



# City of Bloomington Common Council

## Legislative Packet

Containing legislation and materials related to:

Wednesday, 07 September 2022

Regular Session at 6:30pm



# CITY OF BLOOMINGTON COMMON COUNCIL

AGENDA:  
REGULAR SESSION  
WEDNESDAY | 6:30 PM  
07 September 2022

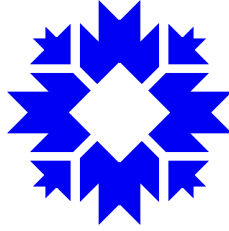
*Council Chambers (#115), Showers Building, 401 N. Morton Street  
The meeting may also be accessed at the following link:*

<https://bloomington.zoom.us/j/84320398473?pwd=NnhSQjIUMGNJMHkvME9vbDIyVFBFZz09>

- I. **ROLL CALL**
- II. **AGENDA SUMMATION**
- III. **APPROVAL OF MINUTES**
  - April 7, 2021 (Regular Session)
  - May 5, 2021 (Regular Session)
- IV. **REPORTS** (*A maximum of twenty minutes is set aside for each part of this section.*)
  - A. **Councilmembers**
  - B. **The Mayor and City Offices**
  - C. **Council Committees**
  - D. **Public\***
- V. **APPOINTMENTS TO BOARDS AND COMMISSIONS**
- VI. **LEGISLATION FOR SECOND READINGS AND RESOLUTIONS**
  - A. Resolution 22-16 – A Resolution Expressing Support for the Extension of Bloomington Transit Services Outside the City Boundaries for Bus Service to Daniels Way
- VII. **LEGISLATION FOR FIRST READINGS**
  - A. Ordinance 22-23 – To Vacate A Public Parcel – Re: Two, 12-Foot Wide Rights-of-Way in the Lone Star Addition Within A Triangular-Shaped Block Bordered by West Cottage Grove on the North, West 10th Street on the South, and North Monroe Street on the West (Solomon L. Lowenstein, Jr. and Julia G. Beerman, Petitioners)
- VIII. **ADDITIONAL PUBLIC COMMENT\*** (*A maximum of twenty-five minutes is set aside for this section.*)
- IX. **COUNCIL SCHEDULE**
- X. **ADJOURNMENT**

\* Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.

Auxiliary aids are available upon request with adequate notice. Please call (812) 349-3409 or email [council@bloomington.in.gov](mailto:council@bloomington.in.gov).



**City of Bloomington  
Office of the Common Council**

# **NOTICE**

**Wednesday, 07 September 2022**

**Regular Session**

**Starting at 6:30 pm**

This meeting will be held in the Council Chambers (Suite #115, City Hall, 401 N. Morton St) and may also be accessed electronically via Zoom (see information below).

*Join Zoom Meeting*

<https://bloomington.zoom.us/j/84320398473?pwd=NnhSQjlUMGNJMHkvME9vbDIyVFBFZz09>

*Meeting ID: 843 2039 8473*

*Passcode: 353697*

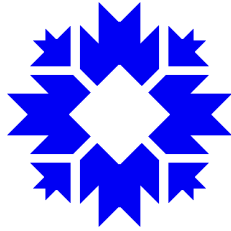
*One tap mobile*

*+13126266799,,84320398473# US (Chicago)*

*+16469313860,,84320398473# US*

*Find your local number: <https://bloomington.zoom.us/j/84320398473?pwd=NnhSQjlUMGNJMHkvME9vbDIyVFBFZz09>*

As a quorum of the Council or its committees may be present, this gathering constitutes a meeting under the Indiana Open Door Law (I.C. § 5-14-1.5). For that reason, this statement provides notice that this meeting will occur and is open for the public to attend, observe, and record what transpires.



**City of Bloomington  
Office of the Common Council**

# **NOTICE**

**Friday, 09 September 2022**

**Common Council Work Session**

**Starting at 12 noon**

This meeting will be held in the McCloskey Conference Room (Suite #135, City Hall, 401 N. Morton St) and may also be accessed electronically via Zoom (see information below).

*Join Zoom Meeting*

<https://bloomington.zoom.us/j/83495747172?pwd=WmpDa2tSVXF5dVp4S21rOUlFcUIRQT09>

*Meeting ID: 834 9574 7172*

*Passcode: 481651*

*One tap mobile*

*+16469313860,,83495747172# US*

*+19292056099,,83495747172# US (New York)*

*Find your local number: <https://bloomington.zoom.us/j/83495747172?pwd=WmpDa2tSVXF5dVp4S21rOUlFcUIRQT09>*

As a quorum of the Council or its committees may be present, this gathering constitutes a meeting under the Indiana Open Door Law (I.C. § 5-14-1.5). For that reason, this statement provides notice that this meeting will occur and is open for the public to attend, observe, and record what transpires.



**City of Bloomington  
Office of the Common Council**

Minutes for Approval

---

07 April 2021 | 05 May 2021

In Bloomington, Indiana on Wednesday, April 7, 2021 at 6:30pm, Council President Jim Sims presided over a Regular Session of the Common Council. Per the Governor's Executive Orders, this meeting was conducted electronically via Zoom.

COMMON COUNCIL  
REGULAR SESSION  
April 7, 2021

Councilmembers present via teleconference: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan  
Councilmembers absent: none

ROLL CALL [6:32pm]

Council President Jim Sims summarized the agenda.

AGENDA SUMMATION [6:33pm]

Flaherty moved and it was seconded to approve the minutes of February 25, 2021. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

APPROVAL OF MINUTES [6:37pm]

February 25, 2021 (Special Session)

Piedmont-Smith noted that the minutes were corrected.

Sgambelluri acknowledged city staff Paula McDevitt, Mallory Rickbiel, Tim Street, and Erin Hatch for their work in the Lower Cascades Park. She also acknowledged Angela Van Rooy for her work with the neighborhood cleanup. Sgambelluri also acknowledged Alex Crowley and the Economic and Sustainable Development Department for their work.

REPORTS

- COUNCIL MEMBERS [6:38pm]

Piedmont-Smith thanked the members of the Plan Commission and the Planning and Transportation Department staff for their work with the Unified Development Ordinance (UDO) amendments. She also referenced her upcoming constituent meeting on April 10, 2021 via Zoom.

Flaherty mentioned his constituent meeting April 19, 2021 at 5:30pm via Zoom.

Sandberg strongly objected to Volan's characterizations on March 17, 2021 regarding those councilmembers who opposed Ordinance 21-06. She disagreed that they had no regard for the well-being of the community, nor were they to blame for the nine hour meeting. Sandberg commented on council procedure, and her reasoning for opposing Ordinance 21-06. She emphasized that it was crucial to focus on issues and not persons raising reasonable objections. She urged everyone to consider how they speak to one another in meetings. She gave examples of how the divisiveness creates the erosion of trust in elected officials. Sandberg stated that she wanted to get beyond the internal communication failure and incivility and that moving forward, she hoped the council and the public, could model respectful statesmanship.

Sims commented that Sandberg's response to Volan's comments was in regards to Ordinance 21-06 and that the legislation was concluded, that there was no longer a need to continue discussing that legislation. Sims thanked everyone for their comments regarding civility and Robert's Rules of Order. He added that he disagreed with The Herald Times reporter who characterized the council as battling lingering bitterness between two factions of city council. Sims reviewed legislation that were passed by the Common Council and voting history. He clarified that all but one were unanimous votes, including one piece of legislation that was unanimously rejected. Sims discussed mutual respect, collaboration, collegiality, and civility.

Alex Crowley, Director of the Economic and Sustainable Development Department, reported on the core project, and thanked Sgambelluri for accepting the invitation, as the chair of the Economic and Sustainable Committee, for vetting the application process. He also discussed the Low Income Housing Tax Credit (LIHTC) and the request for information. He commented further on the process that had been ongoing in advance of the deadline for proposals. Crowley stated there were six proposals and discussed next steps. He also provided an update on affordable housing at the Night Moves site, the Arlington/17<sup>th</sup> Street Planned Unit Development (PUD), and the Thompson PUD.

- The MAYOR AND CITY OFFICES [6:49pm]

Smith asked Crowley when the demolition would start.

Crowley stated it would start in early 2022 and that the hospital would be moving in late 2021.

Council discussion:

There were no council committee reports.

- COUNCIL COMMITTEES [6:51pm]

Jim Shelton spoke about the Court Appointed Special Advocates (CASA) program, and that April was child abuse prevention month. He highlighted events in the community in support of that effort.

- PUBLIC [6:52pm]

Alex Goodlad responded to Sandberg's rebuttal and Sim's addendum. He spoke about civility, and consistency, and commented on the meeting where Ordinance 21-06 was discussed.

Nathan Mutchler commented on the unhoused population, and the need for civility, collegiality, accountability, and compassionate actions.

Volan moved and it was seconded to make the following appointments:

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:08pm]

- For the Community Advisory on Public Safety Commission: Matthew Diaz to seat C-2, Derek House to seat C-3, Nicole Johnson to seat C-4, Nejla Routsong to seat C-5, Kamala Brown-Sparks to seat C-6, Heather Lake to seat C-7, Alexander Mann to seat C-8, Renee Miller to seat C-9, Mateo Perez to seat C-10, and Jon Wunrow to seat C-11.

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

Smith moved and it was seconded to make the following appointments:

- For the Bicycle and Pedestrian Safety Commission: Ann Edmonds to seat C-1, and Casey Green to seat C-2.

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

Smith moved and it was seconded to make the following appointments:

- For the Traffic Commission: David Hoff to seat C-2, and Greg Alexander to seat C-5.

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

Smith moved and it was seconded to make the following appointment:

- For the Parking Commission: to reappoint Adrienne Evans Fernandez to seat C-2.

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

Flaherty moved and it was seconded that Ordinance 21-27 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Clerk Nicole Bolden read the legislation by title and synopsis.

Flaherty moved and it was seconded that Resolution 21-07 be read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis.

Flaherty moved and it was seconded that Resolution 21-07 be adopted.

Alex Crowley, Director of the Economic and Sustainable (ESD) Development Department, presented the legislation. He described the Flywheel Fund (FF) which funds startups, and explained its alignment with The Mill's mission. Crowley encouraged the Common Council to vote in favor of Resolution 21-07 and provided reasons for doing so, including the work conducted via The Mill.

Piedmont-Smith asked if The Mill incurred the unrelated business income tax and how and why that happened.

Pat East, Executive Director of the Mill, explained that any monies returned to investors of the FF, The Mill received 80% and FF received 20%. He explained that the FF helped support startups but that it was not 100% on mission with The Mill's approved 501(c)3 status. He said that the resolution would allow capital investing to be a part of The Mill's mission, and allow The Mill to receive the money, and it not be taxable or have The Mill risking losing its 501(c)3 status.

Ryan Waggoner, attorney, further explained that unrelated business income taxes were imposed on charities when they generate revenue that wasn't closely aligned with their mission. He provided examples, and explained the reasoning behind Resolution 21-07.

Greg Alexander stated that The Mill was not primarily engaged in charitable activities, and that its primary activity was investment and real estate management.

Piedmont-Smith asked if Waggoner wanted to follow up on the public comment by Alexander.

Waggoner stated that the designation of The Mill as a charity was done by the federal government and the Internal Revenue Service (IRS).

Piedmont-Smith responded that the 501(c)3 encompassed more than what was typically thought of as charities.

APPOINTMENTS TO BOARDS AND COMMISSIONS (*cont'd*)

LEGISLATION FOR FIRST READING [7:15pm]

Ordinance 21-27 - An Ordinance Correcting Scrivener's Errors in Ordinance 21-09, Which Amended Title 9 of the Bloomington Municipal Code Entitled "Water"

LEGISLATION FOR SECOND READING AND RESOLUTIONS [7:16pm]

Resolution 21-07 - A Resolution Regarding Dimension Mill, Inc.

Council discussion:

Public comment:

Council discussion:



Waggoner agreed and provided examples.

Resolution 21-07 (cont'd)

Sims commented on the fact that 13% of programs were for helping marginalized populations and asked Waggoner to expound on those programs.

Waggoner explained that 13% of the population was African American and that after the Black Lives Matter (BLM) protests the previous summer, he and the board issued a statement including two actions linked to the statement. He said one was to start a scholarship at The Mill for Black founders and professionals to match the 13% of the United States population. The other action was that when FF made their first investment, that 13% would go to Black founders. He further explained membership, scholarships to Black founder and Black professionals, as well as unrepresented minorities, and the purview of The Mill.

The motion to adopt Resolution 21-07 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Resolution 21-07 [7:34pm]

Flaherty moved and it was seconded that Ordinance 21-27 be read by title and synopsis only.

Ordinance 21-27 – An Ordinance Correcting Scrivener’s Errors in Ordinance 21-09, Which Amended Title 9 of the Bloomington Municipal Code Entitled “Water” [7:36pm]

Sims reminded councilmembers that the motion required unanimous consent for the Common Council to consider the adoption, and that for passage, a two-thirds vote was required.

The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis. There was no do-pass recommendation.

Flaherty moved and it was seconded that Ordinance 21-27 be adopted.

Stephen Lucas, Council Attorney/Administrator, presented the legislation. He explained that Ordinance 21-27 corrected two mistakes in Ordinance 21-09, which amended a table of monthly and annual rates and charges in the Bloomington Municipal Code (BMC), titled Private Fire Connections Per Connection. One was the table header and the second made a correction to the annual rate for the 4 inch or smaller fire line. He explained that the corrections were to be made before the legislation went to the Indiana Utility Regulatory Commission (IURC).

There were no questions from council.

Council discussion:

There were no comments from the public.

Public comment:

There were no comments from council.

Council discussion:

The motion to adopt Ordinance 21-27 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-27 as amended [7:41pm]

Flaherty moved and it was seconded that Ordinance 21-11 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, and the Committee of the Whole do-pass recommendation of Ayes: 8, Nays: 0, Abstain: 0.

Ordinance 21-11 – To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” – Re: Updating and Harmonizing Portions of Title 2 of the Municipal Code [7:42pm]

Flaherty moved and it was seconded that Ordinance 21-11 be adopted.

Michael Rouker, City Attorney in the Legal Department, presented the legislation. Rouker summarized the updates resulting from Ordinance 21-11 including references to the structure of the City of Bloomington and changes to its departments, primarily an independent Engineering Department, the Director of Engineering, the enabling ordinances related to city boards and commissions, the Telecommunications Council, and the party affiliation for members of boards and commissions. It also revised the Housing and Neighborhood Development (HAND) Department and the Housing Quality Appeals Board (HQAB) sections, as well as several miscellaneous updates and revisions. Rouker also listed some rewriting of titles to city positions within the Fire Department, including a non-gendered term of firefighter. He said that Chapter 2.52 was eliminated due to preemption by state code.

Ordinance 21-11 (cont'd)

Sims asked if there was an amendment to Ordinance 21-11.

Smith confirmed that he had sponsored Amendment 01 by request.

Rouker explained that Amendment 01 corrected an oversight regarding the number of Plan Commission members from twelve down to ten members.

Volan commented that Amendment 01 was not properly introduced.

Smith moved and it was seconded to adopt Amendment 01 to Ordinance 21-11.

Amendment 01 to Ordinance 21-11

Amendment 01 Synopsis: This amendment corrects the number of members that would serve on the Plan Commission as a result of the changes proposed in Section V of Ordinance 21-11.

There were no questions from council.

Council discussion:

There were no comments from the public.

Public comment:

There were no comments from council.

Council discussion:

The motion to adopt Amendment 01 to Ordinance 21-11 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Amendment 01 to Ordinance 21-11 [7:52pm]

There were no questions from council on Ordinance 21-11 as amended.

Council discussion:

There were no comments from the public on Ordinance 21-11 as amended.

Public comment:

Piedmont-Smith mentioned that Ordinance 21-11 had already been discussed at a previous meeting, and had several questions that were answered at that time, and that council was not rushing the legislation through.

Council discussion:

The motion to adopt Ordinance 21-11 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-11 as amended [7:54pm]

Flaherty moved and it was seconded that Ordinance 21-12 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, and the Committee of the Whole do-pass recommendation of Ayes: 8, Nays: 0, Abstain: 0.

Ordinance 21-12 – To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” - Re: Restricted Turns on Red at Signalized Intersections [7:55pm]

Flaherty moved and it was seconded that Ordinance 21-12 be adopted.

Rosenbarger presented Ordinance 21-12 and summarized the restricted turns on red at signalized intersections.

Neil Kopper, Senior Project Engineer of the Engineering Department, indicated he was present to answer questions.

Rosenbarger moved and it was seconded to adopt Amendment 01 to Ordinance 21-12.

Motion to adopt Amendment 01 to Ordinance 21-12

Amendment 01 Synopsis: This amendment removes an intersection turn location from the list of locations to be added to Bloomington Municipal Code Section 15.20.020, Schedule H.

There were no questions from the.

Council discussion:

There were comments from the.

Public comment:

There were no comments from council.

Council discussion:

The motion to adopt Amendment 01 to Ordinance 21-12 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Amendment 01 to Ordinance 21-12 [8:04pm]

Piedmont-Smith stated that a constituent reached out to her and said that it was more dangerous for pedestrians. She asked for clarification from the sponsors on the safety of pedestrians while crossing an intersection that was no-turn on red.

Council discussion:

Volan asked if the constituent had data showing that it was more dangerous. He also stated that in order to drive, a driver needed to be licensed and that the onus was on the driver to take precaution. He believed the data would show it was safer for pedestrians.

Rosenbarger presented data that showed that drivers do not tend to look at cross walks when turning right on a red light. She also provided examples from the pedestrian’s perspective and described a 1995 study that showed that fatalities within no-turn on red intersections was relatively small, and included pedestrians and bicyclists. She said that allowing cars to turn right at a red light increased risk. She provided additional data on fatalities at those intersections.

Kopper stated that staff looked at a national clearinghouse of crash modification factors which showed what could be expected in crashes. He said there were eighteen studies cited and every study indicated that crashes would increase if right turns at red lights were permitted.

Sims asked about the data cited and if there were different percentages for each state, of the three that were surveyed.

Rosenbarger clarified that it was just for three states; Indiana, Maryland, and Missouri.

Sims asked if Maryland and Missouri were comparable to Indiana regarding the increase in crashes and fatalities.

Ordinance 21-12 (cont'd)

Rosenbarger responded that all three states had similar percentages.

Sims also asked about the response from the Bloomington Police Department (BPD) regarding the legislation.

Rosenbarger stated that BPD found it straightforward and had no issues with it.

Sims asked about the fiscal impact including signage and more.

Rosenbarger stated that for about seventy-five to one hundred signs would be about \$7500-9000.

Piedmont-Smith inquired about intersections with a high number of pedestrians and vehicles, and if it was possible to have a phase in the traffic lights that was pedestrian crossing only.

Rosenbarger responded that there was some capability but it was limited due to technology.

Kopper added that it was feasible to be evaluated on a case-by-case basis. He said that it would cause a delay in pedestrian crossing, which resulted in higher incidents of pedestrians crossing outside of their exclusive turn.

Greg Alexander commented that Ordinance 21-12 was a great ordinance and provided supporting information, and stated that there were significant additional challenges to address.

Public comment:

Paul Ash spoke in support of Ordinance 21-12.

Stephen Lucas, Council Attorney, read a comment sent via Zoom chat from Sam Dove regarding cracks in sidewalks.

Smith acknowledged the hard work and research Rosenbarger had done for Ordinance 21-12.

Council discussion:

Volan echoed Smith in his acknowledgement of Rosenbarger's work on Ordinance 21-12. He also acknowledged the comment from Greg Alexander.

The motion to adopt Ordinance 21-12 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-12 as amended [8:21pm]

Flaherty moved and it was seconded that Ordinance 21-13 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, and the Committee of the Whole do-pass recommendation of Ayes: 8, Nays: 0, Abstain: 0.

Ordinance 21-13 – To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles And Traffic" Re: Amending Chapters 12.32.080, Schedule M, "No Parking Zones," to remove three "no parking" zones and add ten "no parking" zones; and to amend Chapter 15.32.100, Schedule O, "Loading Zones," to add two loading zones [8:22pm]

Flaherty moved and it was seconded that Ordinance 21-13 be adopted.

Amir Farshchi, Long Range Planner for the Planning and Transportation Department, presented Ordinance 21-13. He summarized the recommendations based on the feedback from the Planning and Transportation Department, Engineering Department, Parking Services, and Legal Department.

Rosenbarger moved and it was seconded to adopt Amendment 01 to Ordinance 21-13.

Amendment 01 to Ordinance 21-13

Amendment 01 Synopsis: This amendment corrects a reference in the title to the section of the Bloomington Municipal Code amended by the ordinance.

There were no questions from the council.

Council discussion:

There were comments from the public.

Public comment:

There were no comments from council.

Council discussion:

The motion to adopt Amendment 01 to Ordinance 21-13 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Amendment 01 to Ordinance 21-13 [8:29pm]

There were no questions from council on Ordinance 21-13 as amended.

Council discussion:

Steve Shatz stated his opposition to no parking on 6<sup>th</sup> Street and provided details in support of his opposition.

Public comment:

Smith asked Farshchi to comment on Steve Shatz's comment.

Council discussion:

Farshchi responded that staff did not expect there would be additional on street parking, but that if there was a small increase, that 6<sup>th</sup> Street had enough on street parking spaces. He also explained that staff evaluation, feedback from the Sanitation Department, and resident input for the Parking Commission indicated that the street width was sufficient.

Smith asked what a resident could do if it became a problem.

Farshchi stated the resident could contact Parking Services and the Planning and Transportation Department.

Sims asked Lucas to display the image that was sent to council by Shatz.

Piedmont-Smith stated that she didn't see there was a problem as long as cars were not parked on that section all day long. She explained that purposefully narrow streets, where one car had to pull over for another car to pass, created calm streets. She said that if cars were parked on both sides, bumper to bumper, that it could be addressed in the future.

The motion to adopt Ordinance 21-13 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-13 as amended [8:38pm]

Flaherty moved and it was seconded that Ordinance 21-07 be read by title and synopsis only. The motion received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0 (Volan out of the room). Bolden read the legislation by title and synopsis, and the Land Use Committee do-pass recommendation, with reasonable conditions, of Ayes: 1, Nays: 0, Abstain: 3. Reasonable Condition 01 received a do-pass recommendation of Ayes: 4, Nays: 0, Abstain: 0. Reasonable Condition 03 received a do-pass recommendation of Ayes: 4, Nays: 0, Abstain: 0. Reasonable Condition 04 was withdrawn.

Ordinance 21-07 – To Amend the City of Bloomington Zoning Maps by Amending the District Ordinance and Preliminary Plan for Parcel E of the Thomson PUD. Re: 300 W. Hillside Drive (Tom Brennan, Petitioner) [8:40pm]

Flaherty moved and it was seconded that Ordinance 21-07 be adopted.

Eric Greulich, Senior Zoning Planner in the Planning and Transportation Department, presented Ordinance 21-07. He summarized the request as an amendment to the preliminary plan and district ordinance for the Thompson Planned Unit Development (PUD) to allow nineteen townhomes and one hundred and four multi-family residences on Parcel E. He described the rendering of the site and referenced the Plan Commission's 7-1 vote to forward the petition to the council with a positive recommendation and summarized certain conditions of approval, including Leadership in

Energy and Environmental Design (LEED) certification, affordable housing, connectivity, and sidewalk requirement.

Ordinance 21-07 (cont'd)

Doug Bruce, representative for petitioner, stated that he had sent some updates via a PDF document. He stated he would defer to council on how it wished to proceed.

