

In the Council Chambers of the Municipal Building held on Wednesday, December 7, 1994, with Council President Sherman presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
DECEMBER 7, 1995

Roll Call: Service, Swain, Bonnell, Hopkins, Sherman, Pizzo, Cole, Kiesling. Absent: White.

ROLL CALL

Sherman gave the agenda summation.

AGENDA SUMMATION

The minutes of October 19, 1994 were approved by a voice vote. Kiesling requested clarifications on two points and Williams said the statement would be reviewed and the minutes clarified.

APPROVAL OF MINUTES

Service reported that paperboard will be picked up as part of the regular recycle pickup in the new year. Bonnell said he was pleased that IU and the CWAIU had come to a pay raise agreement, also that John Fernandez and Chris Sturbaum have agreed to serve on the CBD Parking Lot Subcommittee, expressed his dismay at underfunded liabilities in this country, and told the council about the 750 garbage cans in Petersburg, Alaska with computer chips. There really are better mousetraps out there.

MESSAGES FROM  
COUNCILMEMBERS

Cole commented on the recent killing of a cab driver, here in Bloomington, and how important all our children are and how important it is to keep them on the right track.

Kiesling wished IU well in the Soccer Final Four, said that today is Pearl Harbor Day and hoped that we can resolve some of the same global issues today that plagued the world over 50 ago.

Sherman also commented on the cab driver murder and worried that we often think that Bloomington is insulated from this kind of violence that surrounds other cities. He acknowledged the Mayor's recent statement that she would not be seeking re-election and he praised and thanked her for all she has done for Bloomington.

Ted Rhinehart said that the upcoming CitySource publication will inform the public when the various routes will begin to collect paperboard, NOT corrugated paper. Kiesling said that over 600 tons have been shipped from the Recycling Center since October and she pointed out that the going price for plastic milk jugs is \$420/ton.

MESSAGES FROM  
CITY OFFICES

Kiesling said that at the Solid Waste District Board meeting only one bid for recycling services was submitted, it will be reviewed and a decision made in January. She also reported that at the EPA/CIC meetings the parties to the Consent Decree are discussing the possibility of Lemon Lane samplings that may be taken.

COMMITTEE REPORTS

It was moved and seconded that Appropriation Ordinance 94-08 be introduced and read by title only. Clerk Williams read the ordinance by title only. It was moved and seconded that Appropriation Ordinance 94-08 be adopted. The synopsis and committee recommendation of 7-0-1 was given.

LEGISLATION FOR  
SECOND READING  
APP. ORD. 94-8

Chuck Ruckman, Controller, said that this is a routine year end budget adjustment.

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

It was moved and seconded that Ordinance 94-44 be introduced and read by title only. Clerk Williams read the ordinance by title only.

It was moved and seconded that Ordinance 94-44 be

adopted. The synopsis and committee recommendation of 5- 1-2 was given. ORDINANCE 94-44

Susan Failey, City Attorney, outlined the history of the bonds for Bloomington Square Associates beginning in 1981 with the issuance of the first bonds, refinanced in 1983 and now this request in order to refinance and take advantage of lower interest rates. The city is not responsible in any way for the bonds. The request has received the support of the Economic Development Commission as well as the Monroe County Council. In order to approve the refinancing the council must find that the project is within the legal definition of public benefit. That finding was established in 1981 and 1983 as well as the various current commissions that have approved it. Over 200 persons are employed at that shopping center and the Bloomington Square Associates have agreed not to challenge the upcoming annexation of the property and not to seek compensation from the city for any damages to the parking lots that may be done by the city buses that service that area and to bring the property into compliance with Plan Commission requests, namely improvements to the IU Credit Union site. A memo from Toni McClure in the Planning Dept. states that the property is in compliance. The petitioner will also use some of the savings realized from the refinancing for building improvements.

Mike Melliore, Bond Counsel from Ice Miller, said that the actual savings are not determined at this point, as it will be a weekly variable rate, not a fixed rate like the one that is currently in place.

John Urban said that the rental agreements are long term leases, like the one for Osco, and they have remained "pretty flat" and have been in effect for the last several years. He was asked how much he expected to save and he said it was not so much the savings as the long term security of not being subjected to the higher interest rates of the early 1980s.

Service said that she thought it was a shame that it has take 10 years in order to get compliance with the landscaping requirements that were requested at the beginning of the project

Sherman was also concerned about the length of time as well as the circumstances that when something comes up that is of benefit to the owner, then the request is finally met. He assured the public that this does not cost the city any money.

Hopkins thought this was another example of corporate welfare and did not see this as an even trade in any way. Bondholders do not pay income taxes on these investments and as a result we, as taxpayers, all have to pay more. We should expect a major return on this kind of "favor", in effect. We extend this "blessing" of these bonds and in return we get landscaping that should have been done 10 years ago and the agreement not to contest any annexation.

