

City of
Bloomington
Indiana



City Hall
401 N. Morton St.
Post Office Box 100
Bloomington, Indiana 47402

Office of the Common Council
(812) 349-3409
Fax: (812) 349-3570
email: council@city.bloomington.in.us

To: Council Members
From: Council Office
Re: Weekly Packet Memo
Date: February 28, 2003

Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

None

Legislation for Final Action:

App Ord 03-03 To Specially Appropriate from the General Fund Expenditures not Otherwise Appropriated (Appropriating Grant Funds to Police Agencies for Additional Enforcement of DUI Laws)

(Please see the February 14th packet for the legislation, summary, and background material)

Contact: Susan Clark, Budget and Research Manager, at 349-3416 or clarks@city.bloomington.in.us

Res 03-06 To Approve Recommendations of the Mayor for Distribution of Community Development Block Grant (CDBG) Funds for 2003

(Please see the February 21st packet for legislation, summary, and background material)

Contact: Susie Johnson at 349-3510 or johnsons@city.bloomington.in.us

Ord 03-05 To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles and Traffic" (Allowing 2-Way Traffic on the North Side of the Courthouse Square and Altering Parking Along 6th Street on and to the West of the Square)

(Please see the February 14th packet for the legislation, summary, and background material)

Contact: Justin Wykoff at 349-3593 or wykoffj@city.bloomington.in.us

Res 03-05 To Adopt a Written Fiscal Plan and to Establish a Policy for the Provision of City Services to an Annexed Area (Northwest Area)

(Please see the Annexation Notebook - Placed in Council Boxes and Available Online)

App Ord 03-01 To Specially Appropriate from the Telecommunications Non-Reverting Fund (Infrastructure) Expenditures Not Otherwise Appropriated (Appropriating Funds to Connect Fiber Optic Cable with and Lease Space in the Telecom Hotel)

(Please see the January 10th packet for the legislation, background material and summary and the January 30th packet for letter from Joe Sharkey of Indiana Fiber Works)

- Balance Sheet; *(Expenditure Sheet and Asset Purchase Agreement are Available in the Council Office)*

Contact: Greg Volan at 349-3485 or volang@city.bloomington.in.us

Annexation Notebook (in Separate Packet Placed in Council Member Boxes and Available Online - Please Keep Through June 18th):

Memo from Council Office

Memo from Susan Clark, Budget and Financial Manager

Map of Annexation

Ord 03-03 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (Northwest Area)

Res 03-05 To Adopt a Written Fiscal Plan and to Establish a Policy for the Provision of City Services to an Annexed Area (Northwest Area)

Contact: Susan Clark, Budget and Research Manager, at 349-3416 or clarks@city.bloomington.in.us

Legislation and Background Material for First Reading:

Ord 03-03 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (Northwest Area)

(Please see the Annexation Notebook - Placed in Boxes and Available Online)

Ord 03-04 To Amend the Bloomington Zoning Maps from Re1 to PUD and to Amend the Preliminary Plan for the Canada Farm Planned Unit Development (PUD)

- RE: 3902 & 3942 South Sare Road (Winger Stolberg Group, Petitioners)

- Certification (9 - 1); Maps; Memo from Jim Roach, Zoning Planner; Memo to Plan Commission (2/10/03); Reports from Environmental and Bicycle and Pedestrian Safety Commission; Petitioner Materials including Letter, Statement, and Site Design; Letter from Neighbor

Contact: Jim Roach at 349-3527 or roachja@city.bloomington.in.us

Ord 03-06 To Amend Title 6 Entitled "Health And Sanitation" in Order to Repeal and Reenact Chapter 6.12 Entitled "Smoking in Public Places and Places of Employment"

- Memo from Councilmember Pizzo; Tabulation; Amendments 1 -3 (from Jason Banach)

Contact: Anthony Pizzo at 349-3409

Minutes from Regular Session:

None

Reminders

Sidewalk Committee Meeting on Tuesday, March 4th at noon in the McCloskey Room

Demolition Review Advisory Committee on Wednesday, March 5th at 4:00 p.m. in the Council Chambers

Memo on Pending Legislation

Five Items Ready for Final Action and Three Items Ready to be Introduced March 5th Regular Session

There are five items ready for final action and three items ready for introduction next Wednesday. The five items ready for final action include three items discussed at Committee of the Whole, a resolution approving the fiscal plan for the one annexation we'll be doing this year, and the appropriation ordinance regarding the telecom hotel that was postponed from February 5th. The three items ready to be introduced include an annexation ordinance, an amendment to the Canada Farm PUD, and the smoking ordinance.

All these items are briefly noted in the following paragraphs and all the new items are included in this packet or the separate Annexation Notebook. *Please remember to keep the Annexation Notebook until we take final action on June 18th.*

March 7th Regular Session - Items Ready for Final Action

App Ord 03-03 Appropriating a \$14,000, County-Wide Grant to Enforce the Drunk-Driving Laws

Res 03-06 Approving the Mayor's Recommendation for the Allocation of CDBG Funds for 2003 (\$1,133,000 - including additional program income and some of last year's funds)

Ord 03-05 Amending Title 15 (Vehicles and Traffic) to Allow 2-Way Traffic on 6th Street Between College Avenue and Walnut Street and to Alter Angle-Parking on 6th Between Morton and Walnut Streets

Res 03-05 Approving the Fiscal Plan for the Annexation of the Northwest Area (*See separate Annexation Notebook for further information*)

App Ord 03-01 Appropriating \$48,600 from the Infrastructure Portion of the Telecommunications Fund for Connecting Fiber Optic Cable with and Leasing Space in the "Telecom Hotel" at 7th and Walnut Street (*Postponed from February 5th*)

March 7th Regular Session - Items Ready for Introduction

Ord 03-03 Annexing the Northwest Area (*which will be considered according to a statutorily required schedule including a public hearing on May 7th and final action on June 18th*)

(See separate Annexation Notebook for further information and keep it through the June 18th meeting)

Ord 03-04 Amending the Zoning Maps by Adding 6.84 Acres of RE-1 Land to the Remaining Portion of Parcel G of the Canada Farm PUD in Order to Develop 38 Lots on a Total of 11.11 Acres (3902 and 3942 South Sare Road - Wininger Stolberg Group, Petitioners)

Ord 03-06 Repealing and Reenacting Chapter 6.12 of the Municipal Code Entitled "Smoking in Public Places and Places of Employment (Sponsored by Councilmember Pizzo).

Notes on Second Readings

Item Five - App Ord 03-01 (Appropriating \$48,000 to Connect with and Lease Space in Telecom Hotel) - Postponed from February 5th

App Ord 03-01 was postponed from the February 5th Regular Session in order for the Council to receive more information about the appropriation. It appropriates \$48,000 to connect with and lease space in a telecom hotel located in the 7th and Walnut parking facility, and the Council wanted to know more about the financial viability of operator of the facility (Indiana Fiber Works) and the policies for offering the City's fiber (also known as the Bloomington Digital Underground - BDU) to the private sector.

Viability of Indiana Fiber Works (IFW). Greg Volan has provided a balance sheet, expenditure sheet, and an asset purchase agreement from IFW. The balance sheet is included in the packet and the other two documents are available at the Council Office.

Policies Governing Use of the BDU. Greg Volan has described "the process that is currently underway to develop these policies." With the help of a consultant, the ITS department has "drafted a general governance document that sets out general parameters for managing the City's fiber optic assets and identifies who is responsible for working out the details." He reconvened the BDU Advisory Group (which includes council members Diekhoff and Sabbagh) to review and further develop the policies and expects the group to complete its duties in March. The eventual policies will then be presented to the Council for approval.

Notes on First Readings

**Item One - Ord 03-03 - Annexing the Northwest Area
(Please See the Separate Annexation Notebook Placed in Boxes and Available Online and Keep it Through June 18th)**

Item Two - Ord 03-04 - Expanding Parcel G of the Canada Farm PUD to Allow 38 Single Family Units on 11 Acres

Ord 03-04 would amend the zoning maps by adding 6.84 acres of RE-1 land to the remaining portion of Parcel G of the Canada Farm PUD in order to develop 38 lots on a total of 11.11 acres. The property is located at 3902 and 3942 South Sare Road and will be developed by Wininger Stolberg Group.

History and Surrounding Uses. In 1996 the Canada Farm PUD went into effect after the Council was unable to muster a majority for or against the development. It required the developer to build most of Sare Road from Rogers Road to Rhorer Road and authorized a mix of residential, office and commercial uses over 130 acres. The construction of Sare Road coincided with the opening of Jackson Creek Middle School and the development of Olcott Park. This site is at the southern end of the PUD and adds about 7 acres of RE-1 land which lies between the PUD and the school and park. The Woodfield subdivision is on the north (at RS3.5), the Claybridge development is on the east (at 6.93 units per acre), and Sare Road and part of the Jackson Creek floodplain are to the south.

Growth Policies Plan. This property is part of the Urban Residential Area (URA), which encompasses all the residential property within the City's planning jurisdiction outside of the downtown and urban core. The URA is almost all developed and includes primarily single family uses with densities, however, that run from 2 to 15 units per acre. It is divided into two categories of development. The first relates to the development of small lots, known as the neighborhood

conservation areas, and the second (and more relevant) category relates to large, undeveloped parcels, known as new urban growth areas. The site design goals for urban growth areas include:

- Optimizing street, bicycle, and pedestrian connections to adjacent areas;
- Creating neighborhood focal points;
- Ensuring usable and accessible open spaces;
- Providing densities that are marginally higher than surrounding areas, while preserving environmentally sensitive features, accounting for the capacity of infrastructure, and taking into consideration the development's relationship to adjacent existing neighborhoods.

Access, Streets, and Right-of-Way. The design of the lots and roadways looks like a backward letter “h” with the feet serving as the two access points onto Sare Road and the head serving as a 350' long cul-de-sac. The streets will be public and have a right-of-way of 50' with sidewalks and tree plots on both sides, and a paved surface of 24' including two 10' travel lanes and 2' of curbs and gutters. *(Reflected in Condition of Approval # 4)*. Please note that the narrow street does not provide for an on-street parking lane in accordance with recent amendments to the Master Thoroughfare Plan.