Volan stated that since there were many changes since the Land Use Committee meeting that he would prefer to hear the presentation from the petitioner.

Bruce reviewed previous items and highlighted updates and changes to the original petition. He commented that it hadn't been considered in years past that Switchyard Park would be built next to the site, and that now, the petitioner wished to remove the warehouse and update the site to include residential usage. He commented on accessibility to the site, traffic, housing and affordable housing, green projects and LEED certification, and making the area a walkable neighborhood. He also commented on the Plan Commission's conditions of approval. Bruce summarized some modifications to the proposal based on feedback from the Land Use Committee and the Plan Commission. He also reviewed onsite parking and other specifications to the proposed structures and spoke about the history of working with the city on the proposal. Bruce highlighted that there had been questions regarding impervious surfaces, and that the petitioner had made revisions to that topic. He provided additional details about parking on site and the impervious surface on site.

Tom Brennan, Petitioner, spoke about the proposal and said that it was environmentally sound. He also commented on the architecture plan, and thanked the Plan Commission, city staff, the mayor's office, and the Land Use Committee.

Piedmont-Smith gave a brief report from the Land Use Committee and spoke about information from the Planning and Transportation Department, height and configuration of buildings, parking, applicable requirements within the Unified Development Ordinance (UDO), affordable housing component, and surrounding property owners. She also commented on the tearing down of two-thirds of the structure and the assurance of the petitioner's engineer that it was possible. The committee also heard from neighbors about density and storm water runoff, as well as the Environmental Commission's opposition to the proposal based on the high impervious surface percentage.

Volan moved and it was seconded to adopt Reasonable Condition 01 to Ordinance 21-07.

Reasonable Condition 01 to Ordinance 21-07

Reasonable Condition 01 Synopsis: This Reasonable Condition is sponsored by Cm. Piedmont-Smith and would limit the height of Building 7 on Lot 4 to 50 feet or 4 stories. The intent of this reasonable condition is to reduce the impact of the development's density on neighboring properties.

Piedmont-Smith presented Reasonable Condition 01 to Ordinance 21-07.

Greulich stated that staff did not have any objections to Reasonable Condition 01 to Ordinance 21-07.

Volan asked for clarification on how the height was determined.

Greulich explained that the UDO allowed for height to be determined by an average grade.

Volan explained that the minimum operating height of an aerial truck was fifty feet, and asked if there was any elevation on the site above fifty feet.

Greulich said that building number two was six stories and would be sixty five feet tall. He clarified that building seven would be limited to fifty feet.

Reasonable Condition 01 to Ordinance 21-07 (cont'd)

Flaherty asked President Sims if it was proper to hear from the petitioners.

Sims explained that he thought it pertinent to hear from staff.

Council discussion:

Elizabeth Cox Ash spoke about the building height and said it was too dense.

Public comment:

There was no additional council discussion on Reasonable Condition 01 to Ordinance 21-07.

Council discussion:

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

Vote to adopt Reasonable Condition 01 to Ordinance 21-07 [9:29pm]

Flaherty moved and it was seconded to adopt Reasonable Condition 03 to Ordinance 21-07.

Reasonable Condition 03 to Ordinance 21-07

Reasonable Condition 03 Synopsis: This Reasonable Condition is sponsored by Cm. Flaherty and would require buildings within the development to meet the Cool or Vegetated Roof standards of BMC 20.04.110(d)(2)(A)(iv). The intent of this reasonable condition is to mitigate urban heat island effects and to provide a greater level of design quality than would be required by the UDO if the project were not being developed in a PUD zoning district, as called for in Bloomington Municipal Code 20.06.070(c)(4)(D).

Flaherty presented Reasonable Condition 03 to Ordinance 21-07.

Greulich stated that staff did not have any objections to Reasonable Condition 03 to Ordinance 21-07.

There was no council discussion.

Council discussion:

There was no comment from the public.

Public comment:

There was no additional council discussion.

Council discussion:

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

Vote to adopt Reasonable Condition 03 to Ordinance 21-07 [9:33pm]

Flaherty moved and it was seconded to adopt Reasonable Condition 04 revised to Ordinance 21-07.

Reasonable Condition 04 revised to Ordinance 21-07

Reasonable Condition 04 revised Synopsis: This Reasonable Condition is sponsored by Cm. Flaherty and would require a direct sidewalk connection for each townhome building that fronts on the B-Line trail. The intent of this reasonable condition is to promote a greater level of connectivity to surrounding developments, as called for in Bloomington Municipal Code 20.06.070(c)(4)(C).

Flaherty presented Reasonable Condition 04 revised to Ordinance 21-07.

Reasonable Condition 04 revised to Ordinance 21-07 (cont'd)

Sims asked if it was correct that each townhome's entrance had a path to the shared walkway.

Council discussion:

Flaherty confirmed that was correct for the units that front onto the B Line Trail.

There was no public comment.

Public comment:

There was no additional council discussion.

Council discussion:

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

Vote to adopt Reasonable Condition 04 revised to Ordinance 21-07 [9:37pm]

Flaherty moved and it was seconded to adopt Reasonable Condition 05 to Ordinance 21-07.

Reasonable Condition 05 to Ordinance 21-07

Reasonable Condition 05 Synopsis: This Reasonable Condition is sponsored by Cm. Flaherty. It memorializes that the petitioner will meet the criteria of Bloomington Municipal Code Section 20.06.070(c)(4)(E) by providing additional affordable housing as called for in Section 20.06.070(c)(4)(E)(iii)(2).

Volan asked for the petitioner's response to Reasonable Condition 05 to Ordinance 21-07.

Council discussion:

Greulich stated that staff did not have any objections to Reasonable Condition 05 to Ordinance 21-07.

Bruce stated that the petitioner did not have any objections to Reasonable Condition 05 to Ordinance 21-07.

Dave Askins asked about the calculation of the affordable housing component, and asked for clarification.

Public comment:

Sims asked Flaherty to expound on the public comment.

Council discussion:

Flaherty explained the process and stated that city staff had consulted with the Legal Department and explained the percentages.

Sims verified the calculation.

Flaherty confirmed the verification and provided additional clarification.

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

Vote to adopt Reasonable Condition 05 to Ordinance 21-07 [9:46pm]

Piedmont-Smith moved and it was seconded to adopt Reasonable Condition 06 to Ordinance 21-07.

Reasonable Condition 06 to Ordinance 21-07

Reasonable Condition 06 Synopsis: This Reasonable Condition is sponsored by Cm. Piedmont-Smith and would require that the income-restricted residential units be interspersed with the market-priced units.

Piedmont-Smith presented Reasonable Condition 06 to Ordinance 21-07.

Greulich clarified that each building or unit would have fifteen percent set aside for affordable housing.



There was no council discussion.

Council discussion:

Paula Cox Ash spoke about affordability and the need to spread it out.

Public comment:

There was no additional council discussion.

Council discussion:

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

Vote to adopt Reasonable Condition 06 to Ordinance 21-07 [9:50pm]

Flaherty moved and it was seconded to adopt Reasonable Condition 07 to Ordinance 21-07.

Reasonable Condition 07 to Ordinance 21-07

Reasonable Condition 07 Synopsis: This Reasonable Condition is sponsored by Cm. Flaherty and Cm. Volan. It is intended to better align the project with the city's Comprehensive Plan. Specifically, decoupling the cost of rent from the cost of parking is a form of transportation demand management. It helps to incentivize more sustainable modes of transportation, such as transit, walking, and bicycling, by removing the cross subsidy from those users to drivers.

Flaherty presented Reasonable Condition 07 to Ordinance 21-07.

Greulich stated that staff did not have any objections.

Piedmont-Smith asked if Reasonable Condition 07 included the townhomes which were slated to be owner-occupied.

Council discussion:

Flaherty stated he intended it to apply to all units.

Piedmont-Smith clarified that the language said it did not include parking spaces in rent.

Flaherty stated that was an oversight and asked petitioner or staff to weigh in on the question.

Greulich stated that staff had no objection in including the townhomes.

Bruce stated that the petitioner had no objection to Reasonable Condition 07.

Flaherty asked Bruce if the petitioner had objections to including all homes and not just those that were rented.

Jeff Fanyo, Petitioner's attorney, stated that there was no objection to including all the homes in Reasonable Condition 07.

Sims asked how the price of a townhome for sale was affected if parking was decoupled or added.

Fanyo stated that those calculations had not been made yet.

Sims asked if it would be close between owner-occupied units and those that were rented.

Fanyo confirmed that was correct.

Greulich commented that townhomes would be owned, and so would the parking spot which could be advantageous for the selling of the townhome.

Flaherty commented on the language delineating parking spaces would not be included in rent and said that removing that language and instead stating that parking would be a la carte.

Sims asked if one would have to rent a parking spot if they purchased a townhome.

Flaherty responded that was correct and that parking spaces were always included in the purchase but it wasn't visible. He explained that Reasonable Condition 07 decoupled parking from the purchase to the unit.

Reasonable Condition 07 to Ordinance 21-07 (cont'd)

Flaherty asked the petitioner if there was a plan in place for selling every townhome unit one parking spot with the option to rent more, if necessary.

Fanyo explained that it was optional to buy a parking space, or not, but that there was limited parking in that area. He commented that the conversation wasn't final.

Volan asked Flaherty if it was better to say that the owner of a townhome had the right to purchase a permit versus a space.

Flaherty said that was fair to say.

Elizabeth Cox Ash commented on the density and parking issues in the proposal.

Public comment:

Flaherty moved and it was seconded to remove the clause stating "and not include parking spaces in rent" and to add "only a la carte."

Motion to amend Reasonable Condition 07 to Ordinance 21-07

Piedmont-Smith asked if the amendment could be accepted with unanimous consent.

Council discussion:

Flaherty said that was appropriate.

Sims asked what unanimous consent was in this case.

Piedmont-Smith stated that it meant that there were no objections.

Sims stated that he didn't feel comfortable in decoupling parking from townhomes and stated his objection.

Piedmont-Smith said that the question of how parking applied to the townhomes could be left open ended.

Sims confirmed that if there were no objections, the amendment would be unanimously adopted.

Flaherty agreed that was correct.

There was no public comment.

Public comment:

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

Vote to adopt Reasonable Condition as amended to Ordinance 21-07 [10:12pm]

Piedmont-Smith moved and it was seconded to adopt Reasonable Condition 09 to Ordinance 21-07.

Reasonable Condition 08 to Ordinance 21-07

Reasonable Condition 08 Synopsis: This Reasonable Condition approves of a modified Preliminary Plan, as presented by the petitioner on April 7, 2021, and makes the same a condition of approval for the proposal.

Piedmont-Smith presented Reasonable Condition 08 to Ordinance 21-07.

Greulich confirmed that he spoke to the fire department and said they were not supportive of moving the roundabout to the north of the site.

Sims said that he understood that there was an agreement regarding the roundabout and asked the petitioner to comment.

Bruce responded that they had spoken with Tim Clapp, Fire Inspection Officer, and that the roundabout could go on the north side or in the middle and just needed clarification. He discussed reasons for placement, size, and further discussions to be had.

Piedmont-Smith stated that Reasonable Condition 08 included angled parking and asked Bruce for clarification on parking and the roundabout.

Bruce explained that if the roundabout was at the north end, then angled parking would work. If the roundabout was in the middle, then the angled parking would not work. He commented on the size of the parking spots, impervious surface area, and traffic flow.

Piedmont-Smith asked about the site plan that included angled parking and reduced impervious surface.

Bruce said that the impervious surface would remain the same, and that the confusion was likely due to the roundabout being returned to the middle area based on the conversation with Grulich and Clapp, and due to timing. He commented that Grulich mentioned that the petitioner, planning staff, and the fire department could come to an agreement at a later date.

Rollo asked the authors of Reasonable Condition 08 to consider revising the language to allow staff to negotiate an agreement for parking and the roundabout.

Flaherty stated that if Piedmont-Smith was in agreement, he would be fine with withdrawing Reasonable Condition 08.

Volan interceded that the point of having a reasonable condition was to compel the petitioner and this was council's opportunity to do so.

Piedmont-Smith said that she was in favor of withdrawing Reasonable Condition 08 to allow the petitioner, staff, and the fire department to come to an agreement.

Flaherty explained that if there was no objection to the withdrawal of Reasonable Condition 08 that it could be withdrawn.

Volan objected and commented that he had spoken with Fire Chief Jason Moore and discussed concerns with fire safety, and environmental concerns and impervious surface area. He said that he was in agreement to have the petitioner, staff, and fire department to come to an agreement, but that he was concerned about withdrawing Reasonable Condition 08.

Rollo said that council could state a preference, to have the roundabout on the north end with angled parking.

Volan stated his agreement.

Sims commented that the concern was safety and commented on vehicles.

Flaherty asked Lucas for clarity on an advisory reasonable condition.

Lucas stated that council did not typically adopt reasonable conditions on preliminary plans, and that it was important to include the correct preliminary plan with the legislation. He said there was no binding impact on council determining a preference.

Grulich added that, for a preliminary plan and district ordinance, the general size and placement of buildings, et cetera,

Reasonable Condition 08 to  
Ordinance 21-07

Council discussion:

were approved, and that the final plan was where specifics were considered, including working with the fire department. He said it might not be necessary to have a reasonable condition stating council's preference.

Reasonable Condition 08 to Ordinance 21-07 (cont'd)

Sims commented on the Land Use Committee meeting where the need to obtain permission for space for emergency vehicles from the Parks Department was discussed. He said until that was clearer, he would not be able to support Reasonable Condition 08.

The motion to adopt Reasonable Condition 08 to Ordinance 21-07 received a roll call vote of Ayes: 2 (Rosenbarger, Volan), Nays: 7, Abstain: 0. FAILED.

Vote to adopt Reasonable Condition 08 to Ordinance 21-07 [10:36pm]

Volan asked the petitioners if the buildings would be sprinkled [have a sprinkler system].

Council discussion:

Bruce said that buildings 1, 2, and 7 would be sprinkled but that the townhomes were not required to have sprinklers. He explained that would be determined during the building code discussions.

Volan asked about further fire safety concerns, including access points for fire trucks.

Bruce explained the plan for townhomes, including separation to reduce the spread of fire, fire hydrants, and the cost of adding a sprinkler system to townhomes.

Volan asked further about fire hydrants.

Bruce said that it was part of the discussion the petitioner was having regarding fire safety, building code, and affordability.

Volan asked about outdoor parking spaces and if the petitioner was amenable to back-in angled spaces.

Bruce responded that the petitioner was in favor of that and there were ongoing discussions.

Sgambelluri asked about the concerns of the northernmost property owners, and what the process was to address those concerns.

Greulich stated that it would be worked out with the building permit process to ensure the building met code.

Sgambelluri asked about non-fire related concerns.

Greulich explained that fire code and building code were the main considerations, and that damages to a building was a matter between two property owners.

Volan displayed an image of permeable parking spots and asked the petitioner if they were in favor of that and not having only paved parking surfaces.

Fanyo responded that permeable parking was two to three times more expensive and provided reasoning.

Volan also asked about permeable parking and its cost.

Fanyo said they were approximately \$28 per square foot and the UDO did not count that towards impervious surface area.

Elizabeth Cox-Ash stated that the project was too dense for the area, parking, and housing affordability.

Public comment:

Michael McBride, representing Storage Express, commented on his client's concerns including the potential damage to Storage Express's building with the partial demolition, parking, extension of roads, and future use and development. He stated that his client opposed the proposal.

Chris Cockerham commented on the history of Mr. Brennen's experience with selling or leasing his building. He also commented on Mr. Brennen's goals for the property and asked councilmembers to support the proposal.

Public comment: (cont'd)

Piedmont-Smith stated that she attended the last two McDoel Gardens neighborhood association meetings and clarified that no formal vote was taken against the proposal. She also clarified that council was requiring affordable housing regardless of any future owners. Piedmont-Smith stated that there would be 15% of the units at a cost point that was affordable for those making 110% of the area median income. She said that housing of all kinds was needed in Bloomington and that the development wouldn't negatively impact the neighbors directly to the west and provided reasons. Piedmont-Smith explained that the site was a great location because it did not require dependency on a car, and because it was replacing a 95% impermeable surface parcel of land with a LEED-certified, green building development. Piedmont-Smith addressed McBride's public comment and said that legal issues were not under the purview of the council, and that further reports, including engineering reports, would need to be done. She said she looked forward to having more neighbors in the area.

Council discussion:

Rollo stated that the proposal was excellent and set a precedent for redevelopment. He said it was a prime location, alongside the B Line Trail, and agreed with Piedmont-Smith in that it met multiple criteria and set the bar. He said he would support Ordinance 21-07.

Flaherty stated that he had expressed most of his comments during the Land Use Committee meeting and thanked the petitioners and staff for their work on a variety of issues. He spoke about affordability and said that Bruce correctly noted that attached housing was more affordable, which was supported by local and national data. It was ideal to have owner-occupied housing and appreciated its inclusion in the proposal.

Volan agreed that the petitioner had done a decent job with the proposal, and commented on impervious surface, parking, and the discussion on roundabout placement. He commented that with the design, angled parking gained at least one thousand feet of green space, and the new impervious surface calculation was below 70%. He also commented on the possibility of reducing the width of the roundabout. Volan stated that the serious concerns could be addressed by the petitioner and provided examples. In general he was supportive of the proposal and would vote in favor.

The motion to adopt Ordinance 21-07 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-07 as amended [11:11pm]

There was no additional public comment.

ADDITIONAL PUBLIC COMMENT

Lucas reviewed the upcoming council schedule and legislation.

COUNCIL SCHEDULE [11:13pm]

Sgambelluri moved and it was seconded to adjourn. Sims adjourned the meeting.

ADJOURNMENT [11:17pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this \_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVE:

ATTEST:

\_\_\_\_\_  
Susan Sandberg, PRESIDENT  
Bloomington Common Council

\_\_\_\_\_  
Nicole Bolden, CLERK  
City of Bloomington

For Approval

In Bloomington, Indiana on Wednesday, May 05, 2021 at 6:30pm, Council President Jim Sims presided over a Regular Session of the Common Council. Per the Governor's Executive Orders, this meeting was conducted electronically via Zoom.

COMMON COUNCIL  
REGULAR SESSION  
May 05, 2021

Councilmembers present: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan  
Councilmembers absent: none

ROLL CALL [6:32pm]

Council President Jim Sims summarized the agenda.

AGENDA SUMMATION [6:33pm]

There were no minutes for approval.

APPROVAL OF MINUTES [6:33pm]

There were no council reports.

REPORTS

- COUNCIL MEMBERS [6:34pm]
- The MAYOR AND CITY OFFICES [6:34pm]
- COUNCIL COMMITTEES [6:36pm]
- PUBLIC [6:36pm]

There were no reports from the Mayor or city offices.

There were no council committee reports.

Jim Shelton spoke about the Court Appointed Special Advocates (CASA) and upcoming training sessions.

APPOINTMENTS TO BOARDS AND COMMISSIONS [6:39pm]

Piedmont-Smith moved and it was seconded that Arvind Jagdish be appointed to seat C-1 on the Community Advisory on Public Safety Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

LEGISLATION FOR SECOND READING AND RESOLUTIONS [6:40pm]

Flaherty moved and it was seconded that Ordinance 21-26 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Clerk Nicole Bolden read the legislation by title and synopsis, and gave the committee do-pass recommendation of Ayes: 5, Nays: 1, Abstain: 3.

Ordinance 21-26 - To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles And Traffic" - Re: Amending Chapter 15.37 (Residential Neighborhood Permit Parking) to add a penalty for using a residential neighborhood parking permit in an unauthorized manner; Section 15.37.080 (Proof of permit purchase required) to add a penalty for not displaying a neighborhood parking or visitor permit when parked in a residential neighborhood zone and adding that penalty to the list of Class G traffic violations; Section 15.37.100 (Replacement of permit) to require permit holders to report stolen permits to the police before receiving a free replacement; and Section 15.48.010 (General Provisions) to require people who have their

Flaherty moved and it was seconded that Ordinance 21-26 be adopted.

Michelle Wahl, Director of Parking Services, presented the legislation. She reviewed parking citations, the collection agency, towing and associated fees, and other related key points.

Flaherty asked for clarification on the two administrative options that were not in Ordinance 21-26 to be codified.

Wahl clarified that was correct and explained that it was currently a seventy-four day wait to send someone to collections, but changing that to thirty days would facilitate easier and quicker payment plans. She also said that staff would be able to take phone calls to help clarify this for those who need a payment plan.

Flaherty asked if sending a debt to collections immediately would be the offender's choice in order to set up a payment plan quicker.

Wahl said that was incorrect because their car would already have been towed so it would have to go to collections to get on a payment plan.

Flaherty confirmed that was his understanding and thanked Wahl for clarifying.

Volan commented on the data presented and asked for clarification on the discrepancy between collected total monies and the percent given to the collection agency fee of thirty percent.

Wahl stated that each citation was unknown and that it was an estimation.

Volan asked for confirmation that there were still remaining outstanding citations.

Wahl confirmed that was correct.

Dave Warren commented that in order to have residential parking permit one had to live in a detached house which addressed concerns about duplexes, which was better than using zoning.

Emani Umeni spoke about parking, permits, and consideration of students.

Volan commented that Ordinance 21-26 was an incremental change to parking to make it fairer. He supported the changes brought forward to the Parking Commission and to council. He said that any house that was converted to a duplex would forgo the ability to get a parking permit. He also commented on the inequity of only single family homes being able to obtain residential permits. He explained that if there were concerns about the availability of street parking was to address meters in the downtown.

Flaherty inquired about concerns about the possibility that someone's car was towed or in storage, and they did not have the ability to pay or make a payment plan affecting their basic needs like going to work. He asked if it was staff's opinion that it was best to have it be administrative policy rather than codified.

Wahl confirmed that was correct.

Flaherty expressed his understanding for that discretion and supported Ordinance 21-26.

Piedmont-Smith stated that she shared Flaherty's concerns. She said that she was worried for those who faced a big fee and could not pay to have their car returned, possibly resulting in the loss of their job. She appreciated staff's ability to use discretion to assist these worst case scenarios. She commented on staff's efforts to educate the community about these issues.

The motion to adopt Ordinance 21-26 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

There was no legislation for first reading.

There was no additional public comment.

Heather Lacy, Deputy Attorney/Administrator reviewed upcoming meetings and items.

Sims adjourned the meeting.

cars towed after they have accumulated six or more unpaid parking citations to pay their unpaid citations before their car will be released to them

Council questions:

Public comment:

Council comments:

Vote to adopt Ordinance 21-26 [7:13pm]

LEGISLATION FOR FIRST READING [7:13pm]

ADDITIONAL PUBLIC COMMENT

COUNCIL SCHEDULE [7:13pm]

ADJOURNMENT [7:13pm]



APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this \_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVE:

ATTEST:

\_\_\_\_\_  
Susan Sandberg, PRESIDENT  
Bloomington Common Council

\_\_\_\_\_  
Nicole Bolden, CLERK  
City of Bloomington

FOR APPROVAL



**MEMO FROM COUNCIL OFFICE ON:**

**Resolution 22-16 – A Resolution Expressing Support for the Extension of Bloomington Transit Services Outside the City Boundaries for Bus Service to Daniels Way**

---

**Synopsis**

This resolution is sponsored by Councilmember Volan. It would express the Common Council's support for the extension of Bloomington Transit service to Daniels Way upon the completion of appropriate interlocal agreements between the city and county that specify exact areas and funding mechanisms for those services.