Sherman said he would concur with Hopkins if we were being asked to create something that was tax exempt. This is an old bond issue and has been in place for a long time.

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

It was moved and seconded that Resolution 94-51 be introduced and read by title only. Clerk Williams read the resolution by title only.

RESOLUTION 94-51

It was moved and seconded that Resolution 94-51 be adopted. The synopsis and committee recommendation of 7-0-1 was given.

Chris Spiek, Redevelopment Director, said that this is a request for a 10 year tax abatement at 213 S. Rogers. The petitioner is currently working with the Planning Dept regarding necessary approvals as well as seeking local Historic Designation for the property.

It was moved and seconded that an amendment defining the various approvals that must be acquired be inserted into the body of the resolution be introduced.

Duncan Campbell, representing the petitioner, said that they are in the process of beginning the planning and designation processes.

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

Kiesling said that when we are looking at warehousing and light manufacturing as possible uses, that we also keep in mind the residential nature of this area.

Hopkins said he thought this was an example of a fair trade; tax abatement for the revitalization of a very important building.

The resolution, as amended, received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Ordinance 94-49 be introduced and read by title only. Clerk Williams read the ordinance by title only.

ORDINANCE 94-49

It was moved and seconded that Ordinance 94-49 be adopted. The synopsis and committee recommendation of 8-0 was given.

Tim Mueller gave an overview of the details of the petition spanning two zoning designations for about 100 units of attached housing at 4 units/acre, and in the RE zone to the north the master plan recommends a business park type of development. The proposal is for residential and business zoning on the current RE site, and approval of a new outline plan for the entire site as a PCD. The plan contains buffering, berming and serpentine sidewalks along Kinser Pike.

Mueller discussed the proposed improvements to S.R.37 and if/when the highway became a limited highway road we would then propose that Prow Rd would then become the significant thoroughfare rather than Acuff Rd that is currently heavily used. Within the next 3-5 years S.R.46 to the west will be improved and therefore traffic will be reduced and manageable on Prow Rd.

Kiesling asked about the long understood location of a business park on this particular site and Mueller said that the petitioner agreed that a maximum of 20,000 sqft may be retail and further, the retail may not be developed until at least 20,000 sqft of office/business park has been constructed. In other words, the supporting aspects of a retail business for the actual business park would not be put in place until the business park was actually established. Kiesling was also concerned about the appearance of this main corridor

into our community. Mueller corrected an earlier comment and said that only 10,000 sqft is allowed for retail, not 20,000 sqft as noted above. The list of allowed uses are part of the attachments to the approved ordinance. He also said that the Plan Commission retains Development Plan approval and there is rigorous discretion at that level. This does not include architectural review.

Bonnell asked if this is passed tonight does the current zoning ordinance prevail or the new one? Mueller said all the terms if this PUD would be carried forward and our intent in the transition rules would be to afford the vesting of the approved ordinance.

Bonnell was concerned because our zoning allows perhaps something like a 7-11 to go in there and he felt that it was the sense of the community that we want to see our business parks have a more refined image. This ordinance is not going to get us there and if we want architectural compatibility we have to mandate it and we have to take the necessary visionary steps to implement it.

Steve Smith, representing the petitioner, said the residential component for up to 157 units on 42.5 acres in a single family and duplex use mixture, and a 5 ac business park. Ruth Kivett-Burns also owns 55 acres to the north and he expected that she would demand that this development go in properly so as to not adversely affect her property to the north. The multi family component will be postponed until after a discussion with the MCCSC and they will probably be back after that discussion has occurred.

Bonnell again asked how we can control the outside appearance of the retail business that goes in there. Smith said no business ever goes in with the idea of not doing a good job.

Cole said she believed that few business people go into a project thinking they won't do a good job, however, the concern is what is going to be a good looking project in that environment, as well as taking the surrounding areas into consideration. The community has said that they want some kind of guidelines or review process and we will eventually have to make some kind of statement that we basically care how things look.

Service said she hoped that if the school does not decide to use that small tract, that the petitioner comes back with a high density use request.

A general discussion concerning affordable housing took place.

Sherman was still bothered that the language of approved uses in the park does not exclude anything. Smith said the list as stated by Mueller IS the list that will be allowed at the development plan.

Duncan Campbell discussed affordable housing concerns and said we continue to zone areas in an separate manner and into separate areas and we forget that the traditions of space planning are tied together. And in doing so we have lost the concept of the affordable housing component and we do not zone accordingly. He used as an example, if the downtown is zoned only for business, then we have blocked out the possibility of putting housing, any kind of housing, downtown.

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

It was moved and seconded that Ordinance 94-51 be introduced and read by title only. Clerk Williams read the ordinance by title only.

