loss of environmental benefit when these materials leave town. Wisler added that he would ask the council and the public to help come up with ways to create incentives for businesses to become more amenable towards recycling, and gave one example of using our recyclable paper to produce the leaf bags that the city distributes to Bloomington residents.

David Sabbagh said that IU Informatics Dean Bobby Schnabel spoke at the morning's Bloomington Economic Development Corporation meeting about the importance of the role of Informatics in spurring economic development. Sabbagh said he was encouraged by the new administration at IU and congratulated new IU President Michael McRobbie on his inauguration.

Steve Volan noted that early voting for the municipal election was under way, and gave hours and times for voting before election day. He noted that early voting took place on paper ballot cards, not by electronic voting machines.

Volan then added that he and other council members had received a letter from a downtown merchant and read parts into this record:

I would really hate to see the mistake of putting in parking meters in Bloomington. We have had them before and it was a detriment to the business downtown. Let's learn from our mistakes and not repeat them. We need to encourage people downtown to shop and that means we must have better parking for them. As much as everybody would like to pretend that we are a large metropolitan city, we are really just a small town that houses a large university. I myself don't eat downtown too often. Because of the restriction it's hard for friends to get together for the time period allowed and still have a relaxed meal. My own customers like to come in and browse for at least an hour and then leaves them very little time to shop at the other shops.

Volan said that this letter was disappointing in its misperception of the parking issue downtown. He said the merchant's opinion was contrary to the opinions of BTOP, the Walker Parking Study and the Chamber of Commerce parking study. He said that they all indicated that meters are long overdue and would allow the very activity that the constituent was lamenting, and would lift the threat of a ticket for overtime parking. He added that it was a mistake to remove meters from the downtown in the first place.

Volan displayed a chart that he prepared that illustrated that the City of Bloomington's population had grown to be 2.5 times bigger than it was in 1970 and reiterated again that Bloomington is not a small town.

There were no reports from the Mayor or City Offices at this meeting.

MAYOR and CITY OFFICES

There were no reports from council committees.

COUNCIL COMMITTEES

Citizen Steve Forrest said he had recently become an advocate for transportation reform because of his interest in sustainability. He wanted to oppose a plan of INDOT to widen a portion of East 10<sup>th</sup> Street that is a part of State Road 45/46. He said that the Citizen's Advisory Committee of the Metropolitan Planning Organization met with INDOT officials on September 26, and that the citizens were opposed to the plan. He said the widening was planned because of projected increased traffic on this section of the road, but the data presented at the meeting actually indicated a decrease in traffic flow. He said that bus traffic, biking and pedestrian traffic was increasing and that the road did not need to be widened at this point. Forrest added that he was astounded that the INDOT official said that it was too late to change anything in the plan and it would go ahead as planned. He said this was a case of sheer bureaucratic momentum proceeding inexorably in defiance of reality. He was worried that this plan would be implemented, and asked the council and mayor to intervene, and also called upon Indiana University to help. He said that his one letter would not have the effect of councilmember support, and asked their support now, before construction would begin in 2008.

PUBLIC INPUT

Forrest also commented on Volan's report saying he had no problem with adding parking meters in the downtown and added that fear of that was greatly exaggerated.

Eve Corrigan, from Bloomington Transportation Options for People, said that the group's Livable Cities Series was planning to host an address by Dom Nozzi, a national expert on urban sprawl. She said that the address would be given in the council chambers within the next week. She then read two short paragraphs from Nozzi's *Road To Ruin: An Introduction To Sprawl And How To Cure It*, as it related to Volan's comments. She distributed flyers on Nozzi's speech and noted that he would also be giving the keynote address at the IU Bioneers Conference.

PUBLIC INPUT (cont'd)

Citizen Lori Sears invited the council members to a party on Halloween night at the Banneker Center at 6 pm that would include a costume contest, food and fun.

There were no appointments to any boards or commissions at this meeting.

It was moved and seconded that Ordinance 07-24 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis. She added note of the Committee Recommendation of Do-Pass as Amended of 8-0-1, with Amendment # 01 receiving recommendation of Do Pass 9-0-0. It was moved and seconded that Ordinance 07-24 be adopted.

Engineering services Manager Justin Wykoff explained the amendment by referring to a map of the area. He said that the intersection in question needed further study and requested that it be excluded from Ordinance 07-24. He added that rather than going back to the first step in the planning of a traffic calming program, he would like to start over at step 5.

Sturbaum asked how soon the new design would be ready, and Wykoff said it would be as fast as possible, but would depend on getting more information and getting neighborhood needs and concerns together. He said that the neighborhood would be voting on this.