**Relevant Materials**

- [Resolution 22-16](#)
- Bloomington Transit Full System Map
- Concept Map showing potential east/west Crosstown Connector route
- Aerial Map showing Daniels Way from Interstate 69

**Summary**

[Resolution 22-16](#) would express the Council's support for the extension of Bloomington Transit bus service to Daniels Way, which is located west of the existing city boundaries. The resolution recognizes Daniels Way as a destination many residents would like to access via transit, with Ivy Tech Community College, Cook Medical, and several other local employers located on this road.

Bloomington Municipal Code [2.76.040](#) provides that the boundaries of the Bloomington Public Transportation Corporation shall be coterminous with the boundaries of the city of Bloomington. Existing Bloomington Transit routes are shown on the Full System Map, which is included in this packet.

Under Indiana Code 36-9-4-35.1, Bloomington Transit's board of directors determines all rates, routings, and hours and standards of service, subject to regulation by the state. State code also provides a mechanism for expanding transit service outside of the operational boundaries of the corporation. See IC 36-9-4-29.4. Should the board of directors wish to seek an expansion of services under this section of state code, one condition that must be met is for the legislative body of the municipality to approve any expansion of the service outside the municipality's corporate boundaries. This resolution expresses a willingness to approve of such an extension under certain circumstances.

The resolution calls for the marginal increases in cost associated with a potential service extension to be borne by Monroe County. The resolution contemplates such an extension occurring after equitable interlocal agreements are reached between the city and county to address the specific areas of extended transit services, as well as the funding mechanisms for those services. There is no anticipated fiscal impact directly tied to the passage of this resolution.

**Contact**

Councilmember Stephen Volan, [volans@bloomington.in.gov](mailto:volans@bloomington.in.gov), 812-349-3409

## RESOLUTION 22-16

### A RESOLUTION EXPRESSING SUPPORT FOR THE EXTENSION OF BLOOMINGTON TRANSIT SERVICES OUTSIDE THE CITY BOUNDARIES FOR BUS SERVICE TO DANIELS WAY

- WHEREAS, the Bloomington Common Council is the elected body with the legislative responsibility and authority for passing ordinances regulating and governing the city of Bloomington, Indiana and for passing resolutions expressing the will of the community; and
- WHEREAS, the Bloomington Common Council supports a strong local public transportation system and believes that transit and transportation alternatives positively impact the economy of Indiana, improve air quality, reduce congestion, improve mobility, increase personal independence, and enhance the quality of life for the community, and
- WHEREAS, Bloomington Municipal Code Section 2.76.040 entitled “Boundaries” states that the boundaries of the Bloomington Public Transportation Corporation shall be coterminous with the boundaries of the city of Bloomington; and
- WHEREAS, the city has attempted and is attempting appropriately to extend city boundaries to include numerous areas long intended for annexation and where city services, including transit, would be welcome and appropriate, including the near west side where numerous employers and Ivy Tech Community College are located; and
- WHEREAS, due to illegal activities of the state legislature and governor, the annexation process was interrupted and altered mid-stream and now is in litigation, and thus that resolution of city boundaries has been delayed; and
- WHEREAS, there are areas outside city limits that many local residents would like to access via public transit, the most prominent example of which is Daniels Way in Richland Township, where Ivy Tech Community College, Cook Medical, and other local employers are located; and
- WHEREAS, Indiana Code § 36-9-4-35.1 states that the board of directors of a public transportation corporation may determine, among other things, the rates, routings, and hours and standards of service for the transportation system; and
- WHEREAS, Indiana Code § 36-9-4-29.4 provides a mechanism for the expansion of service outside the operational boundaries of a public transportation corporation; and
- WHEREAS, during recent discussions of an increase in the local income tax, the city administration expressed its intent to significantly increase investment in public transit, including a new service that would be the city’s first express bus line on Third Street between State Road 446 and Whitehall Crossing; and
- WHEREAS, the city and local residents would benefit if this new line were extended by approximately one and a half miles to Daniels Way; and
- WHEREAS, such an extension of service would increase participation in public transit, would accordingly reduce demand for private car transportation and reduce the greater community’s carbon footprint, would enhance employment opportunities in the new service area and existing service area, would serve persons who are in need of public transportation, and would provide a blueprint for greater regional cooperation in public transit provision; and
- WHEREAS, the marginal increases in cost of such service extensions outside city boundaries should be borne by Monroe County; and

WHEREAS, the Bloomington Common Council has never formally expressed its willingness to extend service outside the city, and wants to send an unambiguous signal that it is willing to enable such service and under what circumstances it is willing to do so;

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

SECTION 1. The Bloomington Common Council hereby supports the extension of service by the Bloomington Public Transportation Corporation to Daniels Way and expresses its intent to approve extensions of the geographic limits of Bloomington Transit services upon the completion of equitable interlocal agreements between the city and county that specify areas of, and appropriate funding mechanisms for, those extended services.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
SUSAN SANDBERG, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana upon this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
JOHN HAMILTON, Mayor  
City of Bloomington

#### SYNOPSIS

This resolution is sponsored by Councilmember Volan. It would express the Common Council's support for the extension of Bloomington Transit service to Daniels Way upon the completion of appropriate interlocal agreements between the city and county that specify exact areas and funding mechanisms for those services.

**MAP LEGEND**

**Map Symbols Key**

Streets	Apartment	Indiana University
Major Streets	Shopping	Parks
Creeks	Business/Landmark	City Boundary
46 State Highway	Schools	Universities

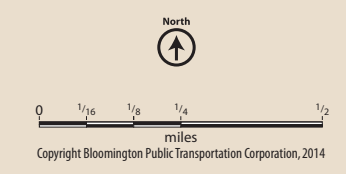
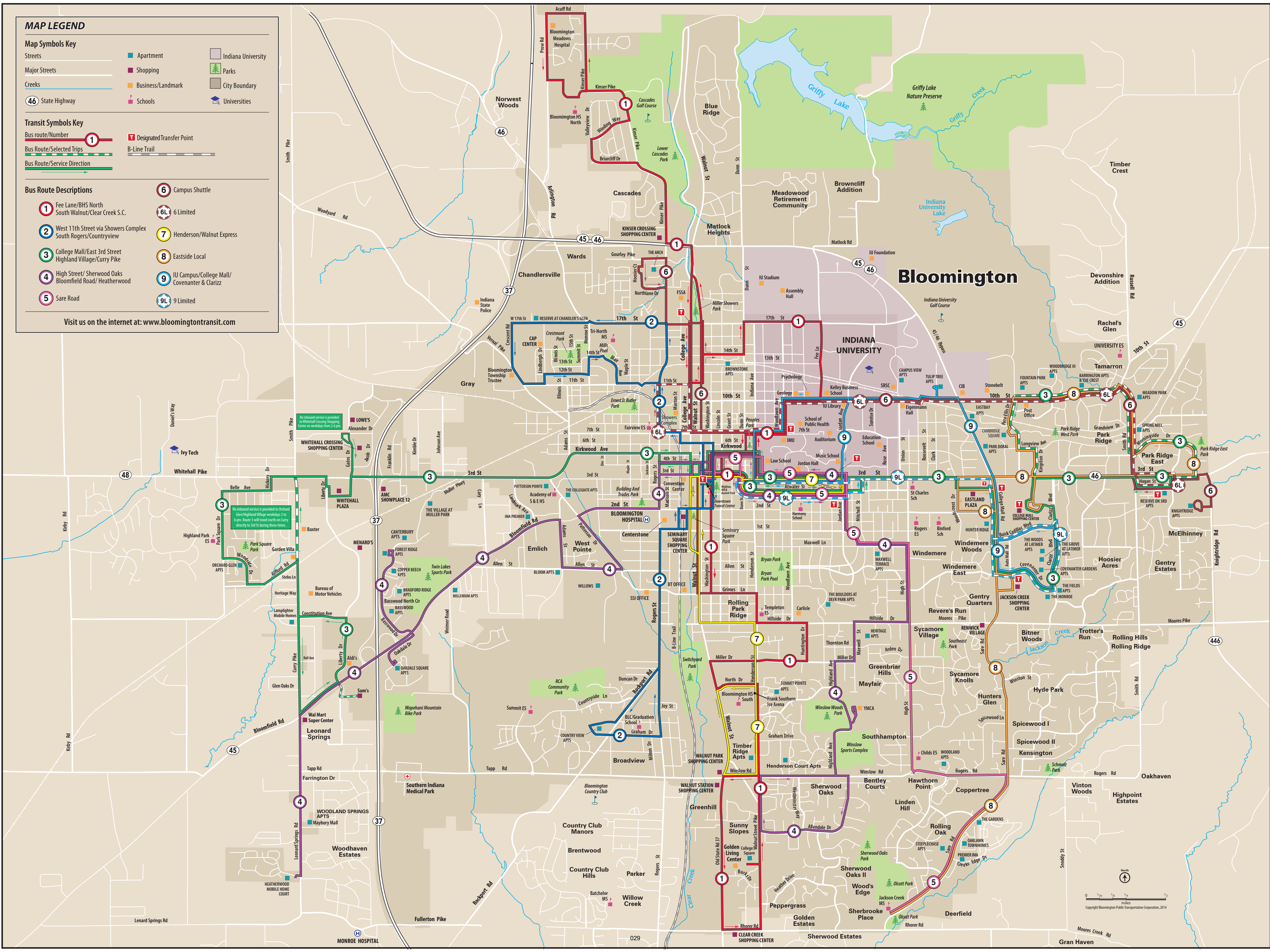
**Transit Symbols Key**

Bus route/Number	Designated Transfer Point
Bus Route/Selected Trips	B-Line Trail
Bus Route/Service Direction	

**Bus Route Descriptions**


1 Fee Lane/BHS North South Walnut/Clear Creek S.C.	6 Campus Shuttle
2 West 11th Street via Showers Complex South Rogers/Countryview	6L 6 Limited
3 College Mall/East 3rd Street Highland Village/Curry Pike	7 Henderson/Walnut Express
4 High Street/ Sherwood Oaks Bloomfield Road/ Heatherwood	8 Eastside Local
5 Sare Road	9 IU Campus/College Mall/ Covenant & Clarizz
	9L 9 Limited


Visit us on the internet at: [www.bloomingtontransit.com](http://www.bloomingtontransit.com)



Copyright Bloomington Public Transportation Corporation, 2014

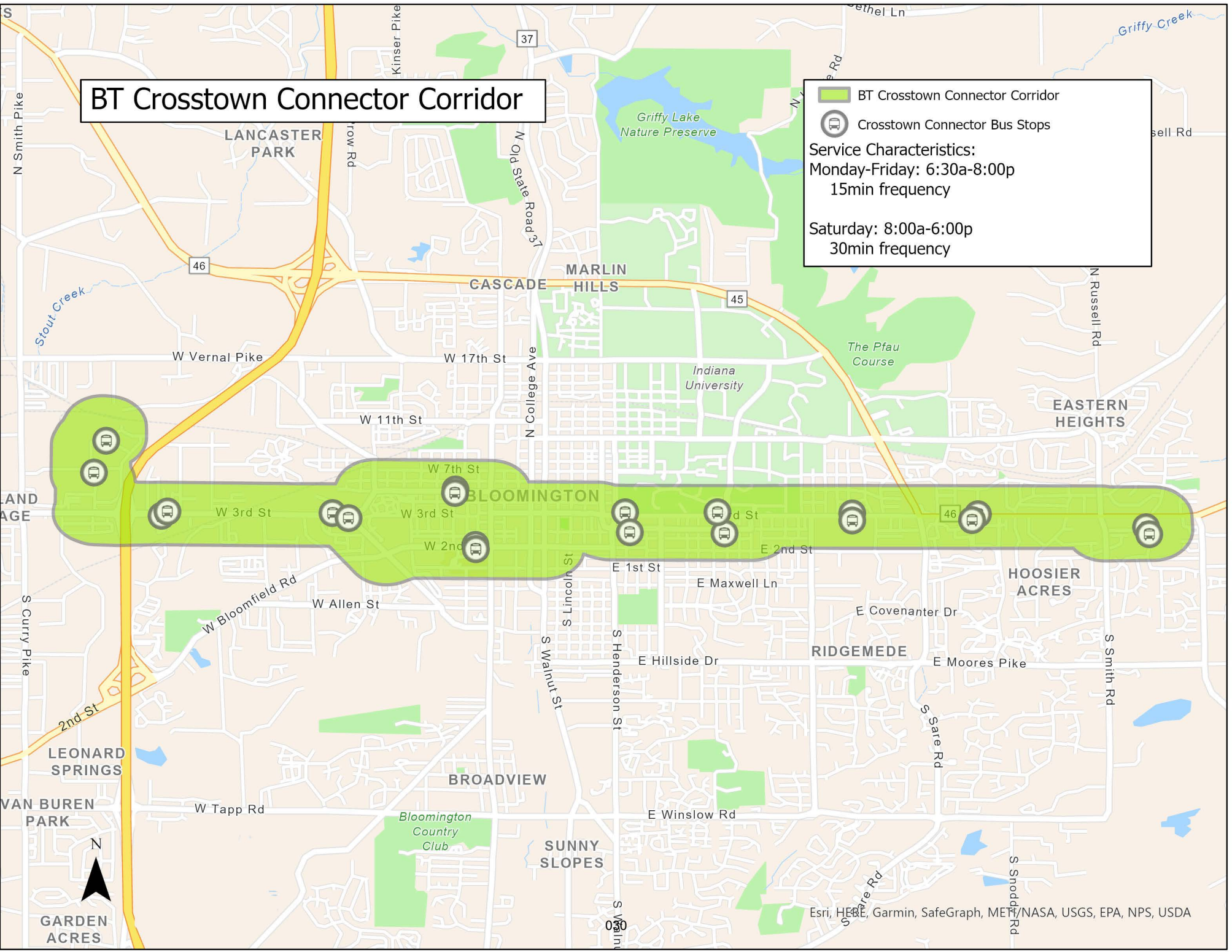
# BT Crosstown Connector Corridor

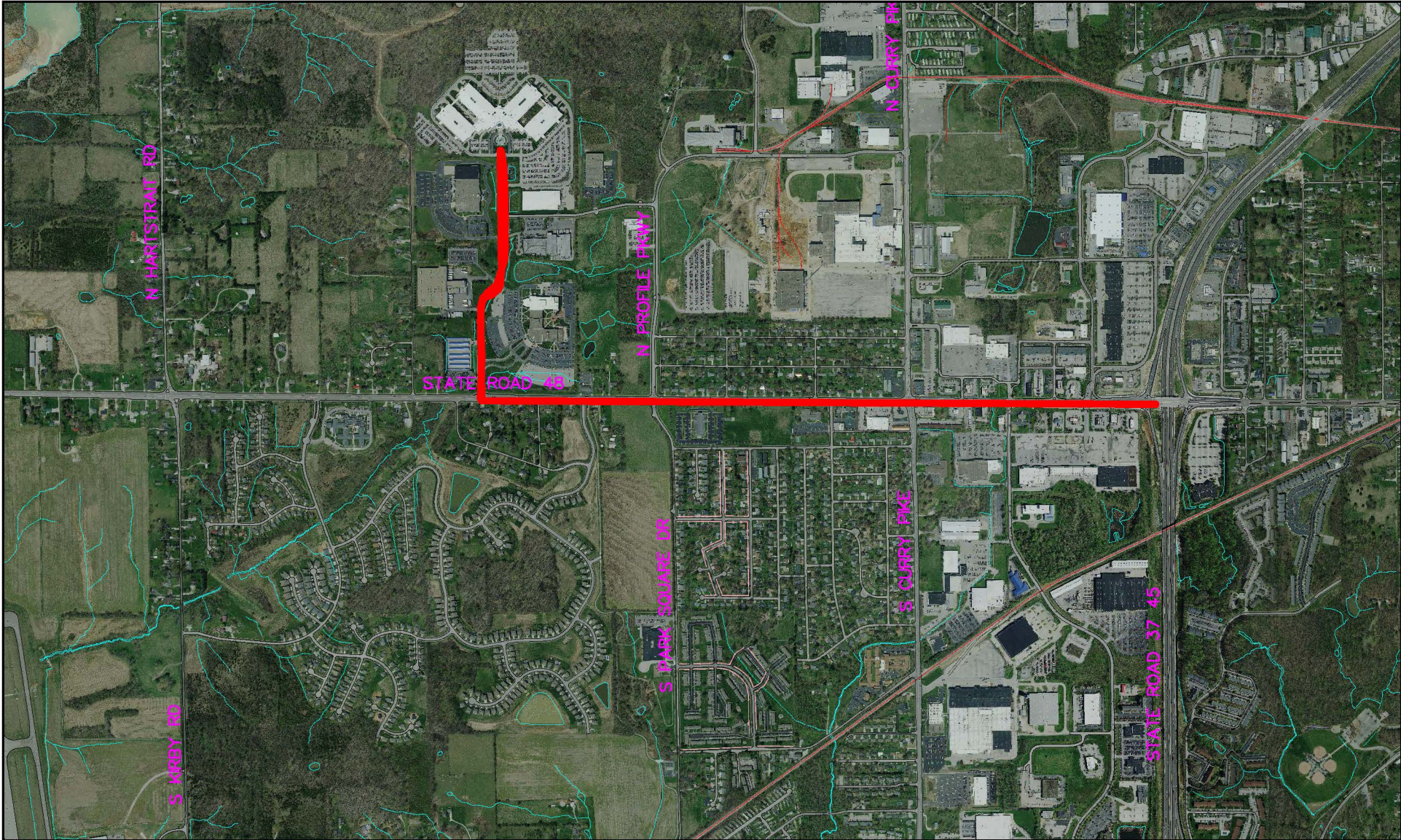
 BT Crosstown Connector Corridor

 Crosstown Connector Bus Stops

**Service Characteristics:**  
Monday-Friday: 6:30a-8:00p  
15min frequency

Saturday: 8:00a-6:00p  
30min frequency





By: lucass  
2 Sep 22



For reference only; map information NOT warranted.

031



City of Bloomington  
Council Office



Scale: 1" = 1500'



## MEMO FROM COUNCIL OFFICE ON:

### **Ordinance 22-23 – To Vacate A Public Parcel – Re: Two, 12-Foot Wide Rights-of-Way in the Lone Star Addition Within A Triangular-Shaped Block Bordered by West Cottage Grove on the North, West 10th Street on the South, and North Monroe Street on the West (Solomon L. Lowenstein, Jr. and Julia G. Beerman, Petitioners)**

---

#### **Synopsis**

The petitioners, Solomon L. Lowenstein, Jr. and Julia G. Beerman, request vacation of two, 12-foot wide rights-of-way in the Lone Star Addition within a triangular-shaped block bordered by West Cottage Grove on the north, West 10th Street on the south, and North Monroe Street on the west.

#### **Relevant Materials**

- Ordinance 22-23
- Aerial Map
- Staff Report from Planning and Transportation
- Board of Public Works Minutes from April 12, 2022
- Petition for Vacation of Public Right-of-Way
  - Pre-Petition Review Request Letters from Solomon L. Lowenstein, Jr.
  - Letter to Members of Bloomington Common Council
  - Petitioner Exhibits
    - Exhibit 1 - BRCJ Land Survey
    - Exhibit 2 - BRCJ Alley Vacation Legal Description
    - Exhibit 3 - 1928 Hand-Drawn Plat Map of Lone-Star Addition
    - Exhibit 4 – April 3, 1928 Bloomington Common Council Meeting Minutes
    - Exhibit 5 - 2007 BRG Plat of Survey Boundary Retracement (Lots 8, 11, & 12)
    - Exhibit 6 – 2014 BRG Retracement Survey (Lot 18)
    - Exhibit 7 - 1991 Petition for Vacation of Public Right-of-Way re: Lots 10 & 13
    - Exhibit 8 – Responses from various utilities received by Petitioner
    - Exhibit 9 – Access Agreement offered by Petitioner
  - Memo from Petitioner – Property improvement construction dates
  - Insert with Link to Video showing property walkthrough
- Additional Response provided by City of Bloomington Utilities – August 31, 2022





## Summary

Ordinance 22-23 proposes to vacate two existing alleys running north and south within a triangular-shaped block of the Lone-Star Addition. Petitioners own or jointly own three of the four lots bordering the alleys. Their stated reasons for the vacation are to improve the alleyways, remedy an encroachment of an existing garage of Lot 11 (1010 W. 10<sup>th</sup> St) into the right-of-way, and comply with side yard set-back requirements. Petitioners have not submitted any formal proposals to develop the site.

The first alley is located between platted Lots 11 & 12, and the vacation would run north/south between West 10<sup>th</sup> Street and a twelve-foot wide alley (which runs east/west between West 10<sup>th</sup> Street and West Cottage Grove). The second alley is located between platted Lots 17 & 18, and the vacation would run north/south between West 10<sup>th</sup> Street and West Cottage Grove.

A twelve-foot wide alley running east/west behind the lots was originally included in Petitioners' request for vacation. However, the Petitioners have revised their petition to remove the request for vacation of this east/west right-of-way. The Petitioners have offered an "Access Agreement" (Petitioners' Exhibit 9) to facilitate utility access to the east/west alley via an existing driveway between Lots 12 & 15 on Petitioners' Exhibit 1. City of Bloomington Utilities has indicated this offered Access Agreement does not meet its needs for access to the existing rights-of-way (see Additional Response from CBU – August 31, 2022).

## History

In 2014, a similar petition for vacation of rights-of-way was filed by Mr. Lowenstein (among other petitioners). The 2014 petition requested the vacation of five alley rights-of-way in the Lone Star Addition, including the two alleys now part of the pending petition for vacation. The 2014 petition came forward to the Council as Ordinance 14-09, which failed on a vote of 3-4 on July 16, 2014. The minutes from the Council's July 16, 2014 meeting include discussion of Ordinance 14-09 and are on file and available for inspection at the City Clerk's Office or accessible online:

[https://bloomington.in.gov/onboard/meetingFiles/download?meetingFile\\_id=2263](https://bloomington.in.gov/onboard/meetingFiles/download?meetingFile_id=2263).

Ordinance 14-09 and its supporting materials can be found in the Council's June 18, 2014 meeting packet, also on file and available for inspection at the City Clerk's Office or accessible online:

[https://bloomington.in.gov/onboard/meetingFiles/download?meetingFile\\_id=4223](https://bloomington.in.gov/onboard/meetingFiles/download?meetingFile_id=4223).

## General Vacation Procedures

Vacations of rights-of-way are governed by procedures contained in state law (IC § 36-7-3-12 and following statutes). In addition to state law requirements, Bloomington has adopted local procedures and criteria for public right-of-way vacations.



## 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@bloomington.in.gov](mailto:council@bloomington.in.gov)

According to state law, persons who are interested in any lots or parts of lots and who want to vacate all or part of a public way contiguous to those lots or parts may file a petition for vacation with the legislative body of the municipality. Ind. Code. § 36-7-3-12. The petitioner must give notice of the petition, and the legislative body is required to hold a hearing within thirty (30) days of the petition's receipt. The clerk must give notice of the hearing, which is subject to Indiana's Open Door Law. After the hearing, the legislative body may, by ordinance, vacate the public way, and any aggrieved person may appeal the ordinance within thirty (30) days after its adoption.

In Bloomington, the review process follows procedures and criteria established via [Resolution 87-02](#) and typically begins with a pre-petition review of an application submitted to the Planning and Transportation Department. Pre-petition materials submitted by the petitioner are reviewed, and all utility services, safety services, and the Board of Public Works are notified of the proposed action. Upon completion of the pre-petition review, staff and the Board of Public Works each make a recommendation on the request. The Petitioner then submits the request to the Council Office, and upon receipt of the petition, a date is set for the required public hearing, where remonstrances and objections must be heard.