Pedestrian Facilities. The Bicycle and Pedestrian Safety Commission recommended that the developer build a multi-use path between two lots and fund the cost of connecting it to the park trail. *(Reflected in Condition of Approval # 1)*

Site and Environmental Concerns: The staff report indicates that these 11 acres contain a house, some out-buildings, and “mostly open pasture crossed by several treed fence lines.” The Environmental Commission noted a natural drainage way running in a southerly direction through the property, with a detention basin lying behind the interior lots between the two internal streets and next to Sare Road. The Commission recommended that a conservation easement protect the trees along the northwest side of the site (next to the park) and that another easement protect the detention basin and be planted with a special wetland seeding mixture. *(Agreed to by petitioner and reflected, in part, in Condition of Approval # 2)*

Height, Bulk, and Density Standards. The Plan Commission approved changes in minimum setbacks and lot size requirements. The front setbacks were reduced from 25' to 20' and the side yard setbacks were reduced from the 8' (for one-story) and 12' (for two-story) to a flat 7.5'. The minimum lot size was set at 7,200 (which the staff report indicates is the minimum required for RS4.5). *(Reflected in Condition of Approval # 5)*

Letter from Neighbor. There is a letter from a neighbor to the north asking that petitioner preserve the tree line and add an evergreen screen or other means to buffer the development. Petitioner has agreed preserve the tree line along the north and part of the east "where possible." (*Reflected in Condition of Approval # 2*)

Utilities. The petitioner will need to move a sanitary sewer line in order to create the second road access to the site and the utilities department must approve the utility plans before the grading permit is issued and the final plat approved. (*Reflected in Condition of Approval # 3*)

Conditions of Approval. The Plan Commission approved this request after one hearing by a vote of (9 - 1) with the following conditions of approval:

1. The petitioner must provide access to the park between lots 9 and 10, and fund the link from the subdivision to the Olcott Park Trail. The access between the lots must include a 15' easement and an 8' wide asphalt multi-purpose path;
2. The petitioner must plat a tree preservation easement along the park (behind lots 12-16) and on the west side of a drainage easement that runs between and parallel to the two internal streets (behind lots 35-38). The petitioner also agreed "to preserve, where possible, existing tree lines along the north" and parts of the east property line;
3. CBU must approve the storm water and utility plans before the grading permit is issued and the final plat is approved;
4. The petitioner must build streets with two 10' travel lanes, 2' curbs and gutters, and 5' sidewalks; and
5. The setback and lot size requirements were modified to allow: 20' street front setbacks, 7.5' side yard setbacks (regardless of height), and a 7,200 s.f. minimum lot size.

**Item Three - Ord 03-06
(Repealing and Reenacting the City's Smoking Ordinance)**

As you all know, Councilmember Pizzo wishes to extend the reach of the City's smoking ordinance. As a physician, he is persuaded of the dangers from breathing second-hand smoke and has sought the advice of Dr. John R. Seffrin, former professor in the IU Hyper Department and current CEO of the American Cancer Society, regarding a model ordinance to introduce here. Dr. Seffrin provided one and Dr. Pizzo has circulated and modified it after meeting with various groups and the Administration.

In his brief memo, Dr. Pizzo explains what he is trying to do and why:

This ordinance is intended to protect non-smokers from the dangers of second-hand smoke and to discourage others from continuing or taking up this dangerous habit.

Tobacco use is the single most preventable cause of disease, illness, and death in our town for both smokers and non-smokers. We can no longer sit idly by when we have the obligation and ability to protect all our citizens from second-hand smoke.

Public Comment

We have received about 80 comments directly to the Council Office from the public regarding the smoking ordinance. The comments came from members of health care groups, professionals, property rights advocates, and grade school classes. Our intern tallied these comments on Friday and estimated that 67 were in favor and 13 were opposed to the smoking ban.

We are encouraging those who wish to make a statement on the ordinance to use our website to register their concerns by filling-out our online form at:

http://www.city.bloomington.in.us/council/hottopics/publiccomment_smoking.html

History of Local Smoking Regulations

The history of the City smoking regulations began 25 years ago and reveals an incremental effort to prohibit smoking in public places. The first ordinance, Ord 78-48, now appears as a modest first step which prohibited smoking in elevators and city buses when they were open to the public. It also limited smoking in restaurants, health care facilities, public meetings, theaters, libraries, museums, and galleries to designated smoking areas or when those places were not open to the public. Smoking was allowed in theater lobbies, bars, and at private functions in restaurants, but only bars and theater lobbies could be set aside entirely for smoking. Persons in control of these places were required to post signs and violators were subject to a fine of no more than \$100.

The second ordinance, Ord 87-17, extended the smoking prohibition to "any enclosed area used by the general public," but continued to allow smoking in designated smoking areas as well as in retail tobacco stores. It limited the designated smoking areas in restaurants to no more than 75% of the seating and made the defacing of signs a violation.

The third ordinance, Ord 91-87, prohibited smoking in City facilities (except those areas serving as living quarters).

The fourth ordinance, Ord 93-24, prohibited new designated smoking areas and attempted to eliminate existing designated smoking areas over time by removing them when the business changed location, ceased to operate for six months, or changed ownership. This approach matched similar language adopted by the Monroe County Board of Health.

The fifth and unsuccessful ordinance, Ord 99-52, attempted to close a loop-hole by defining "change of ownership." It failed, in part, because of the difficulty of defining change of ownership and also because some council members were uncomfortable with the complete elimination of smoking in bars.

Highlights of Changes Between Existing and Proposed Ordinance

The proposed ordinance differs from the existing smoking regulations in that it would:

- require employers to provide a smoke-free workplace for all employees by establishing and enforcing a smoking policy within 120 days of adoption of the ordinance (but does not require them to incur costs for any physical improvements);
- prohibit smoking in bars and restaurants and, therefore, eliminate the last of the "designated smoking areas";
- prohibit smoking in private clubs with employees or at private functions in bars, restaurants, hotel, motels, and similar places;
- prohibit smoking in outdoor areas where food or beverages are served, people wait in line, or architectural features (court yards) impede the dispersal of smoke;
- prohibit smoking in other places where smoking is currently permitted - for example, in malls, lobbies, and in common areas of multiple-unit residential facilities;
- prohibit smoking in more than 25% of any hotel's or motel's rooms;

- require that smoking occur at a "reasonable distance" from buildings in order to insure that smoke does not enter the building;
- require those persons in control of enclosed public places to remove smoking paraphernalia, as well as inform smokers of the prohibition and ask for them to stop;
- impose a fine of \$100 for each violation of this ordinance (currently the fine is from \$10 to \$100), and authorize the City Legal Department to use all lawful remedies if multiple violations are committed by the same person or at the same business, and the Legal Department has reason to conclude that fines will not be effective in enforcing the ordinance.

Summary of Ordinance

Definitions

There are about a dozen definitions and a few that have received comment are briefly mentioned below:

“Place of Employment” covers all enclosed area where employees normally frequent during the course of employment. This would include private offices and vehicles carrying more than one occupant.

Am 3 (Banach) removes **"private offices"** from this definition and inserts a definition for **"private office."** A "private office" includes a "fully enclosed space, ... occupied by no more than one person, where smoke is eliminated from the building through ventilation or other technology, without entering any other part of the place of employment."

Am 1 (Banach) adds the definition for **"18 and Over Business"** which is any business where patrons and employees must be at least 18 years old and was in operation or had commenced construction before July 1, 1994, unless after that date the business ceased to operate for more than six months, changed location, or changed ownership.

“Retail Tobacco Store” excludes businesses which also provide or set aside areas for food or beverages to be consumed on the premises. This definition would allow

boutique tobacco stores to continue offering samples, but would not allow 'cigar bars' or other new businesses where patrons can smoke.

"Private Club" covers privately owned or operated facility used for social or recreational purposes where entry and use of the facility is limited to members and their guests.

Note: This ordinance prohibits smoking in "private clubs with employees" and, if the ordinance were amended to allow smoking in those places, it would be necessary to redraft this definition in order to prevent many new smoking areas.

Prohibition

The ordinance prohibits smoking in “enclosed public places” which include:

- Elevators and other areas of common use;
- Transit facilities (including buses, taxis, and shelters);
- Service lines;
- Retail stores, restaurants, bars, and venues for performances (except for performers when smoking is part of a theatrical production);
- Areas available to and customarily used by the general public in all businesses and non-profit entities patronized by the public;
- Sports facilities and convention halls;
- Places of meeting or public assembly to the extent such place is subject to the jurisdiction of the City;
- Health facilities;
- Common areas in apartment buildings, condominiums, trailer parks and other multiple-unit residential facilities; as well as
- Polling places;
- Places of employment;

- Outdoor areas, including seating associated with bars and restaurants, service lines, and partially enclosed areas where air does not circulate (e.g. courtyards);
- Private clubs with employees and private functions in bars, restaurants, motels, hotels, and similar places open to the public.

Am 3 (Banach) would allow smoking in private clubs, private offices, private functions, and outdoor areas that were a reasonable distance from entrances, windows, ventilation systems or other means for air to enter the building.

Policies in Places of Employment

The ordinance makes employers responsible for providing a smoke-free workplace for employees, but does not require them to incur any expense for structural or other physical modifications. Within 120 days of adoption employers must establish and maintain a smoking policy covering all enclosed facilities. They must communicate the policy within 3 weeks of its adoption and supply a written copy of it upon request to any existing or prospective employee.

Note: Some employers have asked to see samples of an acceptable policy. Sample policies do exist and could be provided as part of the educational program associated with this ordinance.

Smoking at a Reasonable Distance from Entrances

The ordinance restricts smoking within a reasonable distance from prohibited areas in order “to insure that smoke does not enter the area through entrances, windows, ventilation systems or any other means.”

Note: Some people may prefer that the ordinance establish an exact distance. The approach taken here would allow smoking near the building as long as smoke could not be detected anywhere inside.

Where Smoking is Not Regulated

The ordinance allows smoking in the following places, unless the person in control chooses to make them smoke-free environments:

- Private residences, unless used as child care, adult day care, or other health care facility;
- 25% of hotel or motel rooms rented to guests; and
- Retail tobacco stores.

Am 1 (Banach) adds "**18 and older business**" to the places where smoking is not regulated. Please note that this term would only cover businesses which already have lawful designated smoking areas and prohibit persons under 18 years of age from entering the business.

Am 3 (Banach) adds **private clubs, private offices, private functions, and outdoor areas** that were a reasonable distance from

entrances, windows, ventilation systems or other means for air to enter the building.