ORDINANCE 94-51

It was moved and seconded that Ordinance 94-51 be adopted. The synopsis and committee recommendation of 7-0-1 was given.

Tim Mueller summarized the petitioners plan. This is a 170 acre tract on the north side of Tapp Rd., east of Weimer Rd. involving commercial shopping, high density housing, the stone mill that will continue to operate, and a mix of lower density housing. Bicycle links will be provided along the major north-south street, continuing north and eventually hooking up with Adams St. There will also be a bike path along Weimer Rd. as well as into the Thomson Park. The shopping area will be anchored by a small grocery store and it is not intended to just serve the immediate residential area but the entire area. Staff does not believe that this should be located deep in the residential area but should be accessible to a broader population.

Kiesling asked about the size of the grocery store. Mueller said that generally the Marsh size store is about 50,000 sqft. We would not object to this and it would really depend on what the market would bear, keeping in mind the future development of this entire area. The shopping will evolve over time. She also asked about the status of S.R. 37 and Tapp Rd. and the limited access plan for the new highway. (Tapp Rd is not a scheduled access). Mueller said that the city would have to fight very hard to allow access at that point for Tapp Rd is a key thoroughfare for this entire east-west road for the southern side of our community.

Cole stressed that at the development plan stage that consideration will be given to all sides or faces of the commercial area, so that no one is back to back with a dumpster that is so often the problem with commercial mixed with residential development.

Kiesling asked if Tapp Rd. would be "shaved" and Mueller said that at least for the next few decades it will be a two lane road. In the future there will be TIF monies to improve the intersections, but for the present, the road is straight and if intersections are carefully placed, it will work.

Pizzo said we have to encourage and allow the higher density if we want to be able to have houses in the \$50-60,000 range.

Hopkins thought we are hung up on density and that what really matters is how it is all put together. Well designed plans can be beautiful.

Mike Probst, representing the petitioner, promised a good project for the community with an integrated mix of uses that will be available to a broad range of home buyers seeking affordable housing. Movement to the park as well as to the shopping area will be easily accessible by foot, bike or car. The floodplain part of the tract will be protected.

Bonnell suggested that there is no place one can go to on the bike path except the business park and he thought there should be other destinations one could go to via

the path. Probst said they were hoping for that so that the shopping, the park as well as to the north could be easily accessed. Bonnell also asked about sinkholes. Probst said they did not think they had identified every one of them, and would deal with them at design stage. Bonnell asked if the two detention ponds would/could hold water. Probst said that was not known at this time. Mueller discussed that water paths in this area and reminded everyone that this will be considered very carefully at the development plan stage.

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

It was moved and seconded that Ordinance 94-50 be introduced and read by title only. Clerk Williams read the ordinance by title only.

ORDINANCE 94-50

It was moved and seconded that Ordinance 94-50 be adopted. The synopsis and committee recommendation of 4-1-1 was given.

Tim Mueller gave a detailed overview of the tract located on the south side of Whitehall Pike east of Kirby Rd and extending down to Gifford Rd. He outlined the key concerns; storm drainage, watershed boundaries that drain to Cave Creek, urbanization of this area, the large volumes of water that come to this area and that long term effects of ponding water that actually threaten houses currently in the area. Industrial development related to Gifford Rd is highly desirable as well as compact urban form for the residential area so as to maximize the principals of the growth policy plan. The construction of an earthen dam along the flow lines of Cave Creek and the backing up of significant acres for potential stormwater storage. He said that 2.5 acre RE zoning be imposed to minimize problems in the particular watershed. The Environmental Commission has recommended that this not be approved until there are geo-technical studies. Staff determined that they too would like certain studies done as well as the fall back provisions that if the development cannot be properly done then the site reverts back to RE as originally zoned. The use (public or private) of the 6 ac park will be determined at development plan. Pedestrian linkage as well as open space is indicated and will be finalized later. Stormwater detention takes place upstream from the industrial area and future industries will discharge into the flow south of the detention facility. There is concern about this, the volume as well as the amount of water that will effect the area downstream and hopefully the three sites for detention will be adequate. Secondly there is concern about the quality of the water, especially with industrial use discharges and parking lot runoff. The Plan Commission will review this carefully at the development stage.

Service said another concern that the Environmental Commission had about the site was the deep cutting and grading that would take place and Mueller said the industrial sites may have to shaped appropriately to accommodate the slopes and preserve tree cover.

Mueller read the conditions of approval as attached to the proposed and approved ordinance.