The public hearing for [Ordinance 22-23](#) is scheduled for September 21, 2022, at 6:30 p.m. The City Clerk must assure that owners of property abutting the right(s)-of-way are notified by certified mail of the proposed action. The Clerk must also advertise the hearing wherein the public may offer the Council its comments and objections.

### Objections

Objections or grounds for remonstrations are generally limited by statute to questions of access, use of public ways, and the orderly development of the neighborhood or unit as a whole. (See IC § 36-7-3-13). Aside from a failure of notice or an instance of impropriety, there is little recourse for those who object to the denial of vacation of right-of-way.

Utility entities have raised objections or other concerns about the request that are contingent upon whether the utility entity may have continued rights to access and operate within the alleyways (see below).

### Special Considerations for Utilities

State law dictates that vacation proceedings do not deprive a public utility of the use or all or part of the public way to be vacated if, at the time the proceedings begin, the utility is occupying and using all or part of that public way for the location and operation of its facilities. Ind. Code § 36-7-3-16(b). This provision provides that a utility may, however, waive its right to use the public way by filing a written consent in the vacation proceedings.

Senior Zoning Compliance Planner Elizabeth Carter shared that relevant utilities were located and notified of the vacation request. The responses received are included in this packet and are summarized as follows:



## 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@bloomington.in.gov](mailto:council@bloomington.in.gov)

1. Centerpoint Energy: No objection to vacation
2. City of Bloomington Utilities (CBU): Objection, unless its rights to access the alleyways are unaltered by exclusive utility easement of same dimension as alley to be vacated, with language to CBU's satisfaction
3. Comcast: No issues with the ROW vacation
4. Duke Energy (DEI): No objection contingent on easement and unhindered access to vacated alleys and rights to remove vegetation and structures

No utility entity has waived its rights to use the alleyways under IC 36-7-3-16.

Please refer to the email responses in the packet from the various utility entities that discuss their positions in further detail. If additional utilities respond, those responses will be provided to the Council and made public.

### Access Agreement

Petitioners have drafted and offered an Access Agreement to give all utility entities and their successors the perpetual right to access a driveway between Lots 11 & 12 in order to enter and maintain utility property within the alleyways to be vacated, as well as to better access the east/west alley location.

DEI stated that it does not object to a proposed ingress/egress easement but requests that any proposed easement not replace or be in lieu of DEI's access rights to the alleyways if vacated. DEI did not specifically respond to whether it objected to or agreed with the language in petitioners' proposed Access Agreement.

CBU stated that it requires an exclusive utility easement in order to modify its objection, and that this Access Agreement is not an easement to CBU's satisfaction.

Scott Robinson, Planning & Transportation Director, recommends not approving the Access Agreement due to: (1) the possible long term fiscal impacts it could have, (2) the limited ways in which utilities could do their work as written under the terms of the Agreement—specifically, utilities would have to follow grading and other best practices, and (3) the lack of benefit the City and public would gain from entering the Agreement.

### Vacation Must Serve Public Interest

The Council's action to vacate a right-of-way must be done in the public interest. In [Resolution 87-02](#), the Council adopted the following criteria to guide its review of a request for right-of-way vacation:

1. Current Status – Access to Property: the current utilization of the right-of-way in question – as a means of providing vehicular or pedestrian access to private property, churches, schools, or other public places, for public utility or drainage purposes, or for other public purpose.



**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@bloomington.in.gov](mailto:council@bloomington.in.gov)

2. Necessity for Growth of the City:

- a. Future Status – the future potential for public utilization, possible future need for the right-of-way due to future changes in land use;
- b. Proposed Private Ownership Utilization – the proposed utilization of parcel in question if it reverts to private ownership, potential for increased benefit to the City under private ownership (does the proposed use contribute to the orderly growth of the City);
- c. Compliance with regulations – the effect of vacation upon compliance with all applicable regulations: subdivision, zoning, access control, off-street parking (does the vacation present a non-compliance problem or hinder future compliance upon anticipated development or change of use?);
- d. Relation to Plans – the relationship of vacation with the Master Plan, Thoroughfare Plan, Neighborhood Plans, or any special studies that might apply.

Fiscal Impact

Please refer to the Planning and Transportation Memo that discusses both the short term and long term fiscal impact that this proposed alleyway vacation could have on the city.

In the event the Council adopts Ordinance 22-23, the Clerk must then file a copy with the County Recorder and the County Auditor.

**Contact**

Scott Robinson, Director, Planning and Transportation, [robinsos@bloomington.in.gov](mailto:robinsos@bloomington.in.gov), (812) 349-3566

Elizabeth Carter, Senior Zoning Compliance Planner, [cartere@bloomington.in.gov](mailto:cartere@bloomington.in.gov), (812) 349-3592

**ORDINANCE 22-23**

**TO VACATE A PUBLIC PARCEL -**

**Re: Two, 12-Foot Wide Rights-of-Way in the Lone Star Addition Within A Triangular-Shaped Block Bordered by West Cottage Grove on the North, West 10th Street on the South, and North Monroe Street on the West (Solomon L. Lowenstein, Jr. and Julia G. Beerman, Petitioners)**

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

WHEREAS, there exist platted unimproved alleyways located in the Lone Star Addition in the city of Bloomington, which have been in existence for more than ninety (90) years; and

WHEREAS, the petitioners, Solomon L. Lowenstein, Jr. and Julia G. Beerman, have an ownership interest in the following lots and have filed a petition to vacate certain alley rights-of-way more particularly described below:

Solomon L. Lowenstein, Jr.	Lots 11, 12, and 18
Julia G. Beerman	Lot 11

WHEREAS, in consideration for approval of this vacation request, Petitioner Solomon L. Lowenstein, Jr. has prepared and is willing to grant a perpetual access agreement across the existing driveway and portion of the rear yard on Lot 12 to the utility lines and utility poles for all existing utilities, or their successors in interest, servicing Lone Star Addition; and

WHEREAS, pursuant to I.C. § 36-7-3-16, the City received written communications from utility services regarding their interests in the rights-of-way, and those communications are on file and available for inspection at the City Planning and Transportation Department and the Clerk and Council Office at 401 North Morton Street, Bloomington, Indiana (47404); and

WHEREAS, I.C. § 36-7-3-16(b) limits the effect of a vacation proceeding by not allowing the action to deprive public utilities of the use of the affected public right-of-way if, at the time of the proceeding, they are occupying and using said right-of-way for the location and operation of its facilities and have not waived that right by filing a written consent in the proceedings; and

WHEREAS, pursuant to I.C. § 36-7-3-12(c), the City Clerk has provided notice to the owners of abutting property, if any, and published notice to the general public of the petition and public hearing on this matter, which will be held during the Common Council Regular Session on Wednesday, September 21, 2022 at 6:30 p.m. in the Council Chambers, Room 115, of City Hall, 401 North Morton Street; and

WHEREAS, pursuant to I.C. § 36-7-3-12, upon vacation the City Clerk shall furnish a copy of this ordinance to the County Recorder for recording and to the County Auditor;

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

SECTION 1. Through the authority of I.C. § 36-7-3-12, two portions of city-owned property shall be vacated as described below:

Alley Vacation 1

A part of Lone-Star Addition to Bloomington, Indiana in Section 32, Township 9 North, Range 1 West, Monroe County, Indiana, as shown on an alley vacation exhibit prepared by Christopher L. Porter, LS21200022, Bledsoe Riggert Cooper & James, Inc., Job Number 10823, prepared May 31, 2022, described as follows:

Beginning at the southeast corner of Lot 11 of said Lone-Star Addition; thence along the east line of said Lot 11 NORTH 01 degrees 01 minutes 25 seconds WEST a distance of 92.88 feet to the northwest corner of said Lot 11; thence leaving said east line and along the extended north line of said Lot 11 SOUTH 90 degrees 00 minutes 00 seconds EAST a distance of 12.00 feet to the northwest corner of Lot 12 in said Lone-Star Addition; thence leaving said extended line and along the west line of said Lot 12 SOUTH 01 degrees 01 minutes 25 seconds EAST a distance of 87.44 feet to the southwest corner of said Lot 12 and the northwest line of West 10<sup>th</sup> Street; thence leaving said west line and along said northwest line SOUTH 65 degrees 26 minutes 33 seconds WEST a distance of 13.09 feet to the point of beginning, containing 1081.9 square feet, more or less.

Alley Vacation 2

A part of Lone-Star Addition to Bloomington, Indiana in Section 32, Township 9 North, Range 1 West, Monroe County, Indiana, as shown on an alley vacation exhibit prepared by Christopher L. Porter, LS21200022, Bledsoe Riggert Cooper & James, Inc., Job Number 10823, prepared May 31, 2022, described as follows:

Beginning at the northeast corner of Lot 17 of said Lone-Star Addition; thence along the extended north line of said Lot 17 SOUTH 89 degrees 37 minutes 46 seconds EAST a distance of 12.00 feet to the northwest corner of Lot 18 of said Lone-Star Addition; thence leaving said extended line and along the west line of said Lot 18 SOUTH 00 degrees 22 minutes 14 seconds WEST a distance of 147.27 feet to the southwest corner of said Lot 18 and the northwest line of West 10<sup>th</sup> Street; thence leaving said west line and along said northwest line SOUTH 64 degrees 36 minutes 49 seconds WEST a distance of 6.46 feet to the extended south line of said Lot 17; thence leaving said northwest line and along said extended line NORTH 90 degrees 00 minutes 00 seconds WEST a distance of 6.18 feet to the southeast corner of said Lot 17; thence leaving said extended line and along the east line of said Lot 17 NORTH 00 degrees 22 minutes 14 seconds EAST a distance of 150.12 feet to the point of beginning, containing 1792.9 square feet, more or less.

SECTION 2. Pursuant to IC 36-7-3-16(b), no public utility has waived any right it may have in the use of said right-of-way by filing a written consent in these proceedings

SECTION 3. This ordinance shall accept and approve a perpetual access agreement, which shall run with the land across existing driveway and a portion of the rear yard on Lot 12, Lone Star Addition, granting perpetual access for all existing utilities, or their successors in interest, for access to the existing east-west alley.

SECTION 4. If any section, sentence of 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 5. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
SUSAN SANDBERG, President  
City of Bloomington

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

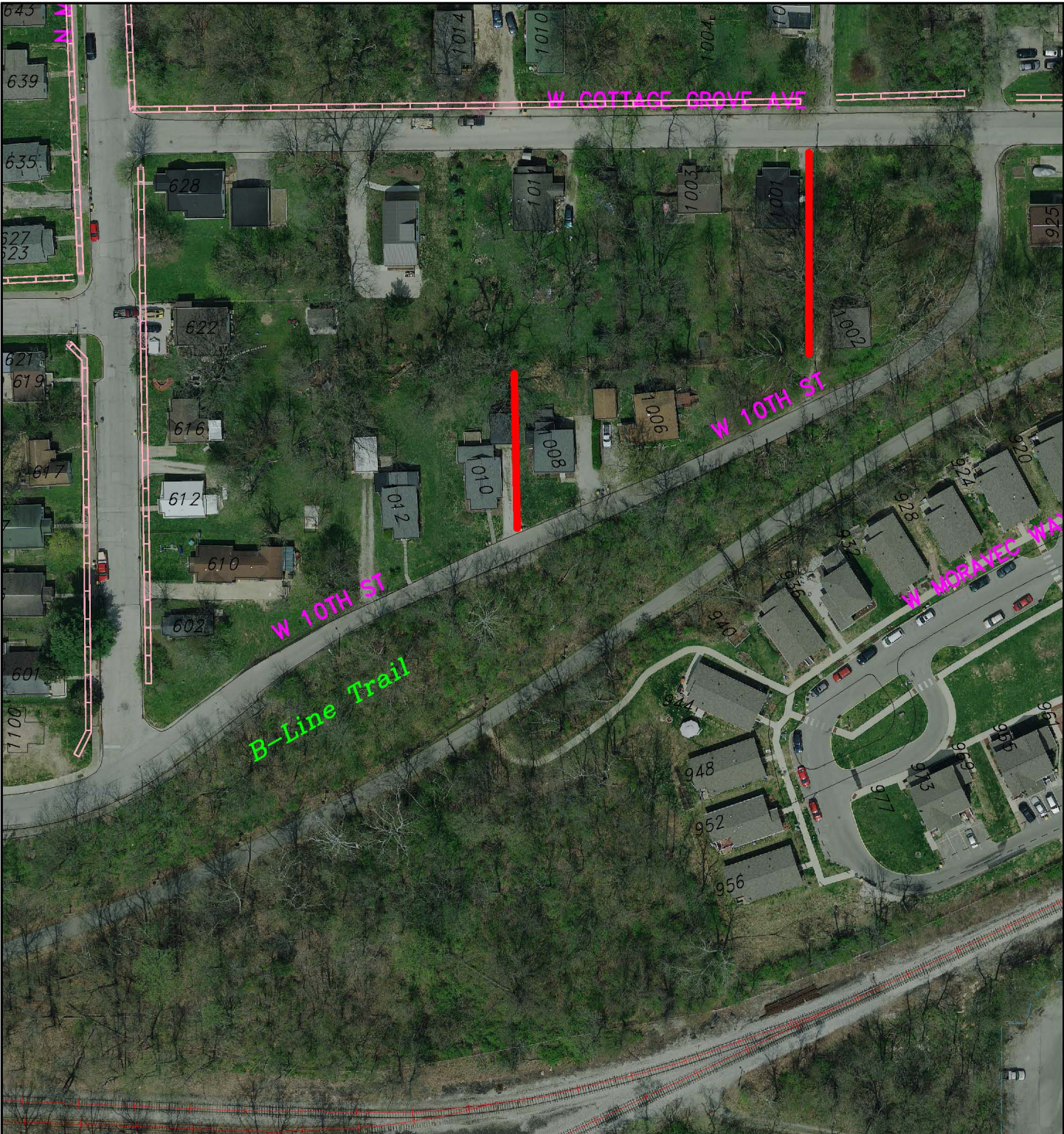
\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

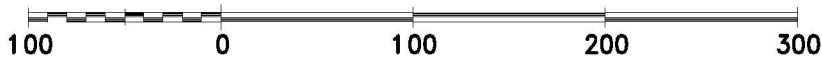
\_\_\_\_\_  
JOHN HAMILTON, Mayor  
City of Bloomington

#### SYNOPSIS

The petitioners, Solomon L. Lowenstein, Jr. and Julia G. Beerman, request vacation of two, 12-foot wide rights-of-way in the Lone Star Addition within a triangular-shaped block bordered by West Cottage Grove on the north, West 10<sup>th</sup> Street on the south, and North Monroe Street on the west.

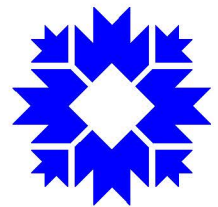


By: lucass  
2 Sep 22



For reference only; map information NOT warranted.

City of Bloomington  
Council Office



Scale: 1" = 100'





## Planning & Transportation

## Lone Star Addition Right-of-Way Vacation

# Memorandum

**To:** Members of the City of Bloomington Common Council  
**From:** Liz Carter, Senior Zoning Compliance Planner, Planning & Transportation  
**Regarding:** Lone Star Addition Right of Way Vacation Request  
**Date:** September 14, 2022

---

Mr. Solomon Lowenstein contacted the Planning and Transportation seeking a Right-of-Way (ROW) Vacation for three alleys which are located south of W. Cottage Grove Avenue, west of N. Monroe Street, and east/north of W. 10<sup>th</sup> Street. No development is currently being proposed in conjunction with this vacation.

Planning & Transportation Department staff notified and requested comments from utilities and other public entities of the ROW vacation application on January 28, 2022. Utilities are allowed to remain in place pursuant to Indiana Code 36-7-3-16. The Indiana Code also provides the utilities legal access as needed for maintenance. The Planning and Transportation Department received responses from: Comcast, Centerpoint Energy, City of Bloomington Utilities Department (CBU), Duke Energy, and the City of Bloomington Engineering Department. The responses received are included in the packet.

Staff presented the proposed ROW vacation to the Board of Public Works (BPW) at its April 12, 2022 public meeting, which allowed an opportunity for additional input on this request. The BPW provided a recommendation of denial for this ROW vacation request.

Following the BPW recommendation of denial, Mr. Lowenstein was in contact with the City of Bloomington Office of the Common Council. While in touch with the Office of the Common Council, Mr. Lowenstein revised his ROW Vacation request to exclude the east/west alley that had previously been included. Mr. Lowenstein wishes to only request that the two north/south alleys be vacated. CBU, upon reviewing the revised petition, objects to the vacation request and the access agreement is not sufficient nor equivalent to a utility easement.

The fiscal impact to vacate the ROW would not necessarily have a short-term impact. However the long-term impact could have fiscal impacts especially given the draft access agreement - including but not limited to damages for access in order to maintain utilities and the prohibition to remove any existing structure and vegetation without prior approval. The future fiscal impact is not negligible.

Staff is requesting that Council deny the ROW vacation request. Maps and exhibits are also included for reference.

The Board of Public Works meeting was held on Tuesday, April 12, 2022 at 5:30 pm in the Council Chambers of City Hall at 401 N. Morton St., Bloomington, Indiana and virtually through Zoom with. Kyla Cox Deckard presiding.

**REGULAR MEETING OF THE BOARD OF PUBLIC WORKS**

Present: Kyla Cox Deckard  
Beth H. Hollingsworth  
Elizabeth Karon

**ROLL CALL**

City Staff: Adam Wason -- Public Works  
April Rosenberger – Public Works  
Daniel Dixon – City Legal  
Jo Stong – Housing and Neighborhood Development  
Roy Aten – Engineering  
Paul Kehrberg -- Engineering  
Mike Stewart – Engineering  
Liz Carter – Planning & Transportation  
Holly Warren – Economic & Sustainable Development

Beth Hollingsworth reminded everyone to be safe and to be aware of construction signage as we enter the construction season and building projects.

**MESSAGES FROM BOARD MEMBERS**

Daniel Dixon, City Legal, presented Resolution 2022-11; Appeal Unsafe Order to Repair, 400 W. 7<sup>th</sup> Street. See meeting packet for details.

**PETITIONS & REMONSTRANCES**  
**Resolution 2022-11; Appeal Unsafe Order to Repair, 400 W. 7<sup>th</sup> Street**

**Board Comments:** Cox Deckard asked to confirm the decision that was being sought. Dixon answered that they are asking the Board to affirm the decision. Hollingsworth asked the date of demolition. Dixon answered the date had not yet been determined. Hollingsworth asked that the Board be informed of the date. Cox Deckard asked the length of time given to the property owners to do the repairs. Dixon said the most amount of time the Statue allows is 60 days. Karon asked what the height of the smokestack is currently. Dixon answered that it is approximately 140 feet. Cox Deckard asked about maintaining the stack at 60 feet. Dixon answered that it would be under the pervue of the Historic Preservation Commission, but it should be the responsibility of the owner to maintain the height at 60 feet. Cox Deckard offered thanks for the work done to try and preserve the smokestack as a historic landmark.

Hollingsworth made a motion to approve the modification to Resolution 2022-11; Appeal Unsafe Order to Repair, 400 W. 7<sup>th</sup> Street. Karon seconded. Cox Deckard took a roll call vote. Hollingsworth voted yes, Karon voted yes, Cox Deckard voted yes. Motion is passed.

Jo Stong, Housing and Neighborhood Development, presented Abatement at 1520 S. Woodruff Lane. See meeting packet for details.

**TITLE VI ENFORCEMENT**  
**Abatement at 1520 S. Woodruff Lane**

**Board Comments:** Hollingsworth asked if the property is owner occupied. Stong confirmed. Karon asked if there had been any communication since the work session the previous day. Stong answered no. Hollingsworth asked if the

04/12/2022

owners were in attendance. The owners were not in attendance either by in person or virtually. Hollingsworth asked if this would be a continuous abatement. Stong said no.

Hollingsworth made a motion to approve Abatement at 1520 S. Woodruff Lane. Karon seconded. Cox Deckard took a roll call vote. Hollingsworth voted yes, Karon voted yes, Cox Deckard voted yes. Motion is passed.

1. Approval of Minutes March 29, 2022
2. Noise Permit; Beyond the Diagnosis: HIV Visibility Walk
3. Noise Permit; TD's CDs and LPs Picnic
4. Resolution 2022-16; Indiana University Jacobs School of Music Summer Concerts
5. Resolution 2022-18; New Mobile Vendor in Public Right-of-Way; Bloom Burger
6. Blue Ridge Neighborhood Block Party
7. 2022 Contract Renewal for Abatement Services with Chris Underwood d/b/a 4U Lawn and Landscape
8. 2022 Contract for Abatement Services with Jeremy Inman d/b/a Inman Property Services
9. Resolution 2022-12; Declaration of Surplus Property from BPD
10. Outdoor Lighting Service Agreement with Duke Energy for Buttonwood Lane
11. 2022 KONE Contract for Elevator Services
12. Contract with Bluestone, Inc. for Dead Tree and Undergrowth Removal at Animal Care & Control
13. Approval of Payroll

## **CONSENT AGENDA**

### **Board Comments: None**

Hollingsworth made a motion to approve the Consent Agenda. Karon seconded. Cox Deckard took a roll call vote. Hollingsworth voted yes, Karon voted yes, Cox Deckard voted yes. Motion is passed.

Roy Aten, Engineering, presented Award Contract for 17<sup>th</sup> Street Multi-Use Path Project - East to Milestone Contractors, L.P. See meeting packet for details.

**Board Comments:** Hollingsworth asked if Aten would be presenting road closures to the Board at a later date. Aten answered that tonight's approval would include the closures. Karon asked if there were any red flags with the differences in costs between the two bids that were received. Aten answered no.

Hollingsworth made a motion to approve Award Contract for 17<sup>th</sup> Street Multi-Use Path Project – East to Milestone Contractors, L.P. Karon seconded. Cox Deckard took a roll call vote. Hollingsworth voted yes, Karon voted yes, Cox Deckard voted yes. Motion is passed.

## **NEW BUSINESS**

**Award Contract for 17<sup>th</sup> Street Multi-Use Path Project - East to Milestone Contractors, L.P.**

Paul Kehrberg, Engineering, presented Lane Closure Request from the Standard on N. Walnut St. and E. 14<sup>th</sup> St. See meeting packet for details.

**Lane Closure Request from the Standard on N. Walnut St. and E. 14<sup>th</sup> St.**

**Board Comments:** Hollingsworth asked to confirm the dates. Eric Shulte, Landmark Construction, answered approximately 30 days from April 18<sup>th</sup>, 2022. Karon asked what type of traffic considerations would be made for commencement. Schulte answered that the work would not be on Walnut street at that time. He also stated that if work needed to be shut down for commencement, they would do so.

Hollingsworth made a motion to approve Lane Closure Request from the Standard on N. Walnut St. and E. 14<sup>th</sup> St. Karon seconded. Cox Deckard took a roll call vote. Hollingsworth voted yes, Karon voted yes, Cox Deckard voted yes. Motion is passed.

Mike Stewart, Engineering, presented Right-of-Way Request from Carmel Construction for Dumpster Placement (April 13, 2022- May 30, 2022). See meeting packet for details.

**Right-of-Way Request from Carmel Construction for Dumpster Placement (April 13, 2022- May 30, 2022)**

**Board Comments:** None

Hollingsworth made a motion to approve Right-of-Way Request from Carmel Construction for Dumpster Placement (April 13, 2022- May 30, 2022). Karon seconded. Cox Deckard took a roll call vote. Hollingsworth voted yes, Karon voted yes, Cox Deckard voted yes. Motion is passed.