Posting of Signs and Removal of Smoking Paraphernalia

Persons in control of the building must post “No smoking” signs at every entrance and in every building where smoking is prohibited by this ordinance. They must also remove ashtrays and other smoking paraphernalia.

Enforcement

For purposes of enforcement, the ordinance:

- Authorizes the Mayor to designate enforcement agents (as yet designated);
- Directs citizens to file a complaint with the enforcement agent(s);

Note: This provision will give the Administration a little more time to decide who will enforce the ordinance.

Violations and Penalties

The ordinance makes it unlawful for any person:

- in control of an area subject to this ordinance to “fail to comply with its terms” or to knowingly or willfully allow smoking where it is prohibited (the person in control of the premises can demonstrate compliance with the latter provision by acting in a timely manner to inform the smoker of the violation and ask him or her to refrain from smoking.)
- to smoke where smoking is prohibited.

The ordinance:

- imposes a fine of \$100 for each violation, and
- in the event multiple violations are committed by the same person or at the same business, authorizes the City Legal Department to use all lawful remedies, if it has reason to conclude that fines will not be effective in enforcing the ordinance.

Note: I spoke with Christine Bowers, who (I believe) is Chief Inspector in the Fort Wayne Fire Department and is responsible for enforcing its ordinance. Her inspectors respond to complaints and wrote many warning tickets early on, but very few citations

since the program began in 1998. At present, she believes they have nearly complete compliance with the ordinance.

Public Education

The ordinance provides for the appropriate agent to “engage in a program to explain and clarify the purposes and requirements of this ordinance to” citizens and businesses affected by it.

Note: Christine Bowers attributes Fort Wayne's success to its educational approach (brochures). There may be grants from the tobacco settlement to help fund this effort here.

Other Applicable Laws

The ordinance provides that other applicable and more restrictive laws will override this ordinance.

Effective Date

The ordinance would become effective on July 1, 2003 (but employers would have 120 days from the date of adoption to develop a smoke-free policy for the place of employment).

Am 2 (Banach) would make the ordinance effective on August 1st, 2003, in order to give businesses time to educate employees and patrons and still implement the regulations before the new school year begins.

Happy Birthday, Jason Banach and Rachel Atz !

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, MARCH 5, 2003
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON**

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: None

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. Appropriation Ordinance 03-03 To Specially Appropriate from the General Fund Expenditures Not Otherwise Appropriated (Appropriating Grant Funds to Police Agencies for Additional Enforcement of DUI Laws)

Committee Recommendation: Do Pass 8 – 0 – 0

2. Resolution 03-06 To Approve Recommendations of the Mayor for Distribution of Community Development Block Grant (CDBG) Funds for 2003

Committee Recommendation: Do Pass 8 – 0 – 0

3. Ordinance 03-05 To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” (Allowing 2-Way Traffic on the North Side of the Courthouse Square and Altering the Parking on 6th Street Between Morton and Walnut Streets)

Committee Recommendation: Do Pass 9 – 0

4. Resolution 03-05 To Adopt a Written Fiscal Plan and to Establish a Policy for the Provision of City Services to an Annexed Area (Northwest Area)

5. Appropriation Ordinance 03-01 To Specially Appropriate from the Telecommunications Non-reverting Fund (Infrastructure) Expenditures Not Otherwise Appropriated (Appropriating Funds to Connect Fiber Optic Cable with and Lease Space in the Telecom Hotel)

January 15, 2003, Regular Session: First Reading
January 22, 2003, Committee of the Whole: Do Pass Recommendation: 0 – 0 – 7
February 5, 2003, Regular Session: Motion to Postpone to March 5th: 8 – 1 – 0

VII. LEGISLATION FOR FIRST READING

1. Ordinance 03-03 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (Northwest Area)

2. Ordinance 03-04 To Amend the Bloomington Zoning Maps from RE1 to PUD and to Amend the Preliminary Plan for the Canada Farm Planned Unit Development (PUD) – Re: 3902 & 3942 South Sare Road (Wininger Stolberg Group, Petitioners)

3. Ordinance 03-06 To Amend Title 6 Entitled “Health and Sanitation” In Order to Repeal and Reenact Chapter 6.12 Entitled “Smoking in Public Places and Places of Employment”

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
Bloomington, Indiana 47402
Office of the Common Council
(812) 349-3409
Fax: (812) 349-3570
email: council@city.bloomington.in.us

To: Council Members
From: Council Office
Re: Calendar for the Week of
March 3, 2003 – March 9, 2003
Date: February 28, 2003

Monday, March 3, 2003

5:30 pm Bicycle and Pedestrian Safety Commission Work Session, Hooker

Tuesday, March 4, 2003

12:00 pm Council Sidewalk Committee, McCloskey
1:30 pm Development Review Committee, McCloskey
3:30 pm Housing Trust Fund Board, McCloskey
5:30 pm Public Transportation Corporation Board, Transit
6:30 pm Home Buyers Club, McCloskey
7:30 pm Telecommunications Council, Chambers

Wednesday, March 5, 2003

12:00 pm Bloomington Urban Enterprise Association, McCloskey
2:00 pm Hearings Officer, Planning Department, Hooker
4:00 pm Demolition Review Advisory Committee, Chambers
7:30 pm Common Council Meeting-Regular Session, Chambers

Thursday, March 6, 2003

5:30 pm Commission on the Status of Women, McCloskey

Friday, March 7, 2003

No Meetings Scheduled

Happy Birthday, Jason Banach!

Please See Annexation Packet – Northwest Area for these materials

APPROPRIATION ORDINANCE 03-01

TO SPECIALLY APPROPRIATE FROM THE TELECOMMUNICATIONS NON-REVERTING FUND (INFRASTRUCTURE) EXPENDITURES NOT OTHERWISE APPROPRIATED

(Appropriating Funds to Connect Fiber Optic Cable with and Lease Space in the Telecom Hotel)

- WHEREAS, the Common Council established the Telecommunications Non-Reverting Fund (Fund) by Ordinance 96-31, and
- WHEREAS, Ordinance 96-31 provides that the Fund shall derive its revenues from cable franchise fees, and
- WHEREAS, Ordinance 96-31 dedicated forty percent (40%) of the cable franchise fees for the planning, design, development, and construction of the City's telecommunications infrastructure, and
- WHEREAS, the City desires to enter into a lease agreement with Indiana Fiber Works to rent space in the telecom hotel at 7th & Walnut Streets; and
- WHEREAS, the City believes that entering into this lease agreement will help ensure the continued existence of the telecom hotel and enhance the City's investment in the planning, design, development, and construction of the City's telecommunications infrastructure; and
- WHEREAS, the City desires to hire a qualified contractor to splice fiber strands from the City's fiber optic cable and to terminate them inside the telecom hotel so that the City's fiber can be used at the telecom hotel; and
- WHEREAS, the appropriated funds will be used to cover the City's obligations under the lease agreement for the year 2003 and to pay for the contractor;

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

SECTION I. For the expenses of said municipal corporation, the following additional sums of money are hereby appropriated and ordered set apart from the funds herein named and for the purposes herein specified, subject to the laws governing the same:

AMOUNT REQUESTED

Telecommunications Non-Reverting Fund (Infrastructure)

Line 53750 – Other Rentals	\$18,600
Line 54310 – Improvements other than Building	<u>\$30,000</u>
Total	\$48,600

SECTION II. 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 by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2003.

CHRIS GAAL, 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 _____, 2003.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2003.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance appropriates \$48,600 from the Telecommunications Non-Reverting Fund (Infrastructure) to connect the City's fiber optic cable with and lease space in a telecom hotel at 7th and Walnut Street.

BALANCE SHEET

Indiana Fiber Works, LLC

JANUARY 31, 2003



Assets

Current Assets

Bank One - Disbursements Acct	\$91,581.15	
Bank One - Receipts Account	648,704.54	
Cash - Petty Cash	100.00	
Accounts Receivable	442,932.37	
A/R - Other Misc.	253,344.42	
Prepaid Expenses	41,849.74	
Prepaid Insurance	250.00	
Work in Process - Network Inv	2,318,344.15	
Inventory - Fiber	5,979,896.08	
Inventory - Casings	1,176,008.90	
Inventory - Conduit	6,533,450.16	
Inventory - 3rd Party IRU	46,279.78	
		<hr/>
TOTAL Current Assets		17,532,741.29

Fixed Assets

Land	27,613.49	
Leased Network Inventory	154,265.94	
Vehicles	11,000.00	
Fiber Mgmt Equipment	41,390.36	
Buildings - Hubs	436,108.31	
Computers	10,741.60	
Computer Software	7,610.13	
Office Equipment	9,682.39	
Furniture & Fixtures	21,917.54	
Leasehold Improvements	1,775.12	
		<hr/>
TOTAL Fixed Assets		722,104.88

Other Assets

Investment in VillageNet	1,191,434.63	
Deposits	381,798.02	
		<hr/>
TOTAL Other Assets		1,573,232.65
		<hr/>
TOTAL Assets		\$19,828,078.82
		<hr/> <hr/>

PRELIMINARY - UNAUDITED

BALANCE SHEET

Indiana Fiber Works, LLC

JANUARY 31, 2003



Liabilities AND Equity

Current Liabilities

Accounts Payable	\$251,028.96	
Intercompany Transfers	1,696,840.38	
TOTAL Current Liabilities		1,947,869.34

Long Term Liabilities

Irwin Business - Capital Lease	5,645.10	
Deferred Rev - Maint Services	37,119.20	
TOTAL Long Term Liabilities		42,764.30

TOTAL Liabilities		1,990,633.64
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Equity

Members Interest	18,722,056.63	
RETAINED EARNINGS - PRIOR	(1,850,797.34)	
Retained Earnings-Current Year	966,185.89	
TOTAL Equity		17,837,445.18

TOTAL Liabilities AND Equity		\$19,828,078.82
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PRELIMINARY - UNAUDITED

ORDINANCE 03-04

**TO AMEND THE BLOOMINGTON ZONING MAPS FROM RE1 TO PUD
AND TO AMEND THE PRELIMINARY PLAN FOR
THE CANADA FARM PLANNED UNIT DEVELOPMENT (PUD)
RE: 3902 & 3942 South Sare Road
(Winger Stolberg Group, Petitioners)**

WHEREAS, on May 1, 1995 the Common Council adopted Ordinance 95-21, which repealed and replaced Title 20 of the Bloomington Municipal Code entitled "Zoning", including the incorporated zoning maps, and Title 21, entitled "Land Use and Development;" and