Sturbaum asked if an island was planned at this intersection to which Wykoff replied that it was one of several things that might be considered. He noted that the pavement width needed to be reduced.

Sturbaum asked the procedure for taking neighborhood comment on the process, to which Wykoff answered that the process could include a special meeting on this issue or use a regular neighborhood meeting already scheduled to discuss the neighborhood concerns. He said the choice would depend on the schedule of neighborhood association meetings. Wykoff added that while it took quite a bit of time to get to the end of the process for the whole plan, the single intersection issue from Step 5 to the end of the process would be much faster.

Rollo noted that the number of neighbors who would be affected by traffic calming in this particular area would be smaller than the whole plan that included several intersections.

There was no public comment or further council comments on this amendment.

Amendment 01 to Ordinance 07-24 received a roll call vote of Ayes: 9, Nays: 0.

Justin Wykoff outlined the process of the whole procedure from the year 2000 for the Arden Drive traffic calming project. He outlined all the intersection realignments and speed tables that would be put in.

Sturbaum asked when these would be installed, to which Wykoff said that the next step was to approach the Board Of Public Works in two weeks for approval. He said that the speed tables (at a cost of \$2000 each) could be contracted out, or could be done through the city for a

BOARD AND COMMISSION APPOINTMENTS

LEGISLATION FOR SECOND READING

Ordinance 07-24 To Amend Title 15 of the Bloomington Municipal Code Regarding "Vehicles and Traffic" - Re: To Amend Chapter 15.26 (Neighborhood Traffic Safety Program) to Approve Installation of Traffic Calming Devices in the Arden Drive Area

Amendment 01 This amendment is intended to correct problems with one of the intersection realignments in the Arden Place Traffic Calming Project. That Project calls for four speed tables and two intersection realignments and was approved by a ballot of the affected residents. The testing showed that the plan for the southern intersection of South Wilton Drive and East Windsor Drive did not produce the desired reduction in speeds. This amendment will allow the area neighbors to proceed with corrections to this intersection beginning at Step 5 of the Neighborhood Traffic Safety Program "Preparation of Alternative Designs and Selection of Proposed Plan".

Ordinance 07-24 as amended.

greater savings. He said that the city's leafing process would impact the timing of their work.

Wisler asked about cyclists' concerns regarding the speed tables, to which Wykoff responded that he was looking at all the options, while balancing that with the need for effective control of speed with cars.

Sturbaum asked how fast bicyclists could go before they had a problem with the speed tables. Wykoff replied that it wasn't so much a matter of speed, but more a matter of paying attention. He said that the speed tables would have reflective material on them, and that signs would be posted on speed table approaches.

Rollo asked if two tables that were located near one citizen's home could be moved, to which Wykoff answered that there really was no other place for them.

Volan asked about creating channels in the speed table for cyclists. Wykoff replied that cars often put one tire in that channel and thus decreased the effectiveness of the device.

Rollo requested that Wykoff report on the traffic calming program and its effectiveness at a future meeting.

During public comment the following persons spoke:

Tom Visnius, of Arden Place, said he is a pedestrian and biker in the neighborhood and noted his opposition to any notching or other accommodation for bicyclists on the speed tables. He thanked the council and city staff for their work on this project that he said was needed as a result of street connections that were not originally in the plan for the neighborhood.

Arden Place resident Don Berry said he had brought up the issue of notching the speed tables because it was mentioned to him by another neighbor. He said that if any accommodations for bicyclists would decrease the effectiveness of the speed tables, he would not like to see those accommodations made.

Kathy Berry, of Arden Place, thanked the council for their thoughtful consideration and said she was happy to see the project moving along. She said she was especially impressed with the courteousness and efficiency of the city engineering department.

Volan asked if the speed tables were a temptation for skate boarders, to which Wykoff replied that skateboarders liked more of a challenge than the low speed tables.

Sturbaum said he would support this good and cooperative work of the neighbors and city engineering.

Mayer thanked the neighbors for working with city staff. He added some concern for nighttime bicycling.

Wisler commended neighbors and staff and expressed his support for the ordinance. He said he was not a fan of speed tables, as the streets are open to the public, speed tables encouraged traffic to move to another area. He said that narrowing streets by putting sidewalks on either side of the street to encourage folks to drive slower would be a better approach. He said speed tables in neighborhoods were not attractive and that a more long term vision was needed in street design.

Ordinance 07-24 as amended.