Liz Carter, Planning and Transportation, presented Right-of-Way Vacation Request for Alleys between W. 10<sup>th</sup> Street, W. Cottage Grove Ave., and N. Monroe Street. See meeting packet for details.

**Right-of-Way Vacation Request for Alleys between W. 10<sup>th</sup> Street, W. Cottage Grove Ave., and N. Monroe Street**

**Board Comments:** Cox Deckard asked if there is any planned developments on any of the properties. Carter confirmed that there is not any plans. Wason advised the Board that any decision made for this motion is simply a recommendation as an advisory decision to the City Council. Cox Deckard asked if there is any requests for encroachments. Carter answered no. Soloman Lowenstein, Property Owner, presented his request for the right-of-way vacation.

Hollingsworth made a motion to deny Right-of-Way Vacation Request for Alleys between W. 10<sup>th</sup> Street, W. Cottage Grove Ave., and N. Monroe Street. Karon seconded. Cox Deckard took a roll call vote. Hollingsworth voted yes, Karon voted yes, Cox Deckard voted yes. Motion is passed.

Holly Warren, Economic & Sustainable Development, presented Resolution 2022-13; Summer Solstice Celebration. See meeting packet for details.

**Resolution 2022-13; Summer Solstice Celebration**

**Board Comments:** Cox Deckard asked if Grant Street will be open. Warren confirmed. Cox Deckard asked if access for the residents and businesses would be available. Warren confirmed. Hollingsworth asked if Korea Restaurant had been informed and agreed. Warren confirmed and stated the event would not have any food trucks, so it will be good for area restaurants.

Hollingsworth made a motion to approve Resolution 2022-13; Summer Solstice Celebration. Karon seconded. Cox Deckard took a roll call vote. Hollingsworth voted yes, Karon voted yes, Cox Deckard voted yes. Motion is passed.

Holly Warren, Economic & Sustainable Development, presented Resolution 2022-15; Granfalloon Mainstage Concert and Bloomington Handmade Market. See meeting packet for details.

**Resolution 2022-15; Granfalloon Mainstage Concert and Bloomington Handmade Market**

**Board Comments:** Hollingsworth said there are several events involving the Library and Wonder Lab that are going on during the day. Warren said that those events are just one day, Granfalloon is a several day event. Cox Deckard asked if the event is partially ticketed or fully ticketed. Ed Comentale, Granfalloon Organizer, answered that there are two ticketed areas. One is a VIP area and the other is the pit in front of the stage. Cox Deckard asked if the barricades would be along the northern sidewalk for ticketing purposes. Comentale confirmed. Cox Deckard asked if there is a street capacity. Wason answered that BPD is comfortable with the capacity. Cox Deckard asked if all of the residents and businesses had been notified. Comentale confirmed. Deckard asked if the Handmade Market would be disassembled by the time the main concert begins. Talia Holliday did not have audio, but provided a thumbs up via the chat function.

Hollingsworth made a motion to approve Resolution 2022-15; Granfalloon Mainstage Concert and Bloomington Handmade Market. Karon seconded. Cox Deckard took a roll call vote. Hollingsworth voted yes, Karon voted yes, Cox Deckard voted yes. Motion is passed.

Wason stated he is looking forward to warmer weather and to see the parklets and outdoor dining spaces filling up. In addition, he mentioned that the Public Works staff had a great kick-off meeting to get their accreditation started through the American Public Works Association.

**STAFF REPORTS AND OTHER BUSINESS**

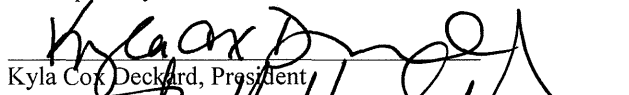
Hollingsworth made a motion to approve claims in the amount of \$968,344.13. Karon seconded. Cox Deckard took a roll call vote. Hollingsworth voted yes, Karon voted yes, Cox Deckard voted yes. Motion is passed.

**CLAIMS**

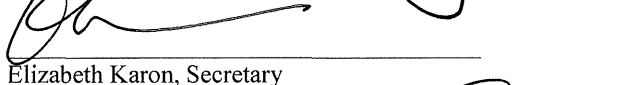
Cox Deckard called for adjournment at 6:35 p.m.

**ADJOURNMENT**

Accepted By:

  
Kyla Cox Deckard, President

  
Beth H. Hollingsworth, Vice-President

  
Elizabeth Karon, Secretary

Date: 4.26.22 Attest to: 

04/12/2022



City of Bloomington  
Planning and Transportation Department

PETITION FOR VACATION OF PUBLIC RIGHT-OF-WAY

Filing Date \_\_\_\_\_ Ordinance # \_\_\_\_\_  
Filing Fee Paid \_\_\_\_\_ BPW Resolution # \_\_\_\_\_

1st Reading \_\_\_\_\_  
Committee \_\_\_\_\_  
Final Hearing \_\_\_\_\_

Address of Property 1002-1010 W. 10<sup>TH</sup> STREET

Applicant's Name SOLOMON L LOWENSTEIN, JR

Address 1006 W. 10<sup>TH</sup> STREET BLOOMINGTON, IN Phone 260/704-2424

E-Mail SOLMON@LOWENSTEINLAW.NET 47404

Counsel or Consultant SOLOMON L LOWENSTEIN, JR

Address 614 W. BEAR STREET, SUITE 14  
FORT WAYNE, IN 46802

E-Mail \_\_\_\_\_  
OFFICE: 260/422-4655

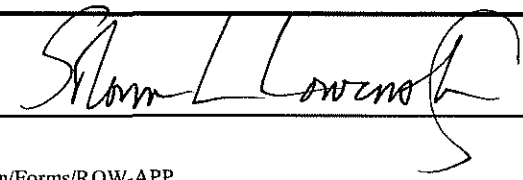
DAVID L. FERGUSON  
403 E. SIXTH STREET, BLOOMINGTON  
Phone 812/332-2113 IN 47408  
DLF@FERGLAW.COM

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

\_\_\_\_\_ The undersigned agree that the applicant will notify all adjacent property owners by certified mail at the applicant's expense.

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

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

Signature: 

August 31, 2022

City of Bloomington Common Council  
401 N. Morton Street, Suite 110  
Bloomington, In 47404

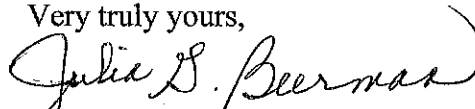
Re: Lone Star ROW vacation request (Lots 11 and 12)

Dear President Sandburg and Members of the City of Bloomington Common Council:

As the joint owner of Lot 11, Lone Star Addition, 1010 W. 10<sup>th</sup> Street, Bloomington, IN 47404, I authorize Solomon L. Lowenstein, Jr., and/or his counsel to represent my interests in the Common Council meetings regarding the ROW vacation request between Lots 11 and 12, Lone Star Addition. I fully support the petition to vacate the public ROW as it adversely affects my property as represented.

Thank you for your consideration.

Very truly yours,



Julia G. Beerman

C: Solomon L. Lowenstein, Jr.



## SOLOMON L. LOWENSTEIN, JR.

Attorney at Law

Tel: (260) 422-4655

Fax: (260) 422-4815

Solomon@lowensteinlaw.net

614 W. Berry St. Ste. A

Fort Wayne, IN 46802

March 30, 2021

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

Attn: Elizabeth Carter

Re: Petition for vacation of public rights-of-way  
Pre-petition review process  
Lots 11, 12, 15, and 18, Lone Star Addition

Dear Members of the City of Bloomington Planning Commission:

Before you is presented a Petition to vacate certain connected unimproved 12-foot wide rights-of-way in Lone Star Addition to the City of Bloomington, specifically those unimproved rights-of-way bordering Lots 11, 12, 15, and 18, all of which Lots are owned by the Applicant herein, for a pre-petition review process. Applicant jointly owns Lot 11 with Julia G. Beerman who joins in this Petition and who is represented by the Applicant.

The Lots and rights-of-way are shown on the recorded instrument dated April 6, 1928 (Exhibit 1) which was the only drawing shown to and approved by the Bloomington Common Council on April 3, 1928 following approval by the City Plan Commission on March 7, 1928. (Exhibit 2) However, what is not shown nor drawn are the existing improvements on the herein Lots at the time of recording of the rights-of-way or alleyways. According to the historical Property Record Card records found affecting these Lots, the following improvements preexisted the April 6, 1928 final governmental approval on W. 10<sup>th</sup> Street (formerly Diamond Street): Lot 11, house and garage built 1920 (1010 W. 10<sup>th</sup> Street); Lot 12 house built 1900 (1008 W. 10<sup>th</sup> Street) (no garage). On Lot 18 (1002 W. 10<sup>th</sup> Street), the house was built 1930. The attached survey for Lot 11 (1010 W. 10<sup>th</sup> Street) shows one-half of the garage cut off by the right-of-way. The attached survey for Lot 12 (1008 W. 10<sup>th</sup> Street) shows one foot of the bathroom cut off by the right-of-way. (Collectively one survey, Exhibit 3) The survey of Lot 18 (1002 W. 10<sup>th</sup> Street) (and unimproved Lot 19) shows one foot of the house is cut off by the right-of-way. The survey for Lot 15 shows the current location of the right-of way to the existing improvements.

Following the recommendation of your staff (Exhibit 4), on June 5, 1991, the Bloomington Common Council voted to vacate a 12-foot wide by 150-foot long platted alleyway (right-of-way recorded April 6, 1928) between Lots 10 and 13 in Lone Star

Addition. The minutes from the June 5, 1991 Common Council meeting, in pertinent part, are as follows: "Ordinance 91-29 be read by title only. . . .The synopsis and committee recommendation of 7-0 was given. . . .Tim Mueller said that the petitioners house encroaches into the alley. They wish to build an addition to their house. **It is extremely unlikely that the alley would ever be used for any public purpose.**" (emphasis added) In fact, for over 92 years the subject rights-of-way have never been used for any public purpose except for utility purposes. The only significant change in Lone Star Addition which affects this Petition is the subsequent construction of the B-Line Trail which is adjacent to W. 10<sup>th</sup> Street to the South (across the street from the Lots in issue) and which further negates the public purpose need and usage of the subject rights-of-way for pedestrian and/or human powered equipment (i.e. bicycles and skateboards).

The requested Lots and the dimensions (see Exhibit 5) requested to be vacated are as follows:

Between Lots 11 and 12 app. 92.88 feet long (at Lot 11) and app. 87.44 feet long (at Lot 12) by 12 feet wide;

Lot 11 (rear) app. 100 feet long by 12 feet wide bordering rear of Lot 10;

Lot 12 (rear) app. 50 feet long by 12 feet wide bordering rear of Lot 13;

Lot 15 (rear) app. 139.12 feet long by 12 feet wide bordering rear of Lots 14-17;

and,

Lot 18 (side) app. 147.27 feet long by 12 feet wide bordering east side of Lot 17.

Currently there exists no pedestrian nor vehicular traffic, no trash pick-up, nor emergency access from the current rights-of-way. The rights-of-way are too narrow for any such vehicles even if the rights-of-way were to be improved. Additionally, there exists too much vegetation, old growth and new growth trees and the terrain is too steep for any such alleyway (adjacent to Lots 15 and 18) improvements. The existing garage located in one-half of the right-of-way at 1010 W. 10<sup>th</sup> Street opens to W. 10<sup>th</sup> Street. All driveways face W. 10<sup>th</sup> Street and do not extend into the northern right-of-way being requested to be vacated. Applicant doubts that there would be any future potential for public utilization of the current rights-of-way of any future land use other than from the Applicant's current maintenance. Additionally, based upon the location and dimensions of the rights-of-way in issue, no anticipated development (other than a request for a set-back variance for residential improvements to existing structures and construction permits for repairs to existing improvements) is anticipated. Off street parking in the vacated right-of-way for Lot 18 would enhance the usability of the improvement located thereon. The vacation of these rights-of-way would increase the land mass of the affected lots to bring the Lot dimensions more squarely in line with the other Lots in Lone Star Addition.

In November 2018, the water department, without prior notice, but later with permission, used the driveway and rear yard at 1008 W. 10<sup>th</sup> Street to access a water line problem (outside the 12-foot alleyway) on Lot 13 as the personnel could not get their equipment into the right-of-way. If the water utility was unable to get equipment into the

area without access via the existing driveway, the hand labor to dig up the water line problem would have taken at least 30 man hours. Shortly thereafter, in March 2019, a severe windstorm caused the power line pole in the right-of way at 1008 W. 10<sup>th</sup> Street to break apart causing a disruption in electrical (and gas furnaces) and internet service for residents of W. 10<sup>th</sup> Street and W. Cottage Grove. Once again, the only access for replacement of the broken pole was via the existing driveway at 1008 W. 10<sup>th</sup> Street (not part of the right of way) due to the size of the equipment required. Once again permission to use the existing driveway was given. (Exhibit 6, pictures).

Applicant acknowledges that any vacation of the requested rights-of-way does not impinge upon the utilities right of access to repair the existing utilities in place. I. C. § 36-7-3-16. Applicant hereinafter offers a solution to utility access if this vacation request is recommended and subsequently approved.

Applicant herein agrees to prepare and execute a perpetual ingress-egress easement over the existing driveway and rear yard on Lot 12 (1008 W. 10th Street which is currently not part of the existing right-of-way) for utility purposes only in consideration for approval of this right-of-way application. See, Exhibit 7 for location purposes.

There exists no need for pedestrian/emergency and vehicular traffic due to the adjacent streets, W. 10th Street, W. Cottage Grove, and Monroe Street as well as the B-Line which is adjacent to W. 10th Street; the B-Line is approximately 20 feet from W. 10th Street with access points from Adams Street and W. Cottage Grove. Vehicular access currently does not exist nor is it anticipated to be needed in the future as there is no business private property to access, no need for additional access to the current residential properties, no adjacent schools or churches or other public properties due to their non-existent nature in the area adjacent to the rights-of-way in issue. The public purpose for an easement instead of the rights-of-way have been addressed herein.

By approving this application, although minimal additional taxes will be assessed for the benefit of the City, these additional taxes will produce new revenue to assist in meeting Bloomington's community goals. The larger economic value to the city is no maintenance expense nor potential financial liability exposure for property damage or injury to the residents and their invitees.

The rights-of-way will remain in their current green space state; either they are too narrow to build upon (the utilities could force any improvement be removed within the vacated areas), or there already exists buildings encroaching in them. The proposed use supports the position of keeping Bloomington green.

The following are the four statutory grounds (I. C. §36-7-3-13) upon which objection may be made to this vacation Petition which the Applicant submits are in favor of granting this Petition, specifically: 1) The vacation of the rights-of-way will not hinder any growth nor development of the neighborhood (Lone Star Addition) in which they are located; 2) The vacation of these rights-of-way will not make access to the

properties owned by Applicant or other lot owners in Lone Star Addition difficult or inconvenient; 3) The vacation of these rights-of-way will not hinder the public's access to a church, school, or other public building or place as none are adjacent or accessible by these rights-of-way; and, 4) The vacation of these rights-of-way will not hinder the use of these unimproved alleyways by either the neighborhood in which it is located or any contiguous neighborhood as there exists no such use by the public.

Such a split allows for the adversely affected Lots' owner to remedy the existing encroachment issues and provide other Lot owners with the opportunity to obtain an additional 6 feet of vacated area towards compliance with current set back requirements.

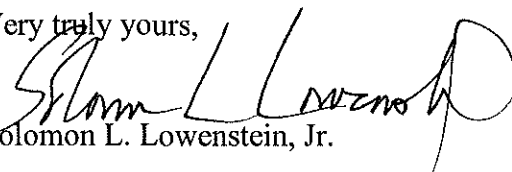
There is no issue with future non-compliance regarding subdivision ordinance, zoning, access control off-street parking anticipated development or change-of-use. The master plan thoroughfare plan neighborhood plan or any special plan will not be affected in any way.

The vacation approval will not set any precedent as the facts supporting this Application as set forth herein are unique to this Addition and overcome the statutory objections for denial of this Petition.

A list of the affected adjacent property owners and addresses are attached as Exhibit 8 hereto.

If additional information is needed, please contact the undersigned. Thank you for your attention and consideration in this matter.

Very truly yours,



Solomon L. Lowenstein, Jr.

SLL/  
Enc.

# SOLOMON L. LOWENSTEIN, JR.

Attorney at Law

Tel: (260) 422-4655  
Fax: (260) 422-4815

Solomon@lowensteinlaw.net

614 W. Berry St. Ste. A  
Fort Wayne, IN 46802

October 18, 2021

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

Attn: Elizabeth Carter

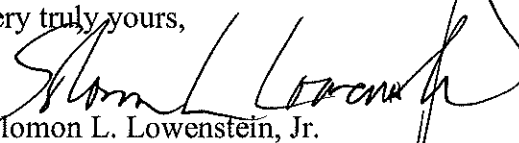
Re: Petition for vacation of public rights-of-way  
Pre-petition review process  
Lots 11, 12, 15, and 18, Lone Star Addition  
Unknown Application No.

Dear Ms. Carter:

Pursuant to your request, enclosed please find a metes and bounds legal description for the area shown on the previously attached surveys for the requested vacation of public rights-of-way (alley vacation) for the undersigned's Petition, previously submitted on April 1, 2021. There have been no additional materials requested from the undersigned. I am enclosing a current check payable to the City of Bloomington in the sum of \$500.00 for the application fee.

Please promptly process this Petition for review and submission to the Board of Public Works. Thank you for your prompt cooperation in this matter.

Very truly yours,

  
Solomon L. Lowenstein, Jr.

SLL/  
Enc.

## SOLOMON L. LOWENSTEIN, JR.

Attorney at Law

Tel: (260) 422-4655

Fax: (260) 422-4815

Solomon@lowensteinlaw.net

614 W. Berry St. Ste. A

Fort Wayne, IN 46802

August 2, 2022

Members of Bloomington Common Council  
City of Bloomington  
401 N. Morton Street  
Bloomington, IN 47404

Re: Petition for vacation of public rights-of-way  
Between Lots 11 and 12; Lots 17 and 18, Lone Star Addition

Dear Members of the City of Bloomington Common Council:

Before you is presented a Petition to vacate certain unimproved 12-foot wide rights-of-way ("ROW") in Lone Star Addition to the City of Bloomington, specifically those unimproved ROWs between Lots 11 and 12; and, Lots 17 and 18. Applicant owns Lots 12 and 18, and jointly owns Lot 11 with Julia G. Beerman who joins in this Petition, and who is represented by the Applicant. The proposed vacation of the pertinent ROWs are shown on the attached survey (Exhibit 1) and legally described (Exhibit 2).

The Lots and ROWs are shown on the recorded instrument dated April 6, 1928 (Exhibit 3) which was the only drawing shown to and approved by the Bloomington Common Council on April 3, 1928, following approval by the City Plan Commission on March 7, 1928. (Exhibit 4)

However, what is not shown nor drawn are the existing improvements (houses and garages) on the Lots at the time of recording of the ROWs. According to the historical Property Record Card records found affecting these Lots, the following improvements preexisted the April 6, 1928 final governmental approval for the ROWs on W. 10<sup>th</sup> Street (formerly Diamond Street):

Lot 11, house and garage built 1920 (1010 W. 10<sup>th</sup> Street); The attached survey for Lot 11 (1010 W. 10<sup>th</sup> Street) shows a portion of the garage cut off by the ROW (Exhibit 5).

Lot 12, house built 1900 (1008 W. 10<sup>th</sup> Street) (no garage); The attached survey for Lot 12 (1008 W. 10<sup>th</sup> Street) shows one foot of the bathroom cut off by the ROW (Exhibit 5).

Lot 18 (1002 W. 10<sup>th</sup> Street), house was built 1930. The attached survey for Lot 18 (1002 W. 10<sup>th</sup> Street) (and unimproved Lot 19) shows one foot of the house is cut off by the ROW (Exhibit 6).

A historical perspective is in order. On June 15, 1991, following the recommendation of your staff (Exhibit 7), the Bloomington Common Council voted to vacate a 12-foot wide by 150-foot long platted alleyway (right-of-way recorded April 6, 1928) between Lots 10 and 13 in Lone Star Addition. The minutes from the June 5, 1991 Common Council meeting, in pertinent part, are as follows: "Ordinance 91-29 be read by title only. . . .The synopsis and committee recommendation of 7-0 was given. . . .Tim Mueller said that the petitioners house encroaches into the alley. They wish to build an addition to their house. **It is extremely unlikely that the alley would ever be used for any public purpose.**" (emphasis added)

In fact, for over 92 years the subject ROWs have never been used for any public purpose except for utilities. The only significant change in Lone Star Addition which affects this Petition is the subsequent construction of the B-Line Trail which is adjacent to W. 10<sup>th</sup> Street to the South (across the street from the Lots in issue) and which further negates the public purpose need and usage of the subject rights-of-way for pedestrian and/or human powered equipment (i.e. bicycles and skateboards).

Currently there exists no pedestrian nor vehicular traffic, no trash pick-up, nor emergency access from the current ROWs. The ROWs are too narrow for any such vehicles even if the ROWs were to be improved. Vegetation, old growth, and new growth trees and the terrain prevent any use of the ROWs. The terrain is too steep for any such "alley" type use of the ROW (Lots 17 and 18).

The existing garage located in a portion of the ROW at 1010 W. 10<sup>th</sup> Street opens to W. 10<sup>th</sup> Street. There is no future potential for public utilization of the current ROWs in issue of any future land use other than from the Applicant's current maintenance. Based upon the location and dimensions of the ROWs in issue, no anticipated development (other than a request for a set-back variance for residential improvements to existing structures and construction permits for repairs to existing improvements) is anticipated. Off street parking in the vacated ROW for Lot 18 would enhance the usability of that house as there is technically no designated off-street parking, and W. 10<sup>th</sup> Street is too narrow for any on-street parking.

The vacation of the requested ROWs does not impinge upon the utilities right of access to repair the existing utilities in place. I. C. § 36-7-3-16. None of the utilities contacted have objections to this ROW vacation request. (Collectively Exhibit 8).

Applicant has prepared and will execute a perpetual access agreement over the existing driveway and rear yard on Lot 12 (1008 W. 10th Street which is currently not part of the existing ROW) for utility purposes in consideration for approval of this ROW application. (Exhibit 1 for location purposes; Exhibit 9, Agreement). Such direct access will provide a convenient, expedient, and a stable, hard surface for the heavy equipment required to replace utility lines and the utility pole. Existing terrain and lack of an ROW from W. Cottage Grove confirms the practicality of this proposed access.

There exists no need for pedestrian/emergency and vehicular traffic due to the adjacent streets, W. 10th Street, W. Cottage Grove, and Monroe Street as well as the B-Line which is adjacent to W. 10th Street; the B-Line is approximately 20 feet from W. 10th Street with access points from Adams Street and W. Cottage Grove. Vehicular access in the pertinent ROWs currently does not exist, nor is it anticipated to be needed in the future as there is no business private property to access, no need for additional access to the current residential properties, no adjacent schools or churches or other public properties due to their non-existent nature in the area adjacent to the ROWs in issue. The public purpose for a perpetual access to the east-west utility ROW instead of the existing ROWs have been addressed herein.

By approving this application, although minimal additional taxes will be assessed for the benefit of the City of Bloomington, these additional taxes will produce new revenue to assist in meeting Bloomington's community goals. The larger economic value to the City is no maintenance expense nor potential financial liability exposure (old growth trees and heavy vegetation) for property damage or injury to the residents and their invitees will then exist.