WHEREAS, the Plan Commission has considered this case, PUD-02-03, and recommended that the petitioners, Winger Stolberg Group, Inc., be granted a rezone of the property located at 3902 & 3942 S. Sare Road from RE1 to Planned Unit Development and also be granted a preliminary plan amendment of the Canada Farm PUD. The Plan Commission thereby requests that the Common Council consider this petition;

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

SECTION I. Through the authority of IC 36-7-4 and pursuant to Chapter 20.05.09 of the Bloomington Municipal Code, that 6.84 acres be rezoned from RE1 to PUD, the preliminary plan be approved, and the list of permitted uses be amended for the property at 3902 & 3942 South Sare Road. The property is further described as follows:

A Part of section 15, Township 8 North, Range 1 West, Monroe County, Indiana, and being more particularly described as follows:

COMMENCING at a PK nail found at the northeast corner of the Northeast Quarter of said Section 15; thence SOUTH 00 degrees 10 minutes 14 seconds West 1054.06 feet on the east line of said Northeast Quarter; thence NORTH 89 degrees 17 minutes 17 seconds West 403.49 feet to a 5/8" rebar found; thence NORTH 89 degrees 16 minutes 16 seconds West 1169.80 feet to a 6 1/2" axile set flush; thence SOUTH 33 degrees 53 minutes 52 seconds West 1269.94 feet to a 5/8" rebar with cap stamped "SNA"; thence SOUTH 55 degrees 56 minutes 37 seconds East 215.29 feet to a 5/8" rebar with cap stamped "SNA"; thence 316.25 feet on a 2787.69 foot radius tangent curve to the left whose chord bears SOUTH 59 degrees 16 minutes 55 seconds East 316.08 feet to a 5/8" rebar with cap stamped "SNA"; thence SOUTH 62 degrees 31 minutes 56 seconds East 93.76 feet to a 5/8" rebar with cap stamped "SNA"; thence SOUTH 11 degrees 19 minutes 28 seconds West 861.64 feet; thence NORTH 89 degrees 51 minutes 35 seconds West 649.84 feet to a 1/2" rebar with cap stamped "UTT" at the POINT OF BEGNNING; thence SOUTH 14 degrees 40 minutes 49 seconds East 628.97 feet to a 1/2" rebar with cap stamped "UTT"; thence SOUTH 20 degrees 54 minutes 01 seconds East 72.80 feet; thence SOUTH 05 degrees 36 minutes 42 seconds East 87.21 feet to the northwestern right-of-way of Sare Road; thence on said northwestern right-of-way the following two (2) courses: 1) 632.29 feet on a 7750.64 foot radius non-tangent curve to the right whose chord bears SOUTH 56 degrees 12 minutes 41 seconds West 632.11 feet; 2) SOUTH 05 degrees 36 minutes 42 seconds East 132.38 feet; thence leaving said right-of-way NORTH 00 degrees 32 minutes 55 seconds East 461.86 feet; thence 06 degrees 25 minutes 28 seconds West 210.01 feet; thence NORTH 83 degrees 32 minutes 14 seconds East 199.27 feet; thence NORTH 08 degrees 40 minutes 25 seconds West 496.47 feet; thence NORTH 89 degrees 58 minutes 59 seconds East 341.15.feet to the POINT OF BEGINNING, containing 11.11 acres more or less.

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

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

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2003.

CHRIS GAAL, 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 _____, 2003.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2003.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance rezones 6.84 acres on S. Sare Road from RE1 to Planned Unit Development and amends the preliminary plan for Parcel G of the Canada Farm PUD to allow for 38 single family lots on 11.11 total acres.

****CERTIFICATION of ACTION****

In accordance with IC 36-7-4-608 I hereby certify that the attached Ordinance Number 03-04 is a true and complete copy of the amendment to Plan Commission Case Number PUD-02-03 which was given a recommendation of approval by a vote of 9 Ayes and 1 Nays by the Bloomington City Plan Commission at a public hearing held February 10, 2003.

Date: February 24, 2003

Thomas B. Micuda, Secretary
Plan Commission

Received by the Common Council Office this ____ day of _____, 2003.

Regina Moore, City Clerk

Appropriation Ordinance # _____ Fiscal Impact Statement # _____ Ordinance Resolution # _____

Type of Legislation:

Appropriation	End of Program	Penal Ordinance
Budget Transfer	New Program	Grant Approval
Salary Change	Bonding	Administrative Change
Zoning Change	Investments	Short-Term Borrowing
New Fees	Annexation	Other

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure _____ Emergency _____
Unforeseen Need _____ Other _____

Funds Affected by Request:

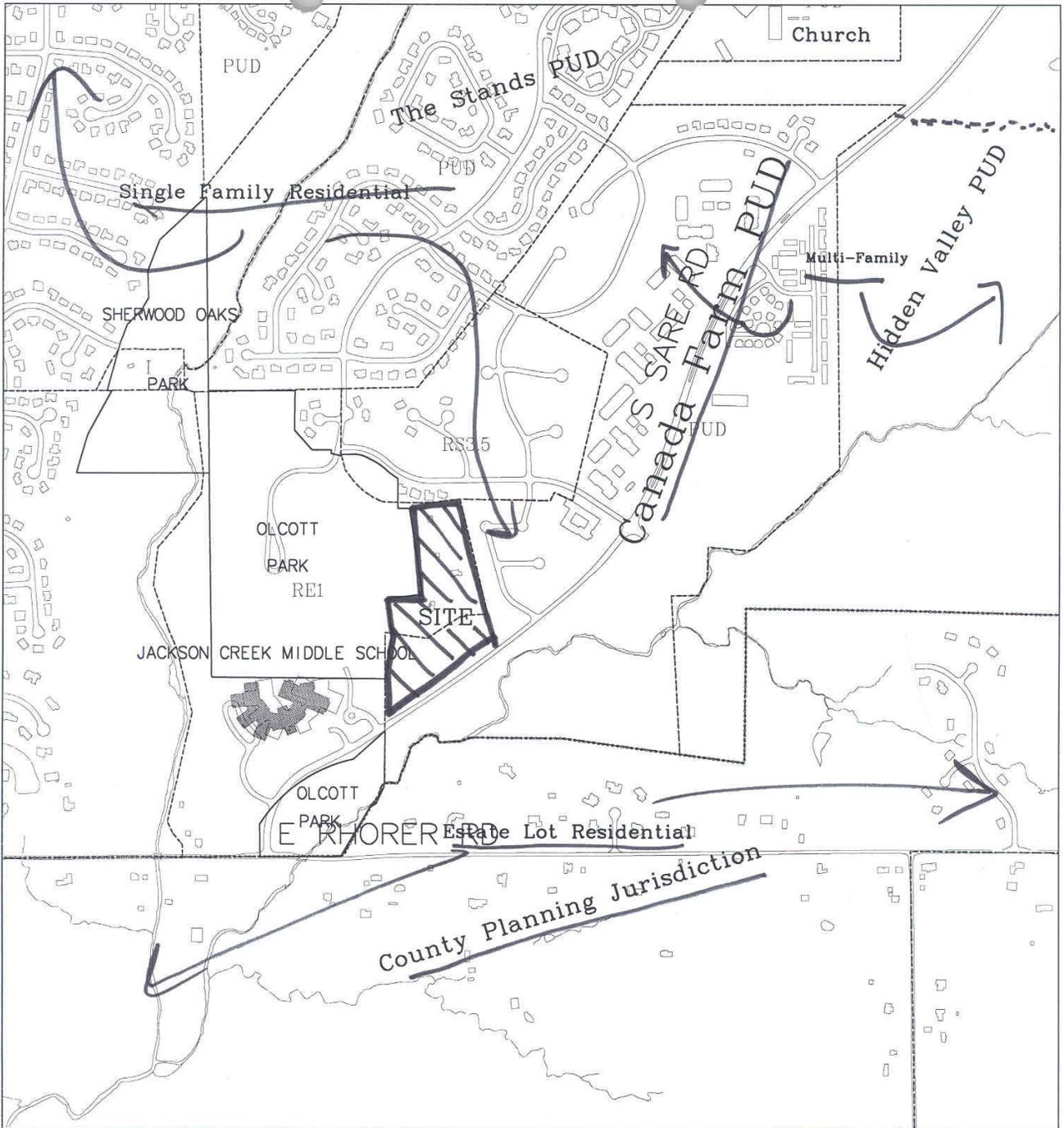
Fund(s) Affected		
Fund Balance as of January 1	\$ _____	\$
Revenue to Date	_____	
Revenue Expected for Rest of year	_____	
Appropriations to Date	_____	
Unappropriated Balance	_____	
Effect of Proposed Legislation (+/-)	_____	
Projected Balance	\$ _____	\$

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?
Yes _____ No _____

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)



PUD-02-03

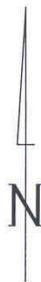
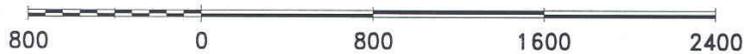
Winger Stolberg Group Rezone