Volan called attention to the UDO where the wider streets were still a part of development strategy today in some suburban plans. He said new neighborhoods should be carefully planned to avoid the problems of Arden Place so that this issue would not surface again. He said that the town that has prided itself on the movie *Breaking Away* doesn't have such great bicycle accommodations and he noted his support of bike lanes.

Sandberg said that the process was cordial and commended the neighbors for working through the process with respect for each other, noting this model of civic engagement was the best one.

Sturbaum said that the new South Dunn project used narrower roads and sidewalks and was a model of how we should be developing new neighborhoods. He said that drainage costs of retrofitting sidewalks was expensive and was actually playing a game of catch up. He added that he supported this project.

Ruff noted that former council member Willsey had started this process, and thanked Rollo for continuing support of this project in his district.

Rollo said he was not a fan of speed tables, and less of a fan of speeding in neighborhoods. He said that cut-through traffic was problematic, and that new sidewalks in this area would cost about \$750,000 for placement on only one side of the streets there. He said that other options included the one on the table, and thanked the engineering department and neighbors for working through this process. He said he hoped that it increased public safety in the area.

Ordinance 07-24 received a roll call vote of Ayes: 9, Nays: 0.

There was no legislation to be introduced at this meeting.

LEGISLATION FOR FIRST READING

It was moved and seconded that the rules be suspended to allow the group to consider an item that was not published on the agenda.

SUSPEND RULES

The motion received a roll call vote of Ayes: 9, Nays: 0

It was moved and seconded that the Committee of the Whole meeting scheduled for October 24, 2007 be cancelled due to lack of legislation to consider.

CANCEL COMMITTEE MEETING

The motion received a roll call vote of Ayes: 9, Nays: 0

There were no public comments at this point in the meeting.

PUBLIC COMMENT

The meeting was adjourned at 8:35 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Dave Rollo, PRESIDENT  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington



In the Council Chambers of the Showers City Hall on Wednesday, November 7, 2007 at 7:30 pm with Council President Dave Rollo presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
November 7, 2007

Roll Call: Wisler, Diekhoff, Ruff, Sandberg, Rollo, Sturbaum, Volan, Mayer  
Absent: Sabbagh

ROLL CALL

Council President Rollo gave the Agenda Summation

AGENDA SUMMATION

The minutes of October 3, 2007 were approved by a voice vote.

APPROVAL OF MINUTES

Brad Wisler said he was a little under the weather after standing outside in the cold for 12 hours the day before. He thanked everyone who voted and said it was a great experience. He reported that Councilmember Sabbagh sent his regrets and was unwell. Wisler congratulated him for the effort that he put into his council work and his recent campaign and added that it was appreciated.

REPORTS:  
COUNCILMEMBERS

Mike Diekhoff congratulated the winners and losers, and said that it takes a special person to run for elected office. He wished them all well.

Volan noted that the council would all like to thank voters, and said that everyone who runs for office should be congratulated, and that it was harder than it looked from the outside. He also said that every person who runs for office had the opportunity to add to the public debate about items of significance to the community. He thanked everyone who ran for their service to the community.

Susan Sandberg acknowledged the people who worked long hours at the polls in the democratic process and other citizens who worked behind the scenes. Looking out on the 20-30 student visitors at the meeting, she encouraged them to get involved in the process. She said she was looking forward to welcoming the new council members and saying farewell to the ones leaving the council.

Chris Sturbaum thanked the voters for participating in the election, and added that now the new council members represented everyone and should work as a team.

Tim Mayer thanked all the candidates who ran, especially those who were not successful. He said that he was in that position at one time and that there was a lot of reflection involved in that situation. Mayer also said that during this election there was one issue that was discussed and may not have been entirely accurate in its discussion by a candidate. He said that he had served as the chair of the Jack Hopkins Social Service Committee. He outlined the entire process and stated that each meeting was advertised as a public meeting and was open to anyone who wanted to observe. He also said that the committee members and staff members were available to the public in regards to decisions made and how the process was conducted. He said it was important, not just because it's required by state statute, but also because our community is very open. He then said that the council wanted to make sure that when taxpayer money was being allocated, the public had ample time and opportunity to weigh in. He wanted it to be said on the record that the JHSS process is fair, open and even handed.

Rollo thanked the candidates, pollworkers and voters who participated in the election, and noted that councilmembers Sabbagh and Diekhoff would be specially thanked on a later date. He noted that he was concerned about elections being conducted on electronic machines with no verifiable paper trail, and hoped there would be focus on that issue for future elections.

There were no reports from the mayor or other city offices.

MAYOR and CITY OFFICES

Council Attorney and Administrator Dan Sherman outlined the proposed schedule for 2008 and highlighted the important dates for the next year.

