



City of Bloomington Common Council

Legislative Packet

Committee of the Whole Discussion

30 March 2011

*Please consult the [Legislative Packet](#) issued in interest of the
23 March 2011 Regular Session for legislation and background material.*

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Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

None

Legislation for Discussion at the Committee of the Whole on Wednesday, March 30th:

- **Res 11-05** To Maintain the Status of the Prospect Hill Conservation District as a Conservation District
 - Memo to the Council from Inge Van der Cruysse; Report to the Council; Map of District
- **Ord 11-03** To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” (Two Signalized Intersections and Certain Items Deferred from Ord 10-15)
Contact:
Susie Johnson at 349-3411 or johnsons@bloomington.in.gov
Am 01 – Chris Sturbaum at 349-3409 or sturbauc@bloomington.in.gov
- **Ord 11-04** To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” - Re: The Repeal and Reenactment of Section 2.12.020 Entitled “The Bloomington Arts Commission”
 - Memo to the Council from Miah Michaelson, Assistant Director for the Arts, Economic and Sustainable Development Department; Annotated Changes
Contact: Miah Michaelson at 349-3418 or michaelm@bloomington.in.gov

Please see the Council Legislative Packet for [23 March 2011](#) for the legislation, materials, and summary for the latter two ordinances

Memo

Three Items Ready for Discussion at the Committee of the Whole on Wednesday, March 30th:

There are three items ready for discussion at the Committee of the Whole next Wednesday. The first one on the agenda is **Res 11-05**, which maintains the Prospect Hill Conservation District as a conservation district. It is new and can be found in this packet and is summarized herein. The second and third items are **Ord 11-03**, which amends Title 15 (Vehicles and Traffic) and **Ord 11-04**, which amends Title 2 (Administration and Personnel to repeal and reenact the provisions creating the newly renamed Bloomington Arts Commission). Those items can be found online as indicated previously. Please note that there is an amendment to the traffic ordinance which proposes adding a 4-way stop at 4th and Maple (Sturbaum, Sponsor) included and explained in the previous packet.

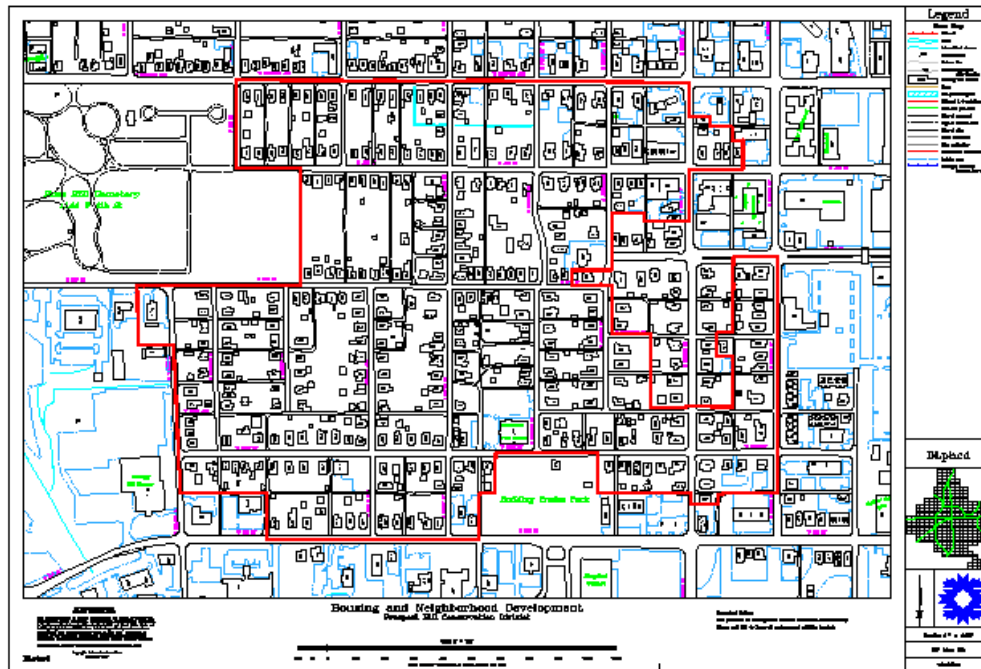
One Additional Item for Discussion at the Committee of the Whole

Res 11-05 – Maintaining the Prospect Hill Conservation District as a Conservation District

Res 11-05 has been brought forward from the Historic Preservation Commission. It maintains the Prospect Hill Conservation District as a Conservation District and does so within three years of the initial designation as required by State and local code and regulation.¹ The following summary draws upon materials provided by Nancy Hiestand, Program Manager, Housing and Neighborhood Development (HAND) department and Inge Van Der Cruysee, Assistant City Attorney, as well as information compiled in the Council Office.