3902 & 3942 S. Sare Road

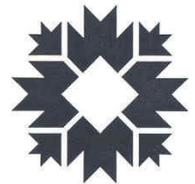
Location, Zoning and Land Use

By: roachja

2 Feb 03



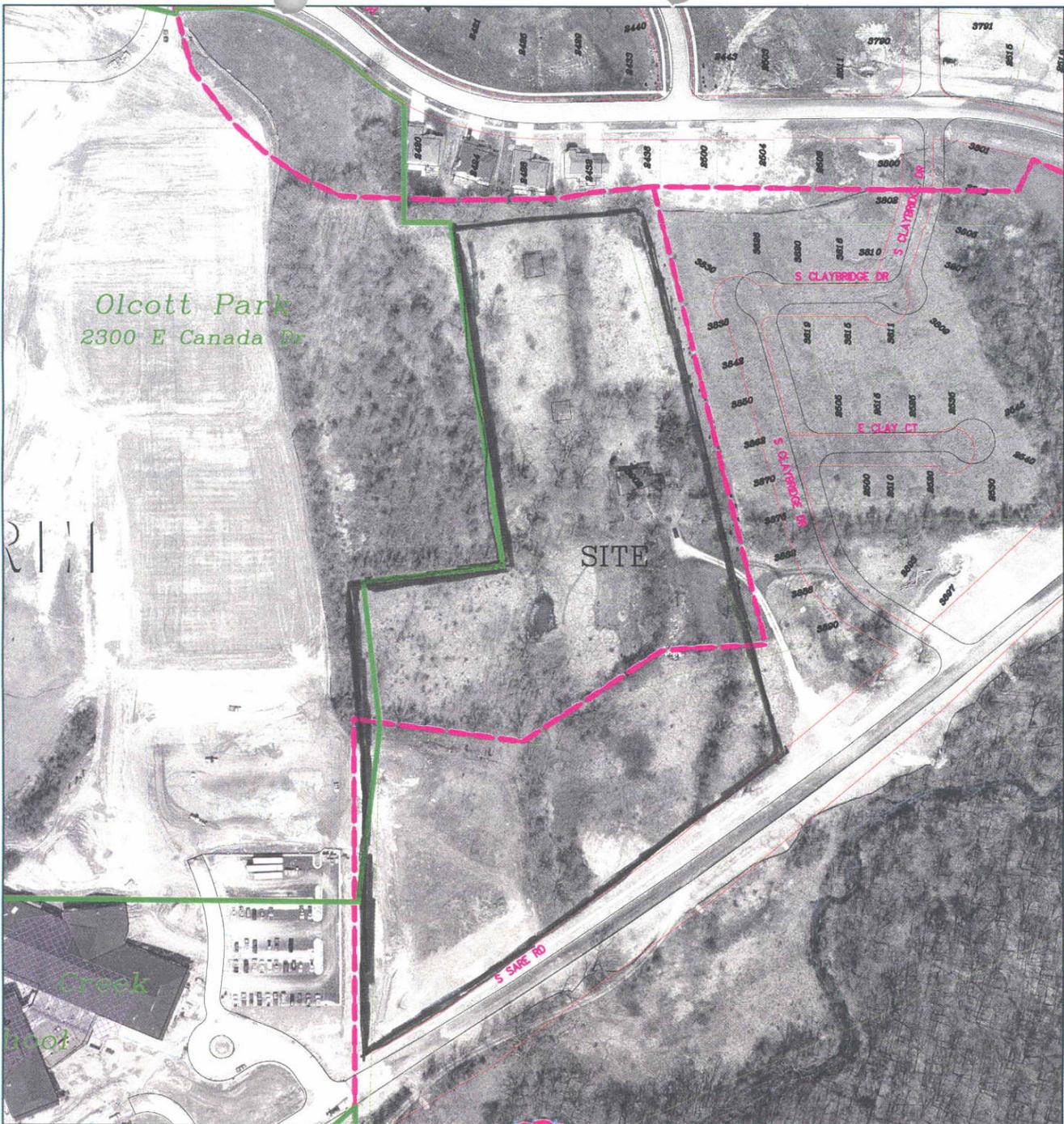
City of Bloomington
Planning



Scale: 1" = 800'

For reference only; map information NOT warranted.

8



PUD-02-03

Winger Stolberg Group Rezone

3902 & 3942 S. Sare Road

1998 Aerial Photo

By: roachja

2 Feb 03



For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 200'

1/24

Interdepartmental Memo

To: Members of the Common Council
From: James Roach, Senior Zoning Planner
Subject: Case # PUD-02-03
Date: February 24, 2003

Attached are the staff reports, petitioner's statements, and map exhibits which pertain to Plan Commission Case # PUD-02-03. The Plan Commission voted 9-1 to send this petition to the Common Council with a favorable recommendation.

REQUEST: The petitioner is requesting a preliminary plan amendment to expand the Canada Farm PUD to include 6.84 additional acres. The petitioner received final plan and preliminary plat approval to develop 38 lots on 11.11 total acres from the Plan Commission, contingent on the approval of this rezoning.

BACKGROUND:

Area: 6.84 acres added to PUD
11.11 acres total

Current Zoning: RE1 (Residential Estate) & PUD (Canada Farm PUD)

GPP Designation: Urban Residential

Existing Land Use: One single family house

Proposed Land Use: Single family residential

Proposed Density: 3.42 units/acre (38 units)

Surrounding Uses: North – Single family (Woodfield)
South – Vacant, Floodplain
East – Single family (Claybridge)
West – Jackson Creek Middle School & Olcott Park

REPORT SUMMARY: The property in question is located on the north side of S. Sare Road. The site is 11.11 acres in size and contains an existing single family house and several outbuildings. The site is mostly open field, but contains several tree-lined fence rows. Approximately 40% of the site, 4.28 acres, is within Parcel G of the existing Canada Farm Planned Unit Development. The Canada Farm PUD was approved in 1996 and included a mix of single-family, multi-family, office and commercial parcels. Parcel G was approved for multi-family uses at 6 units per acre. Parts of Parcel G have already been developed with the Claybridge single family development and an assisted living facility. The remainder of the property in question, 6.84 acres, is zoned Estate Residential (RE1) and could currently be developed with single family homes at 1 unit per acre.

The petitioner is proposing to amend the Canada Farm PUD to add this 6.84 acre parcel to the PUD. This would allow a total of 11.11 acres to then be developed with 38 single-family lots, for an approximate density of 3.42 units per acre. The lots will be accessed from two new public streets, both of which intersect with Sare Rd.

PRELIMINARY PLAN ISSUES:

Growth Policies Plan Analysis: The site is designated Urban Residential by the 2002 Growth Policies Plan (GPP). The GPP notes that development densities should range from 2 units per acre to 15 units per acre, and states that “when new construction occurs on vacant parcels, the goal should be to encourage maximum densities, ensure street connectivity, and protect existing residential fabric.” The category also calls for providing linkages between neighborhoods, open space and public spaces and notes that infill sites should be developed for predominately residential uses. By comparison, the Woodfield subdivision to the north was developed at 3.5 units per acre and the Claybridge subdivision to the east was developed at 6.93 units per acre. The Plan Commission found that the proposed use and density is consistent with the GPP.

Height Bulk and Density: The Plan Commission approved several specific development standards for this project. A 20-foot front yard setback was approved, instead of the required 25 feet. This distance is enough to ensure cars parked in driveways will not hang over the sidewalk. A minimum lot size of 7,200 square feet was also approved. For comparison, 7,200 square feet is the minimum lot size for RS4.5 zoned land. The Claybridge subdivision to the east was developed with 4,700 square foot minimum lot sizes. Finally, a minimum sideyard setback of 7.5 feet was approved, regardless of the number of stories. For comparison, the Claybridge development to the east was approved with 5 foot minimum setbacks. Standard setbacks are 8 feet for a one-story house and 12 feet for a two-story house. The Plan Commission found these development standards to be consistent with the surrounding area.

Access and Cul-de-sac Issues: The property would be accessed by two new public streets. There is adequate site distance on Sare Rd. for these new intersections. One cul-de-sac is proposed but does not violate the maximum cul-de-sac length of 600 feet.

Streets and Right-of-way: The proposed interior streets would be public with 50 foot right-of-ways. All required right-of-way along Sare Rd. was dedicated with previous approvals. The roadway width was approved at 24 feet. Specifically, the street will be developed with two 10-foot travel lanes and 2 foot wide curb and gutters.

Environmental Issues: The site is mostly open pasture crossed by several treed fence lines. These trees are of minimal quality. The Plan Commission required that the trees in the rear of lots 12-16 be preserved to act as a buffer to the park trail. They also required that the existing trees on the west side of the detention pond, on lots 35-38, be maintained. The Plan Commission required that these areas be included in a tree

preservation easement to ensure they will be preserved and that where possible, the petitioner preserve the existing treelines along the north and east property lines.

Pedestrian Facilities: This property is immediately adjacent to Olcott Park. A 12 foot wide multi-purpose path has been developed in the park, immediately west of this proposed rezoning. The Plan Commission required that the petitioner construct an 8-foot wide path between lots 9 and 10 to connect to the park. Through negotiation with the petitioner, the Plan Commission also required the petitioner to provide funding to the Parks Department to allow the extension of this path into Olcott Park to link to the existing multipurpose path.

Final Plan and Preliminary Plat: The Plan Commission also approved a final plan and preliminary plat for this development. This approval is contingent on approval of the rezoning request by the Common Council.

Conclusion: The Plan Commission found that the proposed density, use, development standards, and street arrangement to be compatible with existing surrounding developments and the policies of the GPP.

Conclusion: The Plan Commission voted 9-1 to send this petition to the Common Council with a favorable recommendation with the following conditions:

1. An 8-foot wide asphalt multi-purpose path, within a 15 foot wide pedestrian easement, must be provided between lots 9 and 10. The petitioner shall provide funding to the Parks Department to allow the extension of this path into Olcott Park to link to the existing multipurpose path.
2. A tree preservation easement must be platted along the rear of lots 12-16 and 35-38. This easement must extend from the rear property line to the drip-line of the existing trees. The petitioner has agreed to preserve, where possible, existing treelines along the north property line (at lots 16-18) as well as along the east property line (at lots 19-24).
3. Stormwater and utilities plans must receive final approval from CBU prior to any grading permit or final plat for the development.
4. The proposed street will be developed with 10 foot travel lanes, 2 foot curb and gutters and a 5 foot sidewalk.
5. Per the staff report, the subdivision is allowed the following deviations from code requirements: 1) 20-foot street building setbacks, 2) 7,200 square foot lot width minimums, and 7.5 foot sideyard building setbacks (regardless of the number of stories).

**BLOOMINGTON PLAN COMMISSION
PRELIMINARY REPORT
LOCATION: 3902 & 3942 S. Sare Road**

**CASE NO: PUD-02-03
DATE: February 10, 2003**

PETITIONER: Winger Stolberg Group
501 S. Woodcrest Drive, Bloomington

COUNSEL: Smith Neubecker and Associates, Inc.
453 S. Clarizz Blvd., Bloomington

REQUEST: The petitioner is requesting a preliminary plan amendment, with waiver of second hearing, to expand the Canada Farm PUD to include 6.84 additional acres. The petitioner has also requested final plan and preliminary plat approval to develop 38 lots on 11.12 total acres.