The vacated ROW between Lots 11 and 12 will remain in their current green space state; additionally, because of common ownership, side lot line dimensions will more conform to existing zoning requirements. The proposed use supports the position of keeping Bloomington green. The vacated ROW between Lots 17 and 18 will allow for off-street parking to serve the existing house. Access from West Cottage Grove to the house on Lot 18 would be costly and result in ineffective access to the house due to the location of the house and the current terrain and heavy hillside vegetation.

The following are the four statutory grounds (I. C. §36-7-3-13) upon which objection may be made to this vacation Petition which the Applicant submits are in favor of granting this Petition, specifically: 1) The vacation of the ROWs will not hinder any growth nor development of the neighborhood (Lone Star Addition) in which they are located; 2) The vacation of these ROWs will not make access to the properties owned by Applicant or the Lot 17 owner in Lone Star Addition difficult or inconvenient; 3) The vacation of the ROWs will not hinder the public's access to a church, school, or other public building, or place as none are adjacent or accessible by these ROWs; and, 4) The vacation of the ROWs will not hinder the use of these unimproved alleyways by either the neighborhood in which it is located or any contiguous neighborhood as there exists no such use by the public.

Such proposed vacation allows for the adversely affected Lots' owner to remedy the existing encroachment issues and provides compliance with current side yard set-back requirements.

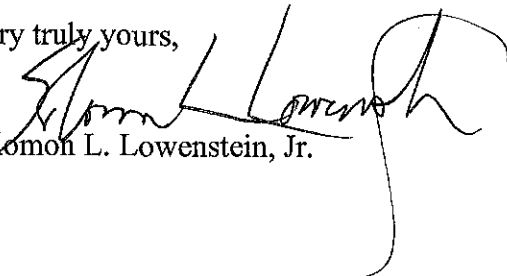
There is no issue with future non-compliance regarding subdivision ordinance, zoning, access control off-street parking anticipated development, or change-of-use. The master plan thoroughfare plan neighborhood plan or any special plan will not be affected in any way.



The vacation approval will not set any precedent as the facts supporting this request as set forth herein are unique to Lone Star Addition and overcome the statutory objections for denial of this request. Additionally, a common-sense remedy (perpetual access running with the land) is being offered by the Applicant to remedy the existing problem of equipment access to the east-west utility ROW servicing lot owners in Lone Star Addition.

Thank you for your attention and consideration in this matter.

Very truly yours,

  
Solomon L. Lowenstein, Jr.

SLL/  
Enc.

EXHIBIT 1



**ALLEY VACATION EXHIBIT**  
 A PART OF LONE-STAR ADDITION TO  
 BLOOMINGTON, INDIANA  
 SECTION 32, T9N, R1W MONROE CO.,  
 INDIANA

JOB No. 10823

Client and Owners Name: Solomon  
 Lowenstein

NOTE:

1. SEE THE FOLLOWING SURVEYS FOR BOUNDARY LINE INFORMATION:  
 PLAT OF LONE-STAR ADDITION FOUND IN PLAT CABINET B, ENVELOPE 49  
 BLEDSOE RIGGERT GUERRETTAZ JOB NUMBERS:  
 6123: RECORDED AS INSTRUMENT NUMBER 2008007063  
 6215: UNRECORDED SURVEY OF LOT 15 OF LONE-STAR ADDITION  
 8208: RECORDED AS INSTRUMENT NUMBER 2014004465
2. (P) = DISTANCE PER PLAT OF LONE-STAR ADDITION
4. BASIS OF BEARINGS: BRG JOB NUMBERS NOTED ABOVE.
5. THIS DRAWING IS NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY, OR A SURVEYOR LOCATION REPORT.

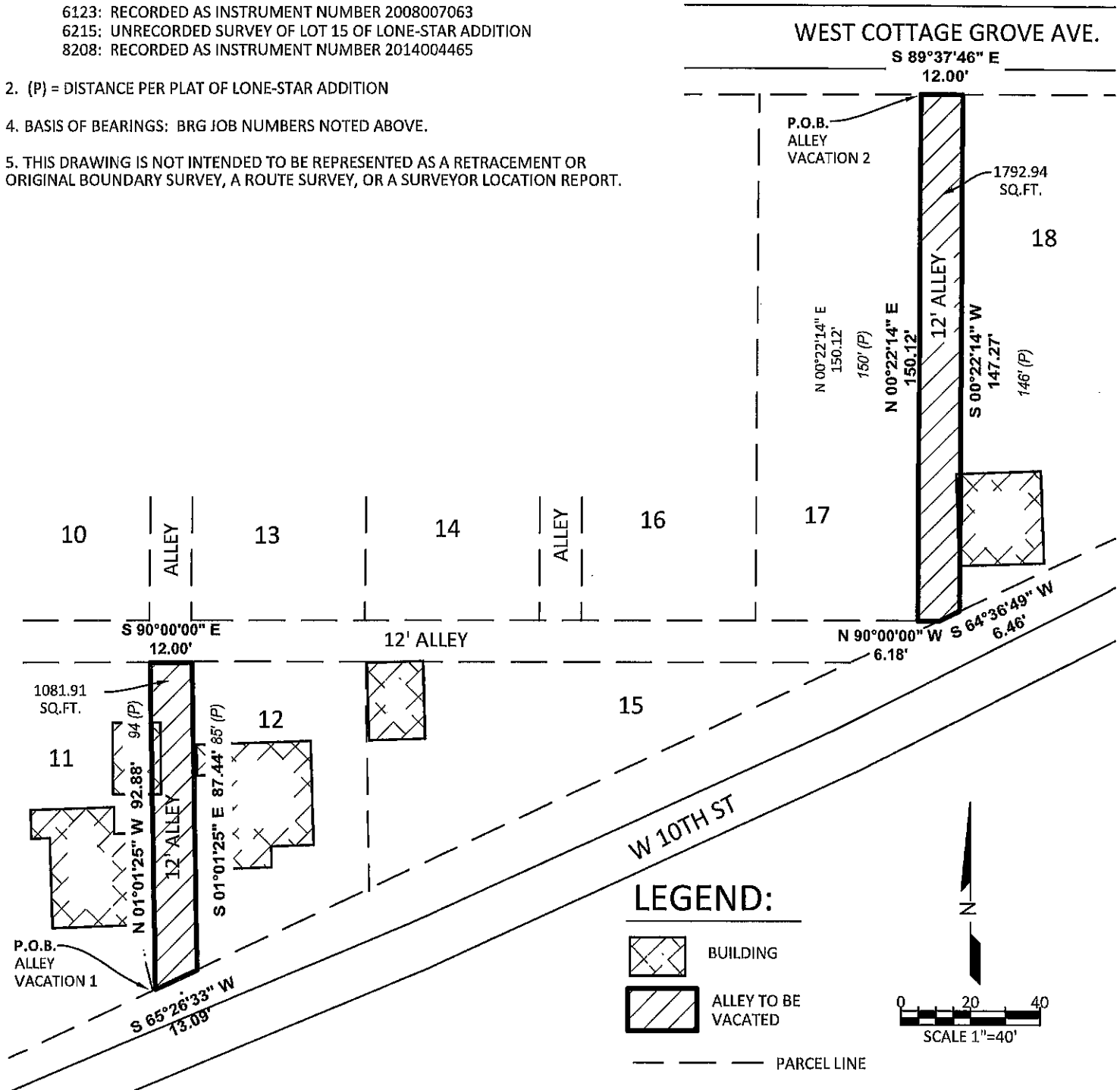


EXHIBIT 2



**ALLEY VACATION LEGAL DESCRIPTION**  
PART OF LONE-STAR ADDITION TO  
BLOOMINGTON, INDIANA  
SECTION 32, T9N, R1W MONROE CO.,  
INDIANA  
JOB No. 10823  
Client and Owners Name: Solomon  
Lowenstein

**Alley Vacation 1**

A part of Lone-Star Addition to Bloomington, Indiana in Section 32, Township 9 North, Range 1 West, Monroe County, Indiana, as shown on an alley vacation exhibit prepared by Christopher L. Porter, LS21200022, Bledsoe Riggert Cooper & James, Inc., Job Number 10823, prepared May 31, 2022, described as follows:

**Beginning** at the southeast corner of Lot 11 of said Lone-Star Addition; thence along the east line of said Lot 11 NORTH 01 degrees 01 minutes 25 seconds WEST a distance of 92.88 feet to the northwest corner of said Lot 11; thence leaving said east line and along the extended north line of said Lot 11 SOUTH 90 degrees 00 minutes 00 seconds EAST a distance of 12.00 feet to the northwest corner of Lot 12 in said Lone-Star Addition; thence leaving said extended line and along the west line of said Lot 12 SOUTH 01 degrees 01 minutes 25 seconds EAST a distance of 87.44 feet to the southwest corner of said Lot 12 and the northwest line of 10th West Street; thence leaving said west line and along said northwest line SOUTH 65 degrees 26 minutes 33 seconds WEST a distance of 13.09 feet to the point of beginning, containing 1081.9 square feet, more or less.

**Alley Vacation 2**

A part of Lone-Star Addition to Bloomington, Indiana in Section 32, Township 9 North, Range 1 West, Monroe County, Indiana, as shown on an alley vacation exhibit prepared by Christopher L. Porter, LS21200022, Bledsoe Riggert Cooper & James, Inc., Job Number 10823, prepared May 31, 2022, described as follows:

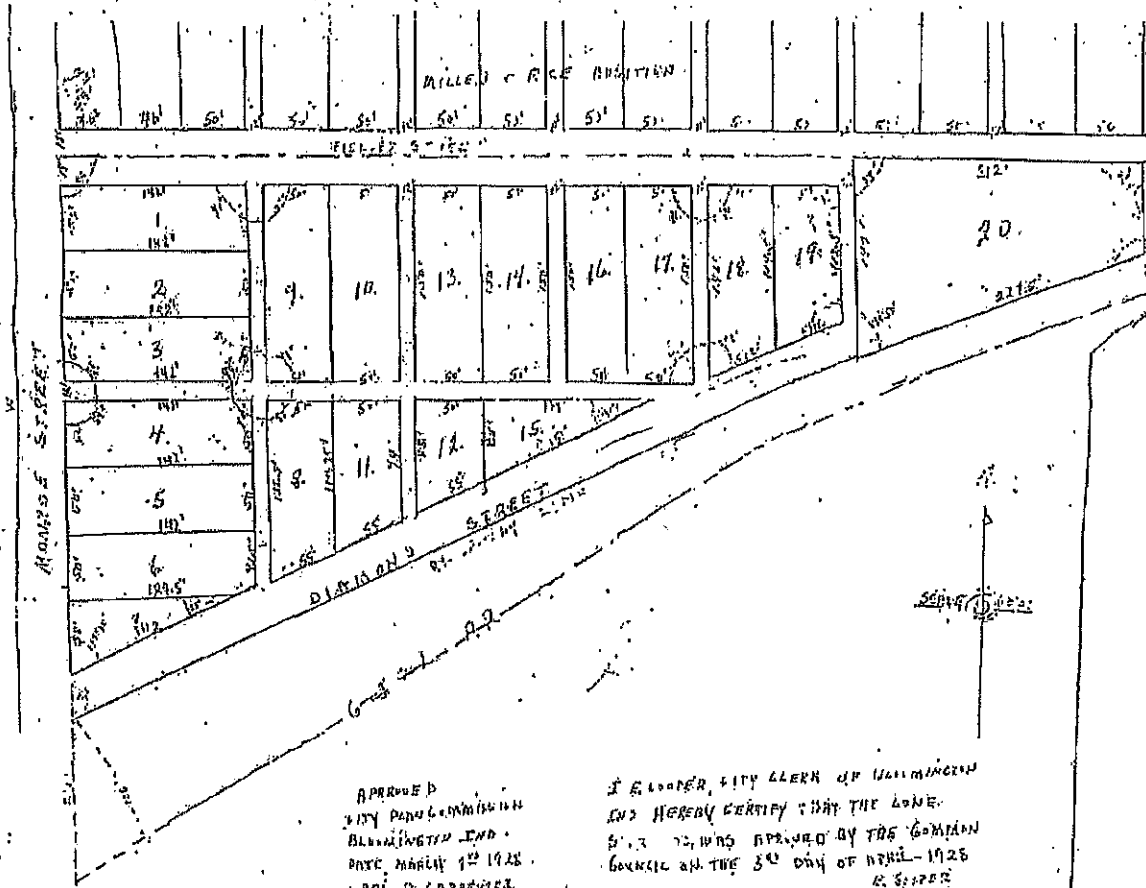
**Beginning** at the northeast corner of Lot 17 of said Lone-Star Addition; thence along the extended north line of said Lot 17 SOUTH 89 degrees 37 minutes 46 seconds EAST a distance of 12.00 feet to the northwest corner of Lot 18 of said Lone-Star Addition; thence leaving said extended line and along the west line of said Lot 18 SOUTH 00 degrees 22 minutes 14 seconds WEST a distance of 147.27 feet to the southwest corner of said Lot 18 and the northwest line of West 10th Street; thence leaving said west line and along said northwest line SOUTH 64 degrees 36 minutes 49 seconds WEST a distance of 6.46 feet to the extended south line of said Lot 17; thence leaving said northwest line and along said extended line NORTH 90 degrees 00 minutes 00 seconds WEST a distance of 6.18 feet to the southeast corner of said Lot 17; thence leaving said extended line and along the east line of said Lot 17 NORTH 00 degrees 22 minutes 14 seconds EAST a distance of 150.12 feet to the point of beginning, containing 1792.9 square feet, more or less.

EXHIBIT 2

EXHIBIT 3

7

# LOVE-STAR ADDITION TO BLOOMINGTON, IND.



APPROVED  
 CITY PLANNING COMMISSION  
 BLOOMINGTON, IND.  
 DATE: MARCH 12 1928  
 CARL B. GORDON, CHAIRMAN

I, ALONZO, CITY CLERK OF BLOOMINGTON  
 IND. HEREBY CERTIFY THAT THE LOVE-  
 STAR WAS APPROVED BY THE COMMON  
 COUNCIL ON THE 30 DAY OF APRIL 1928  
 ALONZO

1107700. MAR 20 1928  
 J. H. ALLEN

APRIL 16 1928 AT 7:20 A.M.  
 FELIX J. BROWN, RECORDER  
 FEE \$3.50

DULY ENTERED FOR TAXATION  
 APRIL 16 1928  
 ALONZO, IND.



This is to certify that the above is  
 a true and correct copy of the original  
 document to be in the office of the  
 Recorder, Marion County, Indiana,  
 and the MAYOR of the City of  
 Bloomington, Indiana.  
 Recorder April 16 1928  
 Date

EXHIBIT 3

EXHIBIT 4



The Common Council of the City of Bloomington, Indiana, met in regular session in their council chamber at 7:30 P.M. on the 3rd day of April, 1928, with mayor John L. Hetherington presiding.

## Roll Call:

Present: Barnhill, Blair, Bunger, Dillman, Hawkins, McAninch, Myers, Rogers, Stout.

Absent: None.

The minutes of the last regular session held on the 20th day of March, 1928, were read and approved.

The Mandall Brothers ask permission to cut the curb in the north side of Second Street just east of Henderson street for the purpose of making a driveway.

Dillman moves and Stout seconds that permission be granted as requested, the work to be done under the supervision of the City Civil Engineer. Motion carried.

## BIDS FOR PUBLIC IMPROVEMENTS.

This being the time set and advertised for receiving bids for the following public improvements, to-wit:-

- |     |   |
|-----|---|
| (1) | Improvement Resolution No. 2, 1928, South Lincoln Street. |
| (2) | " " " No. 3, 1928, Grimes Lane.                           |
| (3) | " " " No. 4, 1928, Hunter Avenue extension.               |
| (4) | " " " No. 5, 1928, West Second Street.                    |
| (5) | " " " No. 9, 1928, Highland Avenue.                       |
| (6) | " " " No. 12, 1928, West Eleventh Street.                 |
| (7) | " " " No. 6, 1928, Lade Addition Sewer.                   |
| (8) | " " " No. 10, 1928, Highland Avenue District Sewer.       |
| (9) | " " " No. 11, 1928, South Madison Street Sewer.           |

The Clerk is directed to open all bids on file.

The following bids being the only bids on file are now opened and presented to the council.

## IMPROVEMENT RESOLUTION No. 2, South Lincoln Street.

Kerr & Murphy	\$46,193.77	concrete	
Buskirk & Dodds	43,820.00	"	
U.R. Price & Co.	43,693.00	"	
Andrews Asphalt Paving Co.	44,639.11	"	\$49,643.61 Asphalt.

## IMPROVEMENT RESO. No. 3, Grimes Lane.

Kerr & Murphy	\$8,588.75	cement	
Buskirk & Dodds	8,725.00	"	
U.R. Price & Co.	6,250.00	"	
Andrews Asphalt Paving Co.	5,841.98	"	\$9,581.28 Asphalt.

## IMPROVEMENT RESO. No. 4, Hunter Avenue.

Kerr & Murphy,	\$9,523.77	cement.	
Buskirk & Dodds	9,442.00	"	
U.R. Price & Co.	9,007.00	"	
Andrews Asphalt Paving Co.	8,512.28	"	\$9,581.28 Asphalt.

## IMPROVEMENT RESO. No. 5, Second Street.

Kerr & Murphy,	\$29,500.25	cement.	
Buskirk & Dodds,	27,463.00	"	
U.R. Price & Co.	29,937.00	"	
Andrews Asphalt Paving Co.	26,828.42	"	\$30,285.42 Asphalt.

## IMPROVEMENT RESO. No. 9, Highland Avenue.

Kerr & Murphy	\$5,123.28
Buskirk & Dodds,	4,812.00
U.R. Price & Co.	4,497.00

## IMPROVEMENT RESO. No. 12, West 11th Street.

Kerr & Murphy,	\$7,712.70
Buskirk & Dodds,	7,670.00
U.R. Price & Co.	7,400.00

## IMPROVEMENT RESO. No. 6, Lade Addition Sewer.

William Fleetwood,	\$1100.40
Ed. Duncan,	1075.00
Buskirk & Dodds,	972.30

## IMPROVEMENT RESO. No. 10, Highland Ave. District Sewer.

William Fleetwood,	\$1750.60
--------------------	-----------

EXHIBIT 4

Ed Duncan, \$1752.20  
 Buskirk & Dodds, 1773.00

IMPROVEMENT RESO. No. 11, South Madison St. Sewer.  
 William Fleetwood, \$3839.20  
 Ed Duncan, 3849.00  
 Buskirk & Dodds, 3779.00

IMPROVEMENT RESOLUTION No. 14, 1928.  
 South Madison Street.

This being the time set and advertised for hearing remonstrances against the improvement of South Madison street from Grimes Lane to Hillside Drive, and no remonstrances having been filed or presented to the council, Blair moves and Myers seconds the adoption of a resolution confirming in all things the original resolution heretofore adopted by the council in this matter, and said improvement is set for letting of contract at 7:30 P.M. on the 17th day of April, 1928.

Roll Call on adoption of resolution:

Ayes: Barnhill, Blair, Bunger, Dillman, Hawkins, McAninch, Myers, Rogers, Stout.

Noes: None. Motion carried and resolution declared adopted.

Said Resolution reads as follow :-

CONFIRMATORY RESOLUTION.

IMPROVEMENT RESOLUTION No. 14, 1928.

The Common Council of the City of Bloomington, Indiana, meets to hear all persons interested or whose property is affected by the following public improvement, to wit: - the improvement of South Madison Street from the south property line of Grimes Lane to the north property line of Hillside Drive, by grading and paving the roadway and building cement sidewalks, curbs and gutters, according to plans and specifications provided by Improvement Resolution No. 14, 1928.

After hearing all persons interested who appeared and being fully advised in the premises, the Common Council decides that the benefits to the property liable to be assessed for said improvement are equal to the estimated cost of the same as reported by the City Civil Engineer, and the same is hereby confirmed without modification.

Passed and adopted this 3rd day of April, 1928.

John L. Hetherington,  
 Presiding officer.

Attest:

E. Cooper, City Clerk.

Approved and signed by me this 4 day of April, 1928.

John L. Hetherington, Mayor.

IMPROVEMENT RESOLUTION No. 33, 1927.

This being the time set and advertised for hearing remonstrances against the primary assessment roll on account of the local sanitary sewer in and along South Lincoln street from a point 200 feet south of Driscoll Drive to a point 143 feet south of Wilson Drive, and no remonstrances having been filed or presented to the council, Myers moves and Dillman seconds the adoption of a resolution confirming in all things the original assessment roll heretofore approved and adopted by the council.

Roll Call on adoption of resolution:

Ayes: Barnhill, Blair, Bunger, Dillman, Hawkins, McAninch, Myers, Rogers, Stout.

Noes: None. Motion carried and resolution declared adopted.

Said Resolution reads as follows: -

CONFIRMATORY RESOLUTION:

ASSESSMENT ROLL.

IMPROVEMENT RESOLUTION No. 33, 1927.

The Common Council of the City of Bloomington, Indiana, meets to hear remonstrances, if any, of persons primarily assessed on account of the construction of a local sanitary sewer in and along South Lincoln Street from a point 200 feet south of Driscoll Drive to a point 143 feet south of Wilson Drive, in accordance with the plans and specifications provided by Improvement Resolution No. 33, 1927.

After hearing all persons interested who appeared, the Common Council approves a final assessment roll, confirming in all things the original assessment roll as heretofore approved, and allows a final estimate for the construction of said improvement of \$1068.40 in favor of Fred Campbell, contractor.

Passed and adopted this 3rd day of April, 1928.

John L. Hetherington, Presiding officer and  
 Mayor.

Attest: E. Cooper, City Clerk,  
Approved and signed by me this 4 day of April, 1928.  
John L. Hetherington, Mayor.

Comes now J.F. Neill and presents his petition to cut the curb in front of the property located at No. 413 South Highland Avenue for the purpose of constructing a drive way eight feet wide, the same to be done under the supervision and direction of the City Engineer.  
McAninch moves and Blair seconds that permission be granted as petitioned. Motion carried.

Petition for Storm Sewer.

We, the undersigned property owners, affected by the improvement hereinafter mentioned, hereby petition you to construct a storm sewer on Davis Street between the east line of Walnut street and the west line of Washington street, in the City of Bloomington.  
J.M. Hill, Rean Slow, Mrs. Anna D. Kerr, R.H. Osborne, Reg B. Stull, Joe L. Shields, R.E. Taylor.

Hawkins moves and McAninch seconds that the City Engineer be ordered to prepare plans and specifications for the improvement petitioned. Motion carried.

Petition to improve Atwater Avenue.

We, the undersigned property owners on Atwater Ave, respectfully petition your Honorable Body to improve said street from Highland Ave. to Jordan Ave. by building sidewalks, curb and gutters, paving and sanitary sewer.  
W.C. and Esther M. Beem  
Louis W. Hughes/

Myers moves and Dillman seconds that the City Engineer be ordered to prepare plans and specifications for the improvement of Atwater Avenue as petitioned. Motion carried.

Petition for sewer on North Indiana Ave.

We the undersigned property owners on Indiana Avenue, Bloomington, Indiana, petition your Honorable Board to consider the extension of the sewer on Indiana Avenue north from 13th street to 14th street.  
James L. Wheeler, J.S. Morrison Jasper Davis, Newton Davis,  
Jane Wheeler, Ora J. Thompson, C.M. Gilmore, George Burks.

Blair moves and Barnhill seconds that the City Engineer be ordered to prepare plans and specification of such sewer as petitioned. Motion carried.