COUNCIL COMMITTEES

- Annual Schedule for 2008

Mayer asked if the proposed organizational meeting on January 9, 2008 would be meeting state statutes. Sherman said that this would meet that requirement, and by adopting the proposed schedule, the council would be overriding the local council rule that designated the first Monday of the month of January be the organizational meeting.

Mayer asked Sherman to confirm dates of the traditional August recess. He also asked if there were other meeting dates that would coincide with religious observances. Sherman said he looked at the IU Religious Holiday schedule and had invited council members to review the calendar, at which time no problems had surfaced.

Rollo asked Sherman to confirm that even though the council does not meet on the 5<sup>th</sup> Wednesday of the month, that it was an option for an additional meeting time, to which Sherman agreed.

It was moved and seconded to adopt the council calendar schedule for 2008. The motion received a roll call vote of Ayes: 8, Nays: 0.

There was no public input at this point in the meeting.

PUBLIC INPUT

There were no appointments to boards or commissions at this meeting.

BOARD AND COMMISSION APPOINTMENTS

There was no legislation for final action at this meeting.

LEGISLATION FOR SECOND READING

It was moved and seconded that the following legislation be introduced and read by title and synopsis only. Clerk Moore read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING

Ordinance 07-25 To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District – Re: 430 North Washington and 209-211 East 8<sup>th</sup> Street (Fierst Rentals, Petitioners)

Ordinance 07-25

It was moved and seconded to suspend the rules so that the council could take up an item not already on the agenda.

Motion to Suspend the Rules

The motion received a roll call vote of Ayes: 8, Nays: 0.

It was moved and seconded that the Committee of the Whole meeting scheduled for November 14, 2007 be cancelled and that a Special Session be held to handle upcoming legislation.

Motion to Cancel the Committee of the Whole and hold Special Session.

Upon questions from Volan and Rollo, Sherman noted that the special session would ease the agenda at the regularly scheduled meeting on November 28, 2007.

The motion received a roll call vote of Ayes: 7, Nays: 1 (Wisler).

There was no public comment at this point in the meeting.

PUBLIC INPUT

The meeting was adjourned at 8:02 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Dave Rollo, PRESIDENT  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington

In the Council Chambers of the Showers City Hall on Wednesday, November 14, 2007 at 7:30 pm with Council President Dave Rollo presiding over a Special Session of the Common Council.

COMMON COUNCIL  
SPECIAL SESSION  
November 14, 2007

Roll Call: Ruff, Sandberg, Rollo, Sturbaum, Volan, Mayer, Sabbagh  
Absent: Wisler, Diekhoff

ROLL CALL

Council President Rollo gave the Agenda Summation

AGENDA SUMMATION

There were no appointments to boards or commissions at this meeting.

BOARD AND COMMISSION  
APPOINTMENTS

It was moved and seconded that Resolution 07-11 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that there was no committee recommendation. It was moved and seconded that Resolution 07-11 be adopted.

LEGISLATION FOR SECOND  
READING

Assistant City Attorney Patty Mulvihill explained that the original Interlocal Agreement for the Combined Emergency Dispatch System was to expire on December 31, 2007. She noted that this resolution amended the original agreement so that it would be renewed in one year increments unless terminated in accordance with the original interlocal agreement. She also noted that this would avoid having the respective bodies repeatedly approve the agreement.

Resolution 07-11 TO APPROVE  
THE SECOND AMENDMENT TO  
AN INTERLOCAL  
COOPERATION AGREEMENT  
BETWEEN THE CITY AND  
MONROE COUNTY FOR A  
COMBINED EMERGENCY  
DISPATCH SYSTEM

There were no public or final council comments on this item.

Resolution 07-11 received a roll call vote of Ayes: 6, Nays: 0. (Ruff had not yet arrived when this vote was taken.)

It was moved and seconded that Resolution 07-12 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that there was no committee recommendation. It was moved and seconded that Resolution 07-12 be adopted.

Resolution 07-12 TO APPROVE  
THE INTERLOCAL  
AGREEMENT BETWEEN  
MONROE COUNTY, THE TOWN  
OF ELLETTSVILLE AND THE  
CITY OF BLOOMINGTON FOR  
ANIMAL SHELTER OPERATION  
FOR THE YEAR 2008

Mulvihill explained the Animal Shelter Interlocal agreement noting that the Town of Ellettsville would now pay the City of Bloomington separately rather than paying their sum to Monroe County, and then having the county forward the sum to the City. She said both the County Council and Ellettsville Town Board had approved the agreement, but the County Commissioners still needed to vote on the agreement.