In April of 2008, the Council approved **Ord 08-04** which designated approximately 355 addresses located within the following boundaries as the Prospect Hill Conservation District: West 5th on the north, Madison on the east, West 2nd on the south and the alley west of Walker on the west as the Prospect Hill Conservation District.

¹ IC 36-7-11-19 (Phases; certificate of appropriateness; objections); BMC 8.08.010 (Establishment of historic districts and conservation districts); Historic Preservation Commission Rules and Regulations, Article V (Historic Designation)



Conservation vs. Historic Districts – Interest in More Conservation Districts

A conservation district is, as Councilmember Sturbaum once described it, a historic district “lite.” In order to preserve their historic character, the regulations for both kinds of districts require that certain changes to the external appearance of structures viewable from a public way be approved by the Historic Preservation Commission in the form of granting a certificate of appropriateness. The difference between the two districts lies in the scope of changes that require review: for a full historic district, those changes include almost any that conspicuously alter the external appearance of the structures; for a conservation district those changes are limited to the moving, demolishing, or constructing of any structures.

The Prospect Hill Conservation District is the City’s second such district. The first was McDoel Conservation District in 2001.² These districts have become an effective tool for protecting the character of neighborhoods. Nancy Hiestand tells me that there have been few requests for certificates of appropriateness (about a half dozen for Prospect Hill and about a dozen for McDoel) which rarely, if ever, have been denied and that the real benefits of these districts are in setting the expectations

² Ord 01-04

and norms for construction, demolition and relocation of buildings in those neighborhoods.

Please note the Garden Hill neighborhood will be proposing such a designation in the very near future and that other neighborhoods, including Bryan Park, Maple Heights (on the northwest side of the City), and Matlock Heights have also expressed interest in using this tool.³

Phased Designation - Action Required After Three Years

The City's procedures for the review of conservation districts are a blend of statutory and local ones. State statute provides that cities may offer conservation districts as the initial phase of what may become full historic districts. In that event, the conservation district stays in effect for three years and will continue if a majority of the property owners oppose in writing the imposition of the more rigorous reviews required by the full historic district. That opposition must be submitted between 180 and 60 days before the third anniversary of the adoption of the ordinance which, in this case, will be April 17, 2011.

Under local regulations, after receiving a report from the Commission regarding the opinions of the property owners, the Council decides whether to maintain, elevate, or repeal the conservation district.⁴ The elevation to full historic district⁵ as well as the repeal of the district require the adoption of an ordinance.

In preparation of the Report and in order to determine the will of property owners, staff ballots property owners regarding their wishes for the future of the conservation district. Please note that the City defines a "property owner" as a person (i.e. individual, partnership or corporation) or public agency which holds a fee simple title to the property⁶ and gives each property owner "one vote regardless of how many properties or ... part of one property the party owns."

Balloting and Report

Staff conducted the ballot between October 14th and December 20th of last year which entailed sending ballots to an estimated 432 owners (based upon GIS parcel

³ Both Bryan Park and Maple Heights have conducted the necessary survey of structures.

⁴ Historic Preservation Commission Rules and Regulations, Article V (Historic Designation), Part B.

⁵ BMC 8.08.010(b)(2)

⁶ Consistent with 36 CFR Part 60.3(k)

ownership records).⁷ Once the ballots were received, staff tallied the ballots under the supervision of the Office of City Clerk, with the goal of safe-guarding the voting process by ascertaining the intent of the voter. This was more difficult than might be expected because it required, in some cases, further communication with property owners to confirm: the name of the property owners, address of the property, or number of votes cast on the ballot. After obtaining that information, the final results⁸ of the ballot were:

- to retain the Conservation District – 169
- to rescind the Conservation District – 30;
- to object to elevation to Historic District – 127; or
- to elevate to Historic District – 47.

The report concludes that while