BACKGROUND:

Area: 6.84 acres added to PUD
11.12 acres total

Current Zoning: RE1 (Residential Estate) & PUD (Canada Farm PUD)

GPP Designation: Urban Residential

Existing Land Use: One single family house

Proposed Land Use: Single family residential

Proposed Density: 3.42 units/acre (38 units)

Surrounding Uses: North – Single family (Woodfield)
South – Vacant, Floodplain
East – Single family (Claybridge)
West – Jackson Creek Middle School & Olcott Park

REPORT SUMMARY: The property in question is located on the north side of S. Sare Road. The site is 11.12 acres in size and contains an existing single family house and several outbuildings. The site is mostly open field, but contains several tree-lined fence rows. Approximately 40% of the site, 4.28 acres, is within Parcel G of the existing Canada Farm Planned Unit Development. The Canada Farm PUD was approved in 1996 and included a mix of single-family, multi-family, office and commercial parcels. Parcel G was approved for multi-family uses at 6 units per acre. The remainder of the property, 6.84 acres, is zoned Estate Residential (RE1) and could be developed with single family homes at 1 unit per acre.

The petitioner is proposing to amend the Canada Farm PUD to include the 6.84 acres zoned RE1. This 11.12 acre property would then be developed with 38 single-family lots, for an approximate density of 3.42 units per acre. The lots will be accessed from two new public streets, both of which intersect with Sare Rd.

This request requires a rezoning to expand area of the PUD and rezone the land from RE1 to PUD. Also requested is PUD final plan and preliminary plat approval. The rezoning request requires two hearings before the Plan Commission and final action by the Common Council. The petitioner has requested a waiver of the second hearing before the Plan Commission.

PRELIMINARY AND FINAL PLAN ISSUES:

Growth Policies Plan Analysis: The site is designated Urban Residential by the 2002 Growth Policies Plan (GPP). The GPP notes that development densities range from 2 units per acre to 15 units per acre, and states that the “when new construction occurs on vacant parcels, the goal should be to encourage maximum densities, ensure street connectivity, and protect existing residential fabric.” The category also calls for providing linkages between neighborhoods, open space and public spaces and notes that infill sites should be developed for predominately residential uses. By comparison, the Woodfield subdivision to the north was developed at 3.5 units per acre and the Claybridge subdivision to the east was developed at 6.93 units per acre. Staff finds that the proposed use and density is consistent with the GPP.

Height Bulk and Density: The petitioner is proposing several specific development standards for this project. A 20-foot front yard setback, instead of the required 25 feet, is requested, which is enough to ensure cars parked in driveways will not hang over the sidewalk. A minimum lot size of 7,200 square feet is also proposed. For comparison, this is also the minimum lot size for land that is zoned RS4.5. The Claybridge development to the east was approved with 4,700 square foot minimum lot sizes. Finally, a minimum sideyard setback of 7.5 feet, regardless of the number of stories is proposed. For comparison, the Claybridge development to the east was approved with 5 foot minimum setbacks. Standard setbacks are 8 feet for a one-story house and 12 feet for a two-story house. Staff has no objections to these proposed standards due to their compatibility with the neighboring development.

Access and Cul-de-sac Issues: The property would be accessed by two new public streets. There is adequate site distance on Sare Rd. for these new intersections. No additional streets are anticipated on the southeast side of Sare Rd. because of the Jackson Creek floodplain. One cul-de-sac is proposed but does not violate the maximum cul-de-sac length of 600 feet.

At the hearing the petitioners will request consideration for a plan with only one point of access for this development. The petitioner prefers to develop this property with a public street that would enter on the southwest side of the property and branch into two cul-de-sacs. This street arrangement at its longest is 1185 feet in length—nearly twice the maximum allowed length (600 feet) for a cul-de-sac. The petitioner contends that another connection cannot be made

because all surrounding properties have already been developed without any road stubs.

The petitioner has also stated that providing a second point of access on Sare Rd. is difficult due to the location of an existing sanitary sewer line. To provide another access, the grade of the property would need to be lowered, rock would need to be removed and the sewer line relocated. They have provided an estimated cost of nearly \$40,000 for the sewer relocation. The petitioner's proposed street arrangement would require a waiver from the maximum length for a cul-de-sac.

Staff does not support this waiver request. Long cul-de-sacs increase response times for emergency services and increase the cost and reduce the efficiency of public services, such as snow removal and trash collection. Staff recommends that the plan include the second point of access and no cul-de-sacs that are less than 600 feet. This proposal is also not supported by the Public Works Department and the City's emergency services. Staff finds that there is not hardship to justify the petitioner's waiver request.

Streets and Right-of-way: The proposed road would be public with a 50 foot right-of-way. All required right-of-way along Sare Rd. was dedicated with previous approvals. The roadway width is proposed to be 24 feet. Specifically, the street will be developed with two 10-foot travel lanes and 2 foot wide curb and gutter. Staff recommends that these standards be approved for this PUD amendment.

Environmental Issues: The site is mostly open pasture crossed by several treed fence lines. These trees are of minimal quality. Staff recommends that the trees in the rear of lots 12-16 be preserved to act as a buffer to the park trail. Staff also recommends that the existing trees on the west side of the detention pond, on lots 35-38, be maintained. Staff recommends that these areas be included in a Tree Preservation Easement to ensure they will be preserved.

Pedestrian Facilities: A sidewalk is already in place on the north side and a sidepath is in place on the southeast side of Sare Rd. Five-foot wide sidewalks are proposed for the internal streets that would comply with the Thoroughfare Plan.

This property is immediately adjacent to Olcott Park. A 12 foot wide multi-purpose path has been developed in the park, immediately west of this property. Staff recommends that the petitioner construct an 8-foot wide path between lots 9 and 10 and extend this connection approximately 150 feet into the park property to link with the park path. This is included as a recommended condition of approval.

Utilities: This site has adequate utility service for both water and sanitary sewer.

Stormwater: On-site detention will be provided at the southern end of the property, adjacent to Sare Rd., in the rear of lots 29-31.

RECOMMENDATION: Staff recommends approval of the PUD Preliminary Plan Amendment, Final Plan and Preliminary Plat, with waiver of second hearing, with the following conditions:

1. An 8-foot wide asphalt multi-purpose path, within a 15 foot wide pedestrian easement, must be provided between lots 9 and 10. This path must be extended into Olcott Park to link with the existing multi-purpose path.
2. A tree preservation easement must be platted along the rear of lots 12-16 and 35-38. This easement must extend from the rear property line to the drip-line of the existing trees.
3. Stormwater and utilities plans must receive final approval from CBU prior to any grading permit or final plat for the development.
4. The proposed street will be developed with 10 foot travel lanes, 2 foot curb and gutters and a 5 foot sidewalk.
5. Per the staff report, the subdivision is allowed the following deviations from code requirements: 1) 20-foot street building setbacks, 2) 7,200 square foot lot widths minimums, and 7.5 foot sideyard building setbacks (regardless of the number of stories).

MEMORANDUM

TO: City of Bloomington Plan Commission

FROM: Environmental Commission

LIAISON: Josh Campbell, Senior Environmental Planner

DATE: February 4, 2003

SUBJECT: PUD-02-03 Ravenwood, Winger Stolberg (3902 Sare Road)

The Bloomington Environmental Commission (EC) has reviewed the petition and has the following comments and recommendations.

MISCELLANEOUS:

No comment.

SILTATION AND EROSION:

No comment.

STORMWATER MANAGEMENT:

This site drains directly to the East Fork (EF) of Jackson Creek. Currently, a natural drainway runs north to south through the property and controls stormwater quantity through natural processes such as bioretention (in low areas such as existing pond) and soil infiltration, as well as increases runoff quality through biofiltration).

In order to help mitigate the negative effects this development will have on stormwater quality, the proposed detention area should use a seeding mixture containing a variety of grasses, sedges, rushes, and forbs tolerant of fluctuating water levels and long periods of dry down (e.g. JF New Detention Basin Seed Mix or seed mixture containing similar seed diversity). This will help to ensure maximum bioretention and biofiltration capacity of the proposed detention basin, as well as increase the aesthetics of this portion of the site.

Recommendations:

The proposed detention basin should be seeded with a seed mix containing a diversity of grasses, sedges, rushes and forbs such as JF New's Detention Basin Seed Mix (or mixture containing similar seed diversity).

TREE PRESERVATION:

This site contains a variety of vegetation ranging from low quality stands of scrub growth which dominate the site, to small scattered stands of more mature native trees. The higher quality vegetation that should be targeted for preservation is found along old fence lines in the western portion of the property, and in the drainage way running north-south across the property.

The vegetated area in the western portion of the property not only contains some of the higher quality more mature native canopy, but it also acts as a buffer between Olcott park, the multi-use trail, and the proposed development. In order to ensure its long term preservation, a tree preservation easement should be placed along the western portion of proposed Lots 10 (where feasible) and 12 to 16 (starting at 110' along the southern border of Lot 12, and declining to 0' at the northwest corner of Lot 16 – following the dripline).

A conservation/drainage easement should be placed on the natural drainway in the rear yards of proposed Lots 30, 31, and 34 to 38. This will help to maintain the existing trees and vegetation which will preserve the more mature canopy and add to the aesthetics of the site, as well as act as a biofilter for stormwater runoff generated by upstream development draining into the East Fork of Jackson Creek.

Recommendations:

A tree preservation easement should be placed on the western portion of proposed Lots 10 (where feasible) and 12 to 16 (starting at 110' along southern border of Lot 12, declining to 0' at the northwest corner of Lot 16 – following the dripline).

A conservation/drainage easement should be placed on the vegetated portions of the natural drainway in the rear yards of proposed Lots 30, 31, and 34-38.

ENVIRONMENTAL CONSTRAINTS:

KARST

No comments.

STEEP SLOPES

No comments.

WATER RESOURCES

No comments.

WETLANDS

No Comments.

MEMORANDUM

TO: Plan Commission Members
FROM: Tricia Collingwood, Transportation Planner
Staff Support to the Bloomington Bicycle and Pedestrian Safety Commission
SUBJECT: PUD-02-03, Winger Stolberg
DATE: 2/6/2003
CC: file

The Bloomington Bicycle and Pedestrian Safety Commission (BBPSC) reviewed this petition in regards to the overall park, trail and school connectivity of bicyclists/pedestrians. Providing residential connections as a public amenity to parks, trails and schools is a goal of the Alternative Transportation and Greenways System Plan.

There are few vacant properties in Bloomington that are adjacent to a recreational trail facility, park and school. Staff has reported to the BBPSC that a relatively short 150-foot connector path would link the proposed development to the Olcott Park Trail, park facilities and Jackson Creek Middle School. The BBPSC has the following recommendations regarding that connector path.