Rollo asked how the sum owed by Ellettsville was determined. Mulvihill said that the county figured that sum, and that as the city runs the Animal Shelter, they do not actually keep track of animals that come from Ellettsville.

There were no public or final council comments on this item.

Resolution 07-12 received a roll call vote of Ayes: 7, Nays: 0.

It was moved and seconded that Ordinance 07-25 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that there was no committee recommendation. It was moved and seconded that Ordinance 07-25 be adopted.

Ordinance 07-25 TO AMEND  
TITLE 8 OF THE  
BLOOMINGTON MUNICIPAL  
CODE, ENTITLED "HISTORIC  
PRESERVATION AND  
PROTECTION" TO ESTABLISH  
A HISTORIC DISTRICT -Re: 430  
North Washington and 209-211 East  
8th Street (Fierst Rentals,  
Petitioners)

Nancy Hiestand, Housing and Neighborhood Development Department Housing Coordinator and staff member for the Historic Preservation Commission, presented slides showing the properties in question.

She reviewed the historical and architectural criteria for historic districts. She noted that the houses fit the historical criteria because of

their significant role in Bloomington's history and early economic base. They were also a part of the town's early development and heritage because the owners of the structures were from the Showers family. She noted which family members built the homes and who lived in them, and reviewed the economic, industrial and social arenas in which these structures played a part. Hiestand then reviewed the architectural criteria noting that the Showers Graham house was one of the best examples of the Classical Revival Style in Bloomington, while the other property was an early Arts and Crafts style duplex that had had very little modification through the years. She noted that the Historic Preservation Commission had unanimously recommended designation of these properties based on all six criteria that they were required to review.

Hiestand noted that Mike Fierst of Fierst Rentals and Mary Krupinski of Kirkwood Design Studios were present to discuss plans to adapt the historic properties into a Bed and Breakfast.

Krupinski stated that this historic designation allowed for historic adaptive reuse of properties into inns. She noted that the value and importance of these homes would be maintained with the new use, and spoke about renovations that would include walled gardens between the properties. She also noted that the two neighborhood associations were supportive of this use, and it would also add to the redevelopment of the area and offer a unique lodging opportunity to the downtown.

During council questions, Sturbaum asked if there were plans to add another house to the development. Mike Fierst responded that was not in the current plans, but might be possible in the future.

Volan asked about the nature of the inn, and why a bed and breakfast would be easier to manage than regular rentals. Fierst said that the management would be able to keep up with maintenance and that the nature of B & B use was actually lighter than a student rental. Volan also asked about the increase in the number of parking spaces. Krupinski said that a total of 4 new spaces would be added to parking on site, but noted that current residents of these homes park on the streets within the Neighborhood Parking Zone.

Volan asked about the ratio of pervious to impervious paving for the parking area, and Krupinski said that they were working with the City of Bloomington Utilities to determine if the soil was right for percolation, and that the petitioners would like to balance the green space that was going to be taken up by parking.

Sandberg asked if there would be a manager on site. Fierst said that person would be living in the carriage house behind the Showers Graham house.

Public comment came from Isabel Piedmont who said that from the perspective of an IU employee trying to find lodging for campus visitors in the downtown and near campus, she looked forward to this option. She said it was a good plan.

During council comments, Sturbaum said he liked the idea of conditional use approval being given for local designations and said that the first one was done in the Prospect Hill Neighborhood with the Parris Dunning House. He added that the idea was to create enough income to sustain a property that might be out of scale for a single family use. He said that the 'gift' to the community in exchange for the use variance was to put it permanently in protection so that 100 years from now, the property would look essentially like it did when the use was granted.

Volan said he was concerned about surface parking and also concerned about more greenspace being paved as drainage was a big issue in this neighborhood. Krupinski offered that the areas where the cars would be parked would be pervious, but that sidewalks leading from the house to the garden would need to be solid for walking.

As Volan again noted concern with the increase of area to be paved, Hiestand said that the petitioners were required to get a certificate of appropriateness for the parking plan and the opening in the garden wall sometime in January, so there would be another public hearing and review of this issue. Volan noted his concern was one of drainage in the area, but was not great enough to prevent him from supporting the project that would add a diversity of use to the area.

Sabbagh said he thought B & B's were terrific and wished the Fiersts a lot of luck.

Rollo noted the council's gratitude to Hiestand and the Historic Preservation Commission for their work.

Ordinance 07-25 received a roll call vote of Ayes: 7, Nays: 0.

The meeting was adjourned at 8:15 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Dave Rollo, PRESIDENT  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington

for approval