Dillman moves and Myers seconds that the Report of the Chief of the City Fire Department for the month of March, 1928, be approved by the council, and the same be placed on file. Motion carried.

At this time is presented to the council a resolution providing for the vacation of all north and south alleys in Park View Addition to the City of Bloomington, Indiana.

Bunger moves and Blair seconds that said resolution and matters connected therewith be referred to the City Attorney and the City Engineer for investigation to be reported back at the regular meeting of the council. Motion carried.

LONE STAR ADDITION TO THE CITY OF BLOOMINGTON.

Blair moves and Dillman seconds that the council approve the Plat of Lone Star Addition to the City of Bloomington, Indiana, as platted by W.T. Fielder and approved by the City Plan Commission.

Roll Call on motion:

Ayes: Barnhill, Blair, Bunger, Dillman, Hawkins, McAninch, Myers, Rogers, Stout.

Noes: None. Motion carried.

At this time is presented an ordinance appropriating the sum of \$548.76 to pay Thomas Finn for his assessment on account of the construction of the Henderson Street Storm Sewer, in consideration for and pursuant to a contract made for the right of way across the land of said Thomas Finn for said Storm Sewer.

Barnhill moves and McAninch seconds that said proposed ordinance be referred to the City Attorney for investigation.

Motion carried.

Regular Meeting, April 3, 1928.

IMPROVEMENT RESOLUTION No. 16, 1928.  
NORTH LINCOLN STREET.

Dillman moves and Bunger seconds the adoption of a resolution ordering the improvement of North Lincoln Street from Fifteenth street to Seventeenth Street, by grading and paving the roadway and building cement sidewalks, curbs and gutters, and that the same be set for hearing remonstrances at 7:30 P.M. on the 1st day of May, 1928.

Roll Call on adoption of resolution:

Ayes: Barnhill, Blair, Bunger, Dillman, Hawkins, McAninch, Myers, Rogers, Stout.

Noes: None. Motion carried and resolution declared adopted.

Said Resolution reads as follows:-

IMPROVEMENT RESOLUTION No. 16, 1928.

Resolved by the Common Council of the City of Bloomington, Indiana, That it is deemed necessary to improve North Lincoln Street from the north property line of Fifteenth street to the south property line of Seventeenth street by grading and paving the roadway with Brick, Wooden Block, Concrete, Bituminous Concrete, laid on a six (6) inch gravel or broken stone concrete foundation from curb line to curb line, to a uniform width of 30 feet, including the space occupied by the gutters; placing the necessary marginal stone curbing, and curbing said roadway with cement combined curb and gutters, constructing cement sidewalks and placing street intersection monument covers, all as shown on plans, in accordance with the profile, details and specifications on file in the office of the City Clerk of said City, and such improvement is now ordered.

The cost of said improvement, exclusive of one half the cost of street and alley intersections, shall be assessed upon the real estate abutting on said street to be improved, and if deemed proper by said Common Council, upon property within 150 feet of the line of the street or alley to be improved, and upon the City of Bloomington, Indiana, and the remaining one half of the cost of street and alley intersections shall be apportioned upon the lands or lots abutting upon the street or alley intersecting the street or alley under improvement for a distance to the street line of the first street intersecting or extending across the said intersecting street or alley in either direction from the street or alley improved. All according to the method and manner provided for in an Act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6th, 1905, and in accordance with and pursuant to the provisions of all amendatory and supplemental acts thereto, passed by the General Assembly of the State of Indiana. Assessments of property owners, if deferred, are to be paid in ten equal annual installments, with interest at the rate of six per cent per annum. A bond or bonds shall be issued to the contractor in payment of such assessment. Under no circumstances shall the City of Bloomington be or be held responsible for any sums due from said property owner or owners for said work, or for the collection of the same, or for the payment of any bond, bonds, certificate or certificates, issued to said contractor in payment for such work except for such moneys as shall have been actually received by the City from the assessment for such improvement, or such moneys as said City is by said above entitled act, and the provisions of all acts amendatory and supplemental thereto, required to pay. All proceedings had, and work done in the making of said improvement, assessment of property, collection of assessments and issuance of bonds therefor, shall be as provided for in said above entitled act and amendments thereto.

Adopted this 3 day of April, 1928.

John L. Hetherington, Mayor.  
E. Cooper, City Clerk.

IMPROVEMENT RESOLUTION No. 17, 1928.  
NORTH WASHINGTON STREET.

Myers moves and Blair seconds the adoption of a resolution ordering the improvement of North Washington street from Sixteenth street to Seventeenth street by grading and paving the roadway and building cement sidewalks, curbs and gutters, and that said improvement be set for hearing remonstrances at 7:30 P.M. on the 1st day of May, 1928.

Roll Call on adoption of resolution:

Ayes: Barnhill, Blair, Bunger, Dillman, Hawkins, McAninch, Myers, Rogers, Stout.

Noes: None. Motion carried and resolution declared adopted.

Said Resolution reads as follows:-

## IMPROVEMENT RESOLUTION No. 17, 1928.

Resolved by the Common Council of the City of Bloomington, Indiana, That it is deemed necessary to improve North Washington Street from the north curb line of Sixteenth street to the south property line of Seventeenth street by grading and paving the roadway with Brick, Wooden Block, Concrete, Bituminous Concrete, laid on a six (6) inch, gravel or broken stone, foundation from curb line to curb line, to a uniform width of 30 feet, including the space occupied by the gutters; placing the necessary marginal stone curbing, and curbing said roadway with cement combined curb and gutter, constructing cement sidewalks and placing street intersection monument covers, all as shown on plans, in accordance with the profile, details and specifications on file in the office of the City Clerk of said City, and such improvement is now ordered.

The cost of said improvement, exclusive of one half the cost of street and alley intersections, shall be assessed upon the real estate abutting on said street to be improved, and if deemed proper by said Common Council, upon property within 150 feet of the line of the street or alley to be improved, and upon the City of Bloomington, Indiana, and the remaining one half of the cost of street and alley intersections shall be apportioned upon the lands or lots abutting upon the street or alley intersecting the street or alley under improvement for a distance to the street line of the first street intersecting or extending across the said intersecting street or alley in either direction from the street or alley improved. All according to the method and manner provided for in an Act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations" approved March 8th, 1905, and in accordance with and pursuant to the provisions of all amendatory and supplemental acts thereto, passed by the General Assembly of the State of Indiana. Assessments of property owners, if deferred, are to be paid in ten equal annual installments, with interest at the rate of six per cent per annum. A bond or bonds shall be issued to the contractor in payment of such assessment. Under no circumstances shall the City of Bloomington be or be held responsible for any sums due from said property owner or owners for said work, or for the collection of the same, or for the payment of any bond, bonds, certificate or certificates, issued to said contractor in payment for such work, except for such moneys as shall have been actually received by the City from the assessment for such improvement, or such moneys as said City is by said above entitled act, and the provisions of all acts amendatory and supplemental thereto, required to pay. All proceedings had, and work done in the making of said improvement, assessment of property, collection of assessments and issuance of bonds therefor, shall be as provided for in said above entitled act and amendments thereto.

Adopted this 3 day of April, 1928.

John L. Hetherington, Mayor.

E. Cooper, City Clerk.

## ANNEXATION ORDINANCE.

Myers moves and Barnhill seconds that the rules be suspended and that an ordinance providing for the annexation of the following territory to the corporate limits of the City of Bloomington, Indiana, to wit: - beginning at a point, said point being in the southeast corner of Lot No. 9 in Railroad Park Addition; running thence south upon a line, said line being an extension of the west line of said lot, a distance of 291 feet, more or less, to a point, running thence east parallel to the south line of said lot to a point in the east line of South Walnut street thence in a northeasterly direction along said east line to the southwest corner of Lot No. 7 in Wilson and Vermilya Addition, said point being in the present corporation line; and all the area lying between the above described line and the present corporation line being the area concerned in said annexation, be placed upon its final passage.

Roll Call on suspension of the rules:

Ayes: Barnhill, Blair, Bunger, Dillman, Hawkins, McAninch, Myers, Rogers, Stout.

Noes: None. Motion to suspend the rules carried.

Roll Call on final adoption of ordinance:

Ayes: Barnhill, Blair, Bunger, Dillman, Hawkins, McAninch, Myers, Rogers, Stout.

Noes: None. Motion carried and ordinance declared adopted.

Myers moves and McAninch seconds that a Committee, to be appointed by the Mayor, take up the matter, with the City Engineer, of a sanitary sewer in the south part of the city from Walnut street to the main

sewer line, and also in the matter of the improvement of North Walnut Grove Avenue. Motion carried.

The mayor appoints a council as a committee of the whole, and sets the time of meeting at 2 P.M. on Thursday, April, 5, 1928.

Rogers moves and Myers seconds that the City Clerk advertise for bids for hauling the city garbage, both for the city as a whole, and by quarters. Motion carried.

Hawkins moves and Dillman seconds that the City Civil Engineer be ordered to prepare plans and specifications for marking street corners in the city. Motion carried.

Rogers moves and Dillman seconds that the council take a recess to meet in the mayor's office and take up the matter of the bids submitted for public improvements, as a committee of the whole to be reported to the council after consideration of same. Motion carried.

The Council now returns to the council chamber and Stout moves and Bunger seconds that the contract for the improvement of South Lincoln street as provided by Improvement Resolution No. 2, 1928, be awarded to Kerr and Murphy for \$46,193.77. Motion carried.

Bunger moves and Stout seconds that the contract for the improvement of Grimes Lane as provided by Improvement Resolution No. 3, 1928, be awarded to U.R. Price & Co. for \$8,250.00. Motion carried.

Barnhill moves and Dillman seconds that the contract for the improvement of Hunter Avenue, as provided by Improvement Resolution No. 4, 1928, be awarded to U.R. Price & Co. for \$9,007.00.

Myers moves and Dillman seconds that the contract for the improvement of West Second street, as provided by Improvement Resolution No. 5, 1928, be awarded to Buskirk & Dodds for \$27,463.00. Motion carried.

Barnhill moves and McAninch seconds that the contract for the improvement of Highland Avenue, as provided by Improvement Resolution No. 8, 1928, be awarded to U.R. Price & Co. for \$4,497.00. Motion carried.

Barnhill moves and McAninch seconds that the contract for the improvement of West Eleventh street, as provided by Improvement Resolution No. 12, 1928, be awarded to U.R. Price & Co. for \$7,400.00. Motion carried.

Dillman moves and Stout seconds that the contract for the construction of the Lade Addition sewer, as provided by Improvement Resolution No. 6, 1928, be awarded to Buskirk and Dodds for \$972.30. Motion carried.

Barnhill moves and Myers seconds that the contract for the construction of the Highland Avenue District sewer, as provided by Improvement Resolution No. 10, 1928, be awarded to William Fleetwood for \$1750.60. Motion carried.

McAninch moves and Myers seconds that the contract for the construction of the South Madison street sewer, as provided by Improvement Resolution No. 11, 1928, be awarded to Buskirk & Dodds for \$3,779.00. *Motion carried.*

Stout moves and Bunger seconds that the council specify Cement concrete as the material with which to improve all the streets for which bids were submitted at this meeting of the council. Motion carried.

Stout moves and Myers seconds that Claims 641 to 740, inclusive, and deferred Claim No. 2405, be allowed and warrants drawn for same. Motion carried.

Barnhill moves and Myers seconds that the council adjourn. Motion carried.

EXHIBIT 5

**PLAT OF SURVEY - BOUNDARY RETRACEMENT**  
 LOT 8, 11, & 12 OF LONESTAR ADDITION TO THE CITY OF BLOOMINGTON  
 MONROE CO., INDIANA  
 JOB No. 6123

Client Name: RHONDA RIESEBERG

Owners Name: RHONDA RIESEBERG, DR #2007012271, 2007012287, 2007012274

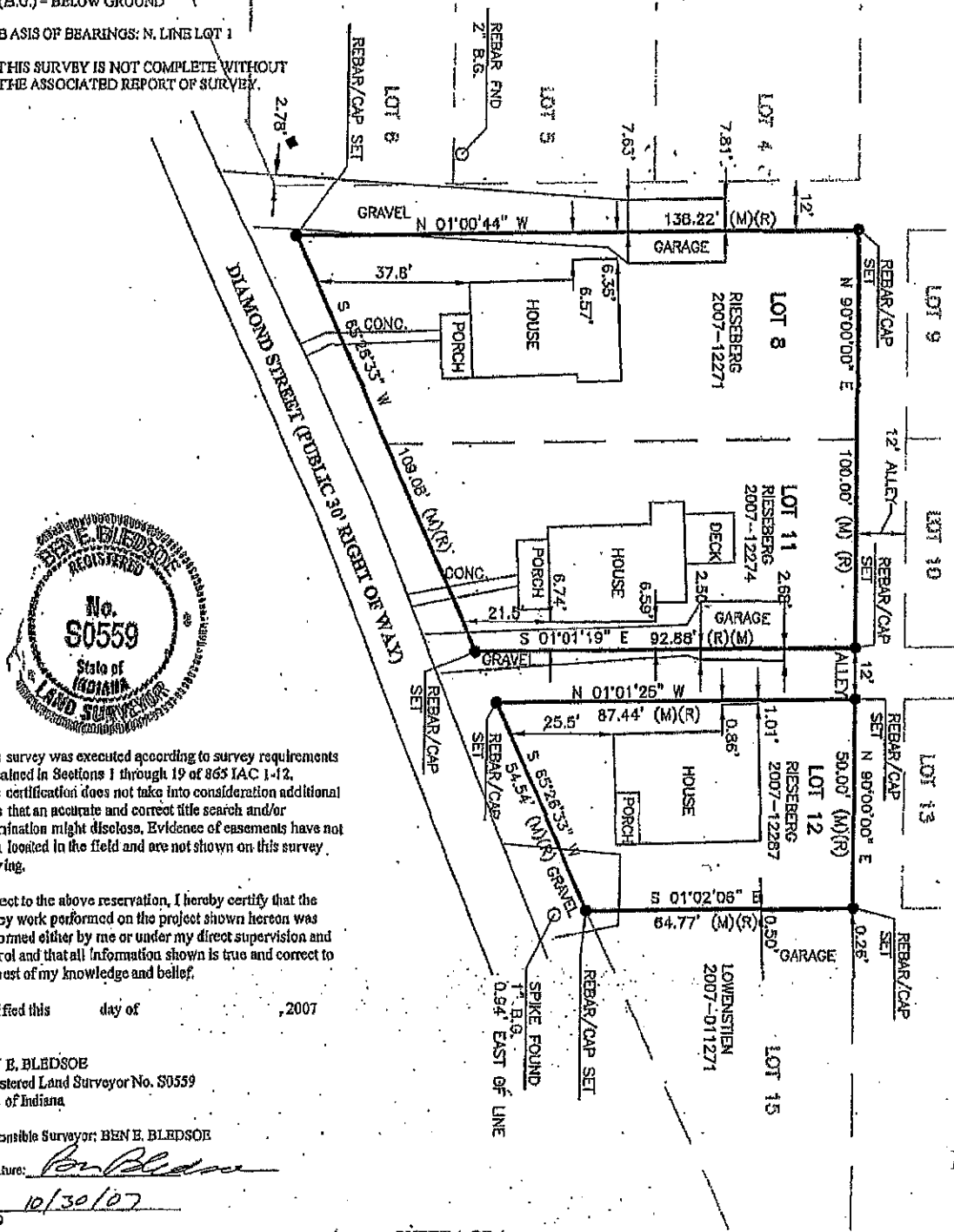
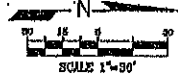
NOTE:  
 1. FIELD WORK PERFORMED OCTOBER, 2007.

2. ALL 5/8" REBAR SET HAVE YELLOW CAP  
 STAMPED "DRG PC 50920004" AND ARE  
 0.30' ABOVE GROUND UNLESS NOTED.

3. (R) = RECORDED  
 (M) = MEASURED  
 (C) = CALCULATED FROM RECORD  
 (A.G.) = ABOVE GROUND  
 (B.G.) = BELOW GROUND

4. BASIS OF BEARINGS: N. LINE LOT 1

5. THIS SURVEY IS NOT COMPLETE WITHOUT  
 THE ASSOCIATED REPORT OF SURVEY.



This survey was executed according to survey requirements contained in Sections 1 through 19 of 865 IAC 1-12. This certification does not take into consideration additional facts that an accurate and correct title search and/or examination might disclose. Evidence of easements have not been located in the field and are not shown on this survey drawing.

Subject to the above reservation, I hereby certify that the survey work performed on the project shown hereon was performed either by me or under my direct supervision and control and that all information shown is true and correct to the best of my knowledge and belief.

Certified this \_\_\_\_\_ day of \_\_\_\_\_, 2007

BEN E. BLEDSOE  
 Registered Land Surveyor No. S0559  
 State of Indiana

Responsible Surveyor: BEN E. BLEDSOE

Signature: *B. Bledsoe*

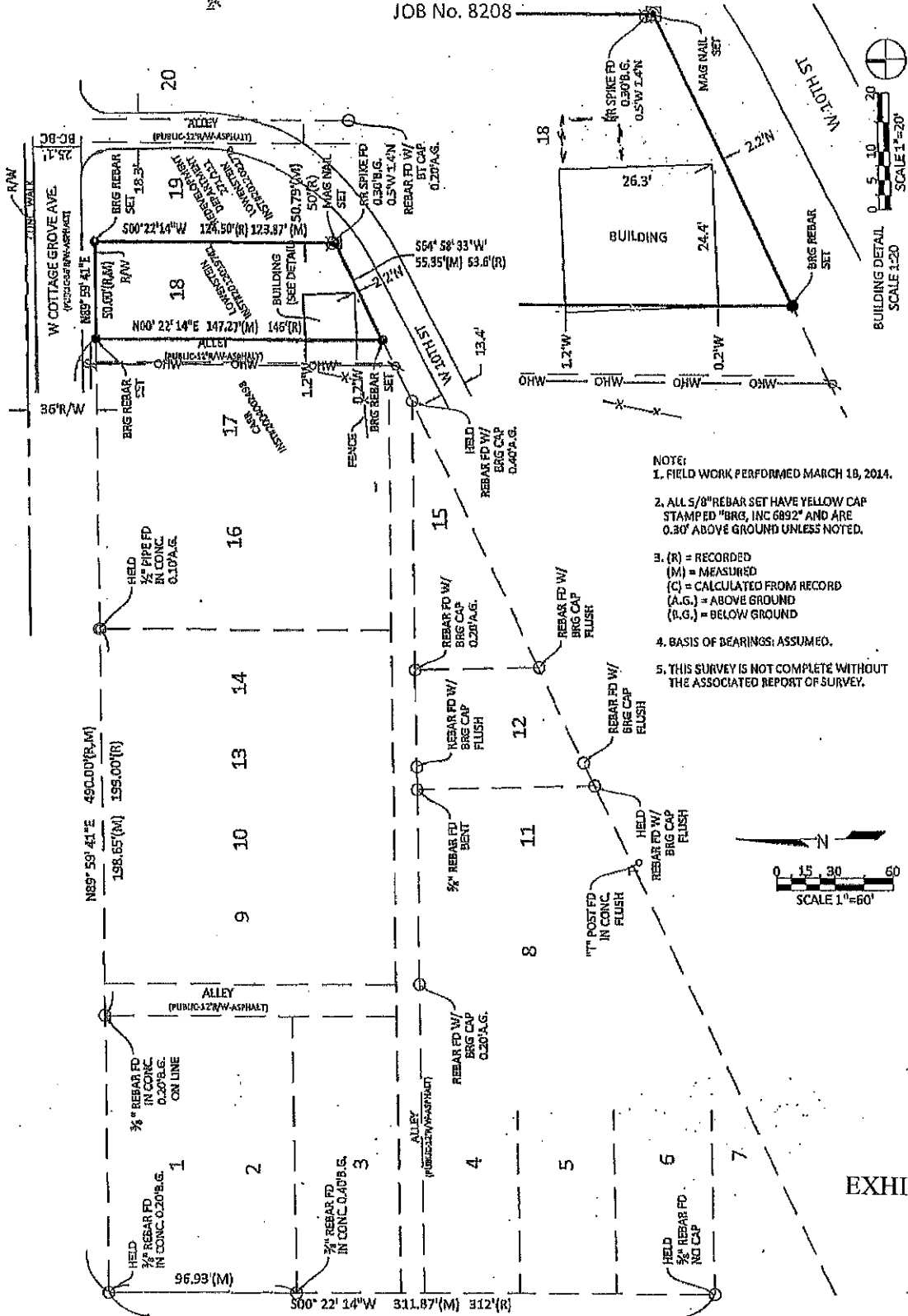
Date: 10/30/07  
 S0559

EXHIBIT 5



EXHIBIT 6

RETRACEMENT SURVEY  
 LOT 18 - LONE STAR ADDITION TO BLOOMINGTON  
 PLAT CAB "B", PG 49  
 BLOOMINGTON, IN  
 JOB No. 8208



- NOTE:
1. FIELD WORK PERFORMED MARCH 18, 2014.
  2. ALL 5/8\"/>

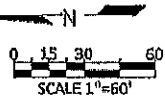


EXHIBIT 6

EXHIBIT 7

PETITION FOR VACATION OF PUBLIC RIGHT-OF-WAY

CITY OF BLOOMINGTON  
COMMON COUNCIL

FILE # \_\_\_\_\_  
1st READING \_\_\_\_\_  
COMMITTEE \_\_\_\_\_  
FINAL HEARING \_\_\_\_\_

Office of the Common Council  
P.O. Box 100, Municipal Building  
Bloomington, IN 47402  
(812) 339-2261, ext. 12, 13

-----  
Address of Property 1011 West Cottage Grove, Bloomington

Applicant's Name Rainer & Dian Krumlauf-Hildenbrand

Address 1011 West Cottage Grove Phone 336-5012

Counsel or Consultant Mary M. Runnells, attorney

Address 7175 S. Lucas Lane, Bloomington Phone 824-8307  
-----

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

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

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

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

Signature Mary M. Runnells

EXHIBIT 7

22 February 1991

PLANNING STAFF REPORT TO THE COMMON COUNCIL

SUBJECT : Request for Public Right-of-Way (ROW) Vacation  
ADDRESS : 1011 W. Cottage Grove  
PETITIONER: Rainer and Dian Krumlauf-Hildenbrand  
COUNCIL : Mary M. Runnells

---

REPORT: Petitioners request that the City vacate a 150 ft. long platted section of alley located south of W. Cottage Grove, between lots 10 and 13 in the Lone Star Addition to Bloomington. As current owners of part-lot 10 and lot 13, petitioners own all property adjacent to this section of the alley.

The alley is platted 12 ft. wide for a total length of 444 ft., running south from 11<sup>th</sup> St. to 10<sup>th</sup> St. The entire alley is grass-covered, and is not used for vehicular traffic.

---

CRITERIA: The criteria utilized to review a public ROW vacation request are as follows:

CURRENT STATUS - ACCESS TO PROPERTY

This section of alley provides no vehicular or pedestrian access to any private property, churches, schools, or other public places. It also provides no access or easement for public utilities or services.

The following utility and service organizations were contacted for their comments regarding this vacation request:

Bloomington Fire Dept., which cites no need for access to this alley, and finds no negative effect should it be vacated.

Bloomington Police Dept., which cites no need for access to this alley, and finds no negative effect should it be vacated.

Bloomington Public Works Dept., which recommended and approved this request at their regular meeting on 12 February 1991.

Bloomington Utilities Dept., which notes that there are no publicly maintained sewer or water lines in this ROW, and that there are no plans to locate any in this ROW.