Recommendations:

- An 8-foot wide asphalt connector path be constructed from the western property line (location determined during staff site visit) to the Olcott Park Trail.
- The connector paths must be designed and constructed to AASHTO and ADA standards.
- The BBPSC recommends the use of bollards where a connector path intersects with a street.

*Please Note: This document has been scanned by the City of Bloomington and may contain errors to due the scanning process. For copies of the original document please contact the Council Office at (812) 349-3409.



Stephen L. Smith P.E.,L.S.
Daniel Neubecker LA
Steven A. Brehob, B.S.Cn.T.

January 13,2003

City of Bloomington Plan Commission
C/o Pat Shay
City of Bloomington Planning Department
P.O. Box 100
Bloomington IN 47402-0100

RE: Ravenwood at Canada Park

Dear Pat:

On behalf of our client, Winger / Stolberg Group, Inc., we respectfully request that our petition be placed on the agenda for the February 10th City of Bloomington Plan Commission meeting. Our petition request is for Development Plan and Preliminary Plat approval of a 38-10t single-family subdivision. The subdivision is located on the Canada Farm PUD and will be developed to RE 4.5 standards.

Details of the petition are outlined on the attached Petitioner's Statement. Also attached is the application fom1 and filing fee, two sets of plans, two preliminary plats and reductions of the site plan. Drainage calculations and J!ans were submitted to City of Bloomington Utilities for review on January 10 .Proof of notification of adjacent property owners will be submitted prior to the hearing.

A handwritten signature in blue ink, appearing to read 'Steve A. Brehob', with a stylized flourish at the end.

Steve A.

Steve A. Brehob
Smith Neubecker & Associates, Inc.

Cc: Tim Hanson
3499 -2 file



PETITIONER'S STATEMENT FOR RAVENWOOD AT CANADA PARK

LOCATION

The site is located on Parcel G of the Canada Farm PUD and the adjacent Schofield property. The site is immediately north of Sare Road. The Jackson Creek Middle School and City Park form the site's western boundary. Woodfield Subdivision forms the northern boundary and Claybridge the eastern boundary.

TOPOGRAPHY

The II-acre site is rolling in nature. There is an existing tree line adjacent to the park. There are groups of small trees at various locations around the site. There are no known springs or sinkholes on site. There is also a small pond of less than .05 acres in size on site that is mostly silted in. The existing home and accessory buildings on site will be removed.

DEVELOPMENT STANDARDS

The proposed single-family subdivision will consist of 38 lots. The lots will be a minimum of 70' wide and have a minimum of 7,200 Square Feet of area. Front yard setbacks will be 20', rear yard setbacks will be 25' and side yard setbacks will be 10' regardless of building height.

ACCESS

Two new local streets will be constructed to serve the subdivision. The streets will have a pavement width of 24' with curb and gutter and 5' sidewalks on both sides. Access will require one new intersection on Safe Road.

UTILITIES

Sanitary sewer and water facilities of the City of Bloomington Utilities are available adjacent to the site to provide service. Utility lines constructed within the development will be within easement and will be dedicated to the City upon completion.

STORMWATER

A detention area and stormwater quality basin will be constructed on site in the ravine adjacent to Sare Road in accordance with CBU requirements. The detention area will be within an easement and will be dedicated to the City.

LANDSCAPING

Street trees will be planted along both sides of the roadways at 40' intervals. The majority of the existing tree line adjacent to the park will be preserved.

PEDESTRIAN FACILITIES

A pedestrian pathway will be constructed from the site to the park as part of this project.



Unlike many sites, the Schofield property is adjacent to a City park. The pedestrian trail constructed through the park and along Sare Road provides excellent pedestrian facilities.

DEVELOPMENT STANDARDS

The proposed single-family subdivision will consist of 38 lots. The lots will be a minimum of 70' wide and have a minimum of 7,200 Square Feet of area. Front yard setbacks will be 20', rear yard setbacks will be 25' and side yard setbacks will be 10' regardless of building height. These standards are compatible with the adjacent residential developments.

ACCESS

Local streets will be constructed to serve the development. The streets will have a pavement width of 24' with curb and gutter and 4' sidewalks on both sides in accordance with the City OPP for local streets. Access will require one new intersection on Safe Road.

UTILITIES

As previously discussed, City of Bloomington Utilities infrastructure is available and adequate to serve the site. All new utility lines constructed within the development will be within easement and will be dedicated to the City upon completion.

LANDSCAPING

Street trees will be planted along both sides of the roadways at 40' intervals. The majority of the existing tree line adjacent to the park will be preserved. Additional landscaping will be added adjacent to the park and school and in areas where no natural buffer exists.

*Please Note: This document has been scanned by the City of Bloomington and may contain errors due to the scanning process.

Edward Herrmann & Hannah Buxbaum

James Roach
City of Bloomington Planning Department
Bloomington, IN 47404

February 7, 2003

Re: Planned Ravenwood Development on South Sare Road

Dear James:

I am writing to communicate some concerns regarding the Winger-Stolberg development being planned adjacent to Olcott Park and Canada Drive. As I mentioned in our conversation this morning, my husband and I are unable to attend the planning meeting scheduled for Monday, February 10, and hope that these comments can be considered at that time.

We have no plans to contest Winger-Stolberg's petition for rezoning in this area, as we understand that the density of the planned neighborhood lies between that of our neighborhood (Woodfield) and that of the existing Claybridge area. We are extremely concerned, however, about maintaining the trees that lie behind our property. It is our understanding that the tree line bordering Olcott Park and its walking path will be preserved, but that the developers will otherwise be free to take out the other trees up to our (and our neighbors') property line. We would propose that the plan require the preservation of additional trees behind the Canada Drive homes and the erection of a berm or an evergreen screen immediately behind the planned lots. Because such a berm or screen would only extend the length of a few lots, we do not think this would impose an undue burden on Winger-Stolberg.

We purchased our lot on Canada Drive six years ago partly because our developer, Kenny Blackwell, assured us that the land behind our property would never be developed. I say this not to suggest that Winger-Stolberg be made to answer for the misrepresentations of others, but to indicate how very important it was to us -and our neighbors -that the area behind our home remain wooded. Those trees, and the proximity to the park, are what give our neighborhood a special character. We do not want to see that character unnecessarily eliminated by the proposed development.

Very truly yours,

Hannah L. Buxbaum

cc: **Eric Stolberg**

2420 Canada Drive.

Bloomington IN

47401

ORDINANCE 03-06
TO AMEND TITLE 6 ENTITLED "HEALTH AND SANITATION" IN ORDER TO
REPEAL AND REENACT CHAPTER 6.12 ENTITLED
"SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT"

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease, including lung cancer, in nonsmokers; and

WHEREAS, at special risk are children, elderly people, individuals with cardiovascular disease, and individuals impaired with respiratory function, including asthmatics and those with obstructive airway disease; and

WHEREAS, health hazards induced by breathing second-hand smoke include lung cancer, heart disease, respiratory infection, and decreased respiratory function, including bronchoconstriction and broncho-spasm; and

WHEREAS, the City of Bloomington Common Council finds and declares that the purposes of this ordinance are to protect the public health and welfare by prohibiting smoking in public places and places of employment;

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

SECTION 1. Chapter 6.12 of the Bloomington Municipal Code, entitled "Smoking in Public Places" shall be repealed and reenacted and bear the following title: Chapter 6.12 "Smoking in Public Places and Places of Employment"

SECTION 2. Section 6.12.010 entitled "Definitions" shall read as follows:

6.12.010 Definitions

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

"Bar" means any building, room or area used primarily for the sale of alcoholic beverages for consumption by guests on the premises and in which the sale of food and the provision of entertainment is merely incidental to the sale of alcoholic beverages.

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

"Employee" means any person who is employed by any employer for direct or indirect monetary wages or profit, including those employed full-time, part-time, on a temporary basis, or by contract through a third party.

"Employer" means any person, partnership, corporation, including a municipal corporation, or non-profit entity, who employs the services of one or more individual persons.

"Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures.

"Place of Employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, private offices, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care, adult day care or health care facility.

"Private club" means a privately owned or operated facility used for social or recreational purposes where entry into, and use of, the facility is restricted to members and guests of members.

"Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a "public place."

"Restaurant" means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

"Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental. The term does not include retail stores where food or beverages are sold for consumption on the premises or where an area has been set aside on the premises for customers to consume food or beverages.

"Service Line" means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

"Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, weed, plant or other combustible substance in any manner or in any form.

"Sports Arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

SECTION 3. Section 6.12.020 entitled "Application of City-Owned Facilities" shall read as follows:

6.12.020 Application of City-Owned Facilities

All enclosed facilities owned by the City of Bloomington shall be subject to the provisions of this chapter including city vehicles with more than one occupant.

SECTION 4. Section 6.12.030 entitled "Prohibition of Smoking in Public Places" shall read as follows:

- a) Smoking shall be prohibited in the following public places and other public places similarly situated, including, but not limited to, the following areas:
- (1) Elevators
 - (2) Restrooms, lobbies, reception areas, hallways and any other common-use areas.
 - (3) Buses, taxicabs, and other means of public transit under the authority of the City of Bloomington, and ticket, boarding, and waiting areas of public transit depots.
 - (4) Service lines
 - (5) Retail stores
 - (6) All areas available to and customarily used by the general public in all businesses and non-profit entities patronized by the public.
 - (7) Restaurants and bars
 - (8) Public areas of aquariums, galleries, libraries, and museums.
 - (9) Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except performers when smoking is part of a theatrical production.
 - (10) Sports arenas and convention halls, including bowling facilities.
 - (11) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the City or any political subdivision of the State during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city.

(12) Hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.

(13) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.

(14) Polling places

(15) Places of employment

(16) The following outdoor areas:

(A) Seating provided by eating establishments and bars,

(B) Within courtyards and other areas where air circulation may be impeded by architectural, landscaping or other barriers,

(C) Any place where people are using or waiting for a service, entry, or a transaction, including but not limited to ATM'S, bank teller windows, telephones, ticket lines, bus stops and cab stands,

(D) Any place where food and/or drink is offered for sale.

(17) Private clubs with employees and private functions in other public places like bars, restaurants, hotels, and motels.

(b) Notwithstanding any other provisions of this section, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment.