Bonnell asked if the detention space was considered a common space and Mueller said it would have to be either governed by a homeowners association or it could be

dedicated to government, perhaps county government, to maintain and monitor. Mueller said the county is not in any position to accept or take over an easement at this time. We are more concerned that the county manage the decision as to when water is released or when it is stored. That is not something we can expect or ask of the homeowners association. Mueller said this basin would hold more than the 100 year storm. He stressed again, that if the geo-technical data does not allow this proposed plan, we will have spent two long nights discussing all of this, and it would revert back to RE.

An extensive discussion/presentation took place about the role of the Environmental Planner and how he relates to all aspects of the process.

Lynn Coyne, representing the petitioner, said that this is really about a 250 ac tract that will be a new and different land use for the west side of Bloomington. Karst has been a concern and issue from the first day of this proposed plan and we understand that it will be thoroughly discussed.

Bonnell asked again about the common space detention pond and Coyne said it would be controlled by the homeowners association or the county.

Steve Smith said the residential density is 3.9 units/ac, 34 acres for industrial use and 4 acres for commercial use with extensive and well planned transitional buffers between the uses. All natural features have been carefully evaluated and the design responds to the physical features of the site. A lot of acres will remain green, probably more green space than any other development we have seen. He said that this density also complies with the new zoning densities for the PRO 6. He discussed several of the slopes and how minimal cutting, filling and construction would be accomplished. He said the detention pond is more of a reservoir, holding the water for 7-10 days and then letting it go until the area downstream is able to hold it.

Terry Bower, a nearby property owner, said she did not want the commercial zoning that was being considered. She was also concerned that the land currently allocated for institutional be reconsidered for residential if no suitable use occurs. The addition of 800 homes to the area will be monumental.

Larry Brodeur said that the Cave Wood neighbors support this project because it is a step in the right direction, not a total solution, but a step to solve the very serious flooding problems they have.

Darla Myers, area resident, was concerned about the number of houses in the plan, the heavy traffic S.R.48, and that they are already just a short distance from all the stores and services that are available right in Bloomington.

Kevin Komisarck expressed concern on behalf of the Environmental Commission and concern about the process regarding this particular development. He strongly urged that the geo-technical information should be presented before the approvals are granted.

Service said that the council does have to take into consideration how this land will be used as well as how it will be utilized. The mixed use plan is actually

good, but she had strong concerns about the development itself. She did not believe that the geo-technical timing was a big problem, but she was very uneasy about the industrial site and the lack of detention of water run off from the industrial areas. She said she was concerned about this particular developer not having experience with a site this large and complex and the ability to be on top of such a demanding development. She said she would not be supporting the petition.

Swain believed that the major land use and master plan questions were answered satisfactorily and that he would be supporting the request.

Bonnell believed that the proper safeguards have been built into the project and that it will be a good project. He expressed concerns that Kevin's memo did not come to the council's attention until just this Tuesday and the confusion that has occurred surrounding the Environmental Commission's recommendation.

Pizzo was pleased that CaveWood Estate residents supported the project and believed that as a council we have to trust that the developer wants to do a good job. Hopkins thought the council was guilty of trying to approve the development plan rather than what is being presented - the outline plan. He said he would like to see more of a buffer to the existing homeowners.

Cole expressed concern about the high density and in particular the Karst topography in the area.

Kiesling also expressed concerns about the topography and thought that the original zoning of RE is more appropriate rather than the current request and suggested that this go back to the Plan Commission to reconfigure the rest of the property because of the Karst and the caves.

Sherman said that after walking the tract and leaping fences, one of the biggest surprises was the amount of water that was standing and it had not rained for at least a week.

The ordinance received a roll call vote of Ayes:5, Nays:3 (Service, Cole, Kiesling).

It was moved and seconded that the following ordinances be introduced and read by title only for first reading by Clerk Williams before the Common Council.

LEGISLATION FOR  
FIRST READING

Ordinance 94-67 To Amend Ordinance 94-53 Regarding the Annexation of the Grandview Area (Correcting the Legal Description of the Annexed Property).

Ordinance 94-68 To Amend the Bloomington Zoning Maps by Granting a Historic Designation re: 514 W.Kirkwood. (Parker Real Estate Management, Petitioner).

Ordinance 94-69 An Ordinance Concerning the Voluntary Annexation of Adjacent and Contiguous Territory (Funkhouser and Minnick Properties).

Ordinance 94-70 To Amend Title 15 of the BMC re; Vehicles and Traffic.

There were no petitions from the public.  
The meeting was adjourned at 12:15 A.M.

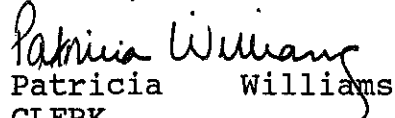
PUBLIC INPUT  
ADJOURNMENT

APPROVE;



Iris Kiesling, President  
Bloomington Common Council

ATTEST;

  
Patricia Williams  
CLERK  
City of Bloomington

Approved this 1st day of February, 1995