Indiana Gas Co., Inc., which presently has no gas mains in this area, and finds no negative effect should the alley be vacated.

Krumlauf-Hildenbrand Vacation Request

---

Indiana Bell, which presently has no facilities in this ROW, and has no future plans to utilize this ROW.

PSI Energy, which presently has no facilities in this area, and finds no negative effect should the alley be vacated.

TCI of Indiana, Inc., which presently has no facilities in this ROW, and has no future plans to utilize this ROW.

NECESSITY FOR GROWTH OF THE CITY

Future Status: There is no foreseen potential for future public utilization of this ROW. In a site survey by the Planning Staff it was noted that there are topographic impediments which prohibit utilization; in the areas to the north and south of petitioners' property there are steep changes in ground elevation. In addition, at least one other residential structure completely covers the alley on a lot adjacent to the petitioners' site.

Proposed Private Ownership Utilization: Petitioners currently own the property on both sides of the alley in this block, and their existing single-family residence encroaches on approximately 2 ft. of the alley. If vacated, petitioners intend to make an addition to the home which would further encroach on the alley.

Compliance with Regulations: Vacation presents no current or future compliance problems. No subdivision, zoning, or access-control issues would be impacted by this vacation.

Relation to Plans: Petitioners' plan for residential use of this area conform to the new master plan, which cites this area as a core neighborhood targeted for residential enhancement. The thoroughfare plan proposes no future use for this alley.

---

DISCUSSION: Staff finds that there is neither any current nor planned public utilization of this alley. In addition, the existing encroachment of residential structures into the ROW, coupled with several topographic impediments, would also limit possibilities for development of an accessible public ROW.

Staff feels that petitioners' proposed utilization of the land for residential expansion would be an acceptable use of otherwise unutilized public land.

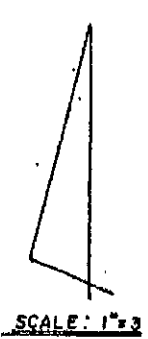
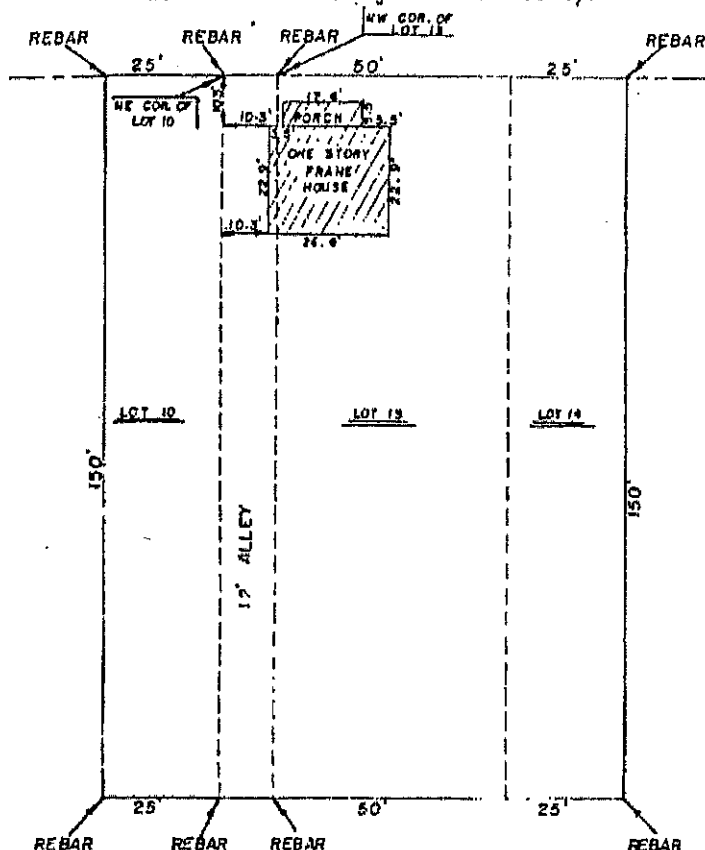
---

RECOMMENDATION: Planning Staff recommends approval.

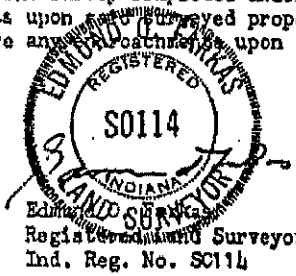
# TRI CO Surveying & Mapping

103 West Temperance  
 P.O. Box 96  
 Ellettsville, Indiana 47429  
 Phone: 812-876-2305

Edmund O. Farkas, Registered Land Surveyor



I, Edmund C. Farkas, hereby certify that I am a Registered Land Surveyor, licensed in compliance with the Laws of the State of Indiana; that this plat and following description correctly represent an improvement survey completed under my supervision on June 24, 1983; that all improvements upon surveyed property do not encroach upon adjacent properties nor are there any encroachments upon said surveyed property by adjacent properties.



The West Half of Lot Number Fourteen (14), all of Lot Number Thirteen (13), and the East Half of Lot Number Ten (10) all in LCNE STAR ADDITION to the town of Bloomington, as shown on the recorded plat thereof in plat book Three (3), Page Seventy-five (75) in the office of the recorder of Monroe County, Indiana.

Flood Hazard Boundary maps are not available in this area; However, we checked the USGS Quadrangle maps and we find by using the map contour lines that this is not in a flood hazard area.

*Mc*

107700

BOOK 208 PAGE 339

ORDINANCE 91-29

TO VACATE A PUBLIC PARCEL  
RE: ALLEYWAY LOCATED AT 1011 W. COTTAGE GROVE  
(Rainer and Dian Krumlauf-Hildenbrand, PETITIONERS)

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

WHEREAS, the petitioners, Rainer and Dian Krumlauf-Hildenbrand, have filed a petition to vacate a parcel of City property more particularly described below;

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

SECTION I. Through the authority of I.C. 36-7-3-12, a portion of City owned property shall be vacated. The property is an alleyway at 1011 W. Cottage Grove more particularly described as follows:

A 12 foot wide and 150 foot long platted alleyway between lot 10 and lot 13 of Lone Star Addition.

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 of the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 15<sup>TH</sup> day of JUNE, 1991.

*John Fernandez*  
JOHN FERNANDEZ, President  
Bloomington Common Council

ATTEST:

*Patricia Williams*  
PATRICIA WILLIAMS, Clerk (DEPUTY)  
City of Bloomington *Jim McNamara*

RECORDED  
A.M. \_\_\_\_\_ P.M. 12:59

JUN 13 1991

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 6<sup>TH</sup> day of JUNE, 1991.

*Patricia Williams*  
PATRICIA WILLIAMS, Clerk (DEPUTY)  
City of Bloomington *Jim McNamara*

SIGNED and APPROVED by me upon this 10<sup>TH</sup> day of JUNE, 1991.

*Tomilea Allison*  
TOMILEA ALLISON, Mayor  
City of Bloomington

SYNOPSIS

The petitioners, Rainer and Dian Krumlauf-Hildenbrand, request vacation of an alleyway located at 1011 W. Cottage Grove.



EXHIBIT 8



Elizabeth Carter <cartere@bloomington.in.gov>

**RE: [External Email] Right-of-Way Vacation Petition for Review: Alleys off of West 10th Street**

1 message

**Burns, Dennis L** <dennis.burns@centerpointenergy.com>  
To: Liz Carter <cartere@bloomington.in.gov>  
Cc: "Burns, Dennis L" <dennis.burns@centerpointenergy.com>

Fri, Feb 11, 2022 at 3:30 PM

Hey Liz,

Good afternoon. CenterPoint has no objection to this vacation. Have a great rest of your day and weekend!

Respectfully,

Dennis

Dennis Burns

Centerpoint Energy

Senior Right of Way Agent | Land and Field Services

600 Industrial Drive | Franklin, IN 46131

317.736.2929 w. | 832.652.7139 c.

*Improvise, Adapt, Overcome - USMC*



**From:** Liz Carter <cartere@bloomington.in.gov>  
**Sent:** Friday, January 28, 2022 3:37 PM  
**Subject:** [External Email] Right-of-Way Vacation Petition for Review: Alleys off of West 10th Street

**EXTERNAL EMAIL**

**| CAUTION:** This message originated from outside CenterPoint Energy. Do not click on links, open attachments, or enter data unless you recognize the sender, were expecting the content and know it to be safe.

Good afternoon,

EXHIBIT 8



Elizabeth Carter <cartere@bloomington.in.gov>

---

## Comments on Right-of-Way Vacation Petitions

---

Bryan Blake <bryan.blake@bloomington.in.gov>  
To: Liz Carter <cartere@bloomington.in.gov>

Fri, Feb 25, 2022 at 11:22 AM

Liz,

CBU does not support vacating the right-of-way as the petitioner has requested. CBU currently has a 6" water main located in the portion of the alley which runs west to east between W. Cottage Grove and W. 10<sup>th</sup> Street. The ROW is critical to protect and maintain the aforementioned water main. CBU does not oppose vacating the ROW located between lots 17 and 18 that runs in a north to south direction. Additionally, it is noted that electric and telephone facilities are located in this area of ROW.

Thank You

[Quoted text hidden]

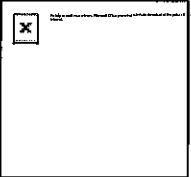
**From:** Bryan Blake <bryan.blake@bloomington.in.gov>  
**Sent:** Monday, July 11, 2022 2:30 PM  
**To:** solomon lowensteinlaw.net  
**Cc:** David Ferguson  
**Subject:** Re: ROW vacation; Lone Star Addition

Mr. Lowenstein,  
Please excuse my delayed response as I was out of the office last week.

If an ingress-egress agreement can be secured that meets all parties' needs, I would not contest the vacation of ROW as described.

On Tue, Jul 5, 2022 at 10:35 AM solomon [lowensteinlaw.net](mailto:solomon@lowensteinlaw.net) <[solomon@lowensteinlaw.net](mailto:solomon@lowensteinlaw.net)> wrote:

Dear Mr. Blake: I am the petitioner for a ROW vacation between certain lots in Lone Star Addition. On Feb. 25, 2022 you advised Liz Carter that CBU had no objections to the ROW vacation between Lots 17 and 18 in Lone Star Addition. I am revising my request to vacate only the ROW between Lots 11 and 12 and Lots 17 and 18 as attached by the survey and legal descriptions (and not the east-west 12 foot utility easement portion). The CBU did not address the ROW vacation between Lots 11 and 12. Does the CBU oppose the EOW vacation between Lots 11 and 12? I am agreeable to providing an ingress-egress agreement over the driveway at Lot 12 (which is not a ROW between Lot 12 and Lot 15) for utility access. Thank you in advance for your response.

	<p><b>Bryan Blake</b> Project Coordinator Utilities Department City of Bloomington Utilities <a href="mailto:bryan.blake@bloomington.in.gov">bryan.blake@bloomington.in.gov</a> 812-349-3628</p>
---	--



Elizabeth Carter <cartere@bloomington.in.gov>

---

## Comments on Right-of-Way Vacation Petitions

---

Templeton, Scott (Indiana) <Scott\_Templeton@comcast.com>

Fri, Feb 25, 2022 at 4:43 PM

To: Liz Carter <cartere@bloomington.in.gov>

Comcast has not issues with this ROW Vacation.

Scott Templeton

Southern Indiana & Kentucky Construction Supervisor

1600 West Fountian Drive

Bloomington Indiana 47404

TX 317-516-2356

[Quoted text hidden]

February 10, 2022

*VICTORIA PARKER*  
*Counsel*

***Duke Energy Corporation***  
*1000 E. Main Street*  
*Plainfield, IN 46168*

*317.838.1839 office*  
*317.838.1842 fax*  
*Victoria.Parker@duke-energy.com*

**Via Email**

Ms. Elizabeth Carter  
Senior Zoning Compliance Planner  
Planning and Transportation Department  
401 N. Morton St.  
Bloomington, IN 47404  
cartere@bloomington.in.gov

***Re: Comments concerning Petition to Vacate certain Public rights-of-way in Lone Star Addition, consisting of alleys at 1001-1010 West 10<sup>th</sup> Street (“Alleys”)***

Dear Ms. Carter:

This letter provides comments from Duke Energy Indiana, LLC (“DEI”) to you and the City of Bloomington Plan Commission concerning the referenced petition for public rights-of-way vacation in Bloomington. DEI received a copy of the petitioner’s application, along with a request to provide any comments, from you via email on January 28, 2022.

DEI owns (and/or uses) and operates the following active facilities in the Alleys:

- The 12’ wide by approximately 147.27’ long north-south alley between Lots 17 and 18: The poles are owned by AT&T and they support DEI secondary conductors (distribution wires), which serve 3 customers
- The 12’ wide by approximately 139.12’ long east-west alley running from the southeast corner of Lot 10 to the southeast corner of Lot 17: DEI owns the poles, which support DEI secondary conductors and serve at least 5 customers

IC 36-7-3-16(b) provides that “...vacation proceedings do not deprive a public utility of the use of all or part of a public way or public place to be vacated, if, at the time the proceedings are instituted, the utility

is occupying and using all or part of that public way or public place for the location and operation of its facilities....” DEI is a public utility currently occupying the public ways petitioned to be vacated with the location and operation of its facilities, as described above. Therefore, consistent with Indiana law, DEI should not be deprived of use of the public ways if they are vacated per this petition.

Additionally, DEI respectfully requests that the Plan Commission make the following findings in conjunction with any approval of this petition and vacation of the public ways:

- i. Reserve an easement in favor of Duke Energy Indiana, LLC, its successors and assigns, over, upon, and under the area petitioned to be vacated to access (ingress, egress, and regress), maintain, install, protect, operate, add to, modify, and replace its utilities
- ii. Provide that Duke Energy Indiana, LLC, its successors and assigns, have the continuing right to trim and remove any vegetation on the area petitioned to be vacated, as needed, for the safe and reliable operation and maintenance of its facilities
- iii. Provide that Duke Energy Indiana, LLC, its successors and assigns, have unhindered access to the area petitioned to be vacated
- iv. Provide that, excluding any existing encroachments in the Alleys, no permanent structure, improvements, gates, etc. shall be constructed or placed on the area petitioned to be vacated and that Duke Energy Indiana, LLC, its successors and assigns, may remove any such structures/improvements at the owner’s expense, as needed, for the safe and reliable operation and maintenance of its facilities

The applicant offered to provide an ingress/egress easement for utility purposes over his property if the petition for vacation is approved. DEI has no objection to this easement grant but requests that it not replace or be in lieu of any of DEI’s continuing access rights to the Alleys and/or other requests concerning the Alleys made in numbers i - iv above.

Thank you for your consideration of our comments. Please contact me with any questions.

Sincerely,



Victoria J. Parker  
Counsel

cc: Kevin Timberman (*via email*)  
Brandon Wilson (*via email*)  
Ariane Johnson (*via email*)

EXHIBIT 9



PIN: 53-05-32-111-004.000-005  
013-08600-00

### ACCESS AGREEMENT

THIS INDENTURE WITNESSETH that Solomon L. Lowenstein, Jr., an adult over the age of eighteen (18) years of Monroe County, Indiana (herein Grantor) grants to all public utilities, quasi-public utilities, and private utilities operating in any public manner and their respective contractors (herein collectively Grantee) the following:

For and in consideration of the vacation of certain legally attached rights-of-way and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Grantor, Grantor, for himself, his heirs, administrators, representatives, successors and assigns, grants to Grantee a Perpetual Exclusive Access (herein Access), on and over the following described real estate in Monroe County, Indiana, to-wit:

A perpetual ingress-egress access along the existing driveway on the east side of the residential improvement and on and over the existing northwest corner of the year yard on Lot 12, Lone Star Addition access to the currently existing east-west ROW along the north property lines of Lots 11, 12, and Lot 15, Lone Star Addition

Common address: 1008 W. 10<sup>th</sup> Street, Bloomington, IN 47404

for the continued maintenance, repair, replacement, and/or removal of utility lines, property, and services (herein utility operations) located in the herein described ROW; all of which shall be equal and necessary to accomplish and perform said utility operations for the benefit of lot owners in Lone Star Addition, Monroe County, Indiana, on the following terms and conditions:

1. Grantor additionally grants to Grantee, its successors and assigns, a Perpetual Exclusive access across and over the within described access from W. 10<sup>th</sup> Street on Lot 12 for the rights, privileges, and authority to enter upon and to maintain the utility property in the herein described ROW for the benefit of Lone Star Addition, Monroe County, Indiana.

2. However, such right shall exclude the right to remove any existing buildings, improvements, and vegetation (only upon written prior approval of Grantor, his successors, assigns, or transferees). Grantor, at all times, shall provide for convenient, adequate, and suitable ingress and egress for Grantee's purposes.
3. Grantor warrants Grantor has good and indefeasible fee simple title to the subject property, subject only to current real estate taxes not delinquent and to mortgages and easements of record; and, has full right, power, and authority to grant this access agreement and rights granted herein.
4. Grantee, in the maintenance of its power and utility lines, will restore Grantor's area disturbed by its work as near the original condition as is practical, and not otherwise in conflict with the purposes set forth in this Grant of Perpetual Exclusive access.
5. Grantor agrees for himself, his grantees, successors and assigns that he will not erect any obstructions on the portion of the property granted by this Access Agreement.
6. Grantor shall continue to have the authority and right to utilize the access area for any purpose which does not materially impact the use for the intended purpose which is limited to ingress and egress.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand this \_\_\_\_\_ day of \_\_\_\_\_, 2022

GRANTOR:

\_\_\_\_\_  
Solomon L. Lowenstein, Jr.

STATE OF INDIANA        )  
  )SS:  
COUNTY OF MONROE    )

Before me, a Notary Public in and for said County and State, personally appeared by Solomon L. Lowenstein, Jr., who acknowledged execution of the foregoing instrument and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notary Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

My Commission Expires:

\_\_\_\_\_, Notary Public

Resident:

*This instrument prepared by Solomon L. Lowenstein, Jr.,  
Attorney at Law, Attorney No. 8922-02,  
614 West Berry Street, Suite A, Fort Wayne, IN 46802. Tel: 260/422-4655*

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

Solomon L. Lowenstein, Jr.

Mail to: Solomon L. Lowenstein, Jr.  
1006 W. 10<sup>th</sup> Street  
Bloomington, IN 47404

MEMO

TO: File No. 54395

FROM: MHE

DATE: August 9, 2022

SUBJECT: Certain Lots in Lone-Star Addition (Bloomington, Monroe County, Indiana)

\*

1. The date of construction of improvements on the below-listed lots is based on property record cards in the Monroe County real property records:

- (1) Lot 18 – 1002 W. 10<sup>th</sup> Street: House 1930
- (2) Lot 15 – 1006 W. 10<sup>th</sup> Street: House 1930, Garage 1930
- (3) Lot 12 – 1008 W. 10<sup>th</sup> Street: House 1900
- (4) Lot 11 – 1010 W. 10<sup>th</sup> Street: House 1920, Garage 1920
- (5) Lot 8 – 1012 W. 10<sup>th</sup> Street: House 1899, Garage 1940

2. On April 3, 1928, the owners of the land which became Lone-Star Addition were William T. Fielder and Nannie M. Fielder, husband and wife, per warranty deed recorded December 17, 1927, in Deed Record 79, page 64 in the office of the Recorder of Monroe County, Indiana. (Copy attached)

3. The plat of Lone-Star Addition was recorded April 6, 1928, in Plat Book 3, page 75 (Plat Cabinet B, Envelope 49) in the office of the Recorder of Monroe County, Indiana. A copy of the recorded plat is attached to this Memo and has been color-coded to show the relevant lots.

4. The plat has some inconsistencies between the written legal description and the plat drawing itself. However, the 1927 vesting deed to the Fielders who signed the plat is substantially consistent with the plat drawing including the monumentation of the plat immediately north (Millen & Rice Addition).

5. Additional copies of deeds in the chain of title can be provided upon request.



# LONE-STAR ADDITION TO BLOOMINGTON IND



APPROVED  
CITY PLANNING COMMISSION  
BLOOMINGTON IND  
DATE JANUARY 7<sup>th</sup> 1928  
CARL B. GARRETT  
CLERK

I, F. COOPER, CITY CLERK OF BLOOMINGTON  
IND HEREBY CERTIFY THAT THE LONE  
STAR PLAT WAS APPROVED BY THE COMMON  
COUNCIL ON THE 2<sup>ND</sup> DAY OF APRIL 1928  
F. COOPER

#107700 - Map 205 A 339  
Jesse H. Alley

RECEIVED FOR RECORD  
APRIL 6<sup>th</sup> 1928 AT 7<sup>30</sup> A.M.  
FELLY J. BROWN, RECORDER  
FEE \$3.00

DULY ENTERED FOR TAXATION  
APRIL 6<sup>th</sup> 1928  
ALVA ELLER, AUDITOR





## **ORDINANCE 22-23**

### **TO VACATE A PUBLIC PARCEL -**

**Re: Two, 12-Foot Wide Rights-of-Way in the Lone Star Addition Within A Triangular-Shaped Block Bordered by West Cottage Grove on the North, West 10th Street on the South, and North Monroe Street on the West (Solomon L. Lowenstein, Jr. and Julia G. Beerman, Petitioners)**

[Link](#) to download video submitted by Petitioners providing a walkthrough of the property in question – this video may also be viewed in the Clerk/Council Office in City Hall, 401 N. Morton Street, Suite #110, Bloomington, Indiana.



---

**From:** Christopher Wheeler <wheelech@bloomington.in.gov>  
**Sent:** Wednesday, August 31, 2022 12:40 PM  
**To:** Stephen Lucas; Scott Robinson  
**Cc:** Phil Peden; Bryan Blake; Elizabeth Carter; Jacqueline Scanlan; Ash Kulak  
**Subject:** alley vacation

Gentlemen,

After discussion with Phil Peden and Bryan Blake, I now submit the following statement as CBU's position regarding the requested alley vacation(s) by Mr. Lowenstein:

CBU objects to any requested alley vacations in the city regardless of whether CBU has infrastructure located in the alley or not. Where CBU has no infrastructure in the alley, CBU objects because CBU may someday have a need to run utility infrastructure (whether water, sewer or storm) through that alley and would like the ability to do so without having to first acquire property rights (eminent domain, or negotiated purchase). Similarly, where CBU has infrastructure in the alley, CBU also objects because of the ongoing need to install, maintain, repair, replace and operate said infrastructure and/or future infrastructure. If, however, CBU was offered an exclusive utility easement of the same dimension as the alley that is being considered for vacation, with language satisfactory to CBU, that permits full access to install, maintain, repair, replace and operate any and all water, sewer and storm infrastructure, then CBU would reconsider its position and may not object to an alley vacation.

Please let me know if you have any questions or concerns.

--

Christopher J. Wheeler  
Assistant City Attorney  
City of Bloomington Legal Dept.  
401 N. Morton St., P.O. Box 100  
Bloomington, IN 47402-0100  
Telephone: 812-349-3549  
Facsimile: 812-349-3441

#### CONFIDENTIALITY NOTICE

This transmission (including any attachments) may contain information which is confidential, attorney work product and/or subject to the attorney-client privilege, and is intended solely for the recipient(s) named above. If you are not a named recipient, any interception, copying, distribution, disclosure or use of this transmission or any information contained in it is strictly prohibited, and may be subject to criminal and civil penalties. If you have received this transmission in error, please immediately call us collect at (812) 349-3426, delete the transmission from all forms of electronic or other storage, and destroy all hard copies. Do NOT forward this transmission. Thank you.