SECTION 5. Section 6.12.040 entitled "Policies Regarding Smoking in Places of Employment" shall read as follows:

6.12.040 Policies Regarding Smoking in Places of Employment

(a) It shall be the responsibility of employers to provide a smoke-free workplace for all employees, but employers are not required to incur any expense to make structural or other physical modifications.

(b) Within 120 days of the adoption of this chapter, each employer having an enclosed place of employment located within the city shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles with more than one occupant, and all other enclosed facilities.

(c) The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.

(d) All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

SECTION 6. Section 6.12.050 entitled "Reasonable Distance" shall read as follows:

6.12.050 Reasonable Distance

Smoking shall occur at a reasonable distance outside any area where smoking is prohibited to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means. It shall be a violation for smoke to be detected in any area where smoking is prohibited.

SECTION 7. Section 6.12.060 entitled "Where Smoking Not Regulated" shall read as follows:

6.12.060 Where Smoking Not Regulated

(a) Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:

(1) Private residences, except when used as a child care, adult day care or health care facility.

(2) Twenty-five percent (25%) of hotel and motel rooms rented to guests.

(3) Retail tobacco stores.

(b) Notwithstanding any other provisions of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment.

SECTION 8. Section 6.12.070 entitled "Posting Signs - Removing of Paraphernalia" shall read as follows:

6.12.070 Posting of Signs - Removing of Paraphernalia

(a) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other area where smoking is prohibited by this chapter, by the owner, operator, manager or other person having control of such building or other area.

(b) Every public place where smoking is prohibited by this chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(c) All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this chapter by the owner, operator, manager or other person having control of such area.

SECTION 9. Section 6.12.080 entitled "Enforcement" shall read as follows:

6.12.080 Enforcement

(a) Enforcement of this chapter shall be implemented by the Mayor's Office, or his or her designee(s).

(b) Any citizen who desires to register a complaint under this chapter may initiate enforcement with the department or positions designated by the Mayor's Office.

(c) Upon finding that any provision of this chapter has been violated, the enforcement designee(s) shall issue a Notice of Violation (NOV) to the person(s) responsible for the violation. The NOV shall be in writing and shall be served upon the person(s) responsible for the violation by one or more of the following methods: delivery in person, first class mail, or placement in a conspicuous location at the property where the violation occurs. The NOV shall state:

- (1) The location of the violation;
- (2) The nature of the violation;
- (3) The fine assessed for the violation;
- (4) That the fine is paid at the City Legal Department; and
- (5) That the fine may be contested in the Monroe County Circuit Courts.

SECTION 10. Section 6.12.090 entitled "Violations and Penalties" shall read as follows:

6.12.090 Violations and Penalties

(a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of its provisions.

(b) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to knowingly or willfully allow smoking to occur where prohibited by this chapter. It is a defense to this section, if the foregoing persons or their employees act in a timely manner to personally inform the violator of the prohibition and request that he or she refrain from smoking.

(c) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this ordinance.

(d) Any person who violates any provision of this chapter shall be subject to a fine of one hundred dollars (\$100) for each violation of this chapter, which shall be processed through the ordinance violations bureau established by Chapter 2.27 of the Bloomington municipal code. If, after multiple violations by the same person or at the same business, the City Legal Department has reason to believe that the fines will not be effective in enforcing this chapter, then the City Legal Department shall be empowered to seek any other remedies provided by law.

SECTION 11. Section 6.12.100 entitled "Public Education" shall read as follows:

6.12.100 Public Education

The City may engage in programs to explain and clarify the purposes and requirements of this chapter to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such programs may include publication of a brochure for affected businesses and individuals explaining the provisions of this chapter.

SECTION 12. Section 6.12.110 entitled "Other Applicable Laws" shall read as follows:

6.12.110 Other Applicable Laws

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

SECTION 13. Severability. If any sections, 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 14. Aside from Section 6.12.040 (Policies Regarding Smoking in Places of Employment) the provisions of this ordinance shall take effect on July 1, 2003.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2003.

CHRIS GAAL, 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 _____, 2003.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2003.

JOHN FERNANDEZ, Mayor
City of Bloomington

Synopsis

This ordinance is sponsored by Councilmember Pizzo and would prohibit smoking in all enclosed public places and places of employment.

City of
Bloomington
Indiana

City Hall
401 N. Morton St.
Post Office Box 100
Bloomington, Indiana 47402



Office of the Common Council
(812) 349-3409
Fax: (812) 349-3570
email: council@city.bloomington.in.us

To: Council Members
From: Councilmember Pizzo
Re: Ord 03-06 (Smoking Ordinance)
Date: February 28, 2003

Tobacco use is the single most preventable cause of disease, illness, and death in our town for both smokers and non-smokers. We can no longer sit idly by when we have the obligation and ability to protect all our citizens from second-hand smoke.

This ordinance is intended to protect non-smokers from the dangers of second-hand smoke and to discourage others from continuing or taking up this dangerous habit.

As a Doctor of Medicine I don't necessarily have any more knowledge about the evil of smoking as any other council person. But every day I have to deal with patients suffering from smoking induced illnesses who are neighbors and constituents. We have the opportunity to improve Bloomington's environment and truly make our fair city a better place in which to live.

Communications Received Concerning Ordinance 03-06					
	Local Citizens	Letters forwarded from Community		Elementary	TOTALS
		Healthcare Foundation		Children	
FOR	28	17	(# of letters from out of state=11)	22	67
AGAINST	12			1	13
Broken down as follows					
smoker rights	3				
Civil Liberties	6				
Rights of private business owners	3				

***** Amendment Form *****

Ordinance #: 03-03
Amendment #: 01
Submitted By: Jason Banach, Councilmember, District 2
Date: February 9, 2003

Preface:

- **WHEREAS**, the City Council recognizes and understands that smoking and second hand smoke has been proven unhealthy.
- **WHEREAS**, the City Council recognizes and understands that the legal age of an adult in Indiana is 18 years old.
- **WHEREAS**, the City Council respects the right of private business and private enterprise to operate in any way they choose within existing laws.
- **WHEREAS**, the City Council recognizes and understands that individuals have a wide variety of existing choices in the city of Bloomington of smoking and non-smoking businesses.
- **WHEREAS**, the American Cancer Society exempts bars in its model ordinance.

Proposed Amendment:

1. Section 2 of Ordinance 03-06, regarding the proposed Section 6.12.010 of the Bloomington Municipal Code, entitled "Definitions," shall be amended by inserting the following definition:

"18 and over business" means any business with patrons and employees who must be at least 18 years old and which was in operation or had commenced construction before July 1, 1994, unless after that date the business ceased operation for more than six months, changed location, or changed ownership.

2. Section 7 of Ordinance 03-06, regarding the proposed Section 6.12.060 of the Bloomington Municipal Code, entitled "Where Smoking Not Regulated," shall be amended by adding Part (a)(4), so that Part (a) in its entirety shall read as follows:

(a) Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:

- (1) Private residences, except when used as a child care, adult day care or health care facility.
- (2) Twenty-five percent (25%) of hotel and motel rooms rented to guests.
- (3) Retail tobacco stores.
- (4) 18 and over businesses.

Synopsis

This amendment would exclude from the smoking regulations any business with patrons and employees who must be at least 18 years of age and which is currently exempted from the smoking regulations. In accordance with the existing ordinance, smoking in these businesses would be prohibited once the business ceased operation for at least six months, changed location, or changed ownership.

3/12/03 Committee Action: Pending

3/26/03 Regular Session Action: Pending

Friday, February 28, 2003

***** Amendment Form *****

Ordinance #: 03-03
Amendment #: 02
Submitted By: Jason Banach, Councilmember, District 2
Date: February 12, 2003

Proposed Amendment:

1. Section 14 of Ordinance 03-06, regarding the effective date of the ordinance, shall be amended to read as follows:

SECTION I4. Aside from Section 6.12.040 (Policies Regarding Smoking in Places of Employment) this ordinance shall take effect on August 1, 2003.

Synopsis

This amendment would delay the effective date of the ordinance until August 1, 2003 in order to give business owners an opportunity to educate employees and patrons of the change. Additionally, with the pending new academic year at I.U., it is appropriate to introduce the measure to all new visitors to our city.

3/12/03 Committee Action: Pending
3/26/03 Regular Session Action: Pending

Friday, February 28, 2003

***** Amendment Form *****

Ordinance #: 03-03
Amendment #: 03
Submitted By: Jason Banach, Councilmember, District 2
Date: February 12, 2003

Proposed Amendment:

1. Section 2 of Ordinance 03-06, regarding the proposed Section 6.12.010 of the Bloomington Municipal Code, entitled "Definitions," shall be amended in the following manner:

- A. The definition of "Place of Employment" shall be amended by deleting the phrase "private offices," as it appears in the first sentence, so that the definition shall now read as follows:

"Place of Employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care, adult day care or health facility.

- B. The definition of "Private Office" shall be inserted into this section and shall read as follows:

"Private Office" means any fully enclosed space in a "place of employment" occupied by no more than one person, where smoke is eliminated from the building through ventilation or other technology without entering any other part of the place of employment.

2. Section 4 of Ordinance 03-06, regarding the proposed 6.12.030 entitled "Prohibition of Smoking in Public Places" shall be amended by deleting Part (a) (16) and Part (a) (17).

3. Section 7 of Ordinance 03-06, regarding the proposed Section 6.12.060 of the Bloomington Municipal Code, entitled "Where Smoking Not Regulated," shall be amended by:

- A. Inserting Part (a) (4), which shall read as follows:

(a)(4) Private offices in a place of employment.

B. Inserting Part (a) (5), which shall read as follows:

(a)(5) Private clubs and private functions in other public places like bars, restaurants, hotels, and motels.

C. Inserting Part (a) (6) which shall read as follows:

(a)(6) Outdoor areas that are a reasonable distance from entrances, windows, ventilation systems, or other means for smoke to enter the building.

D. Relettering this section to reflect other amendments.

Synopsis

This amendment defines a "private office" and excludes it from the smoking regulations. A "private office" is a fully enclosed space, occupied by no more than one person, where smoke is eliminated from the building through ventilation or other technology, without entering any other part of the place of employment. This amendment also deletes the prohibition against smoking in outdoor areas, private clubs, and private functions in bars, restaurants, and other similar public places.

3/12/03 Committee Action: Pending

3/26/03 Regular Session Action: Pending

Friday, February 28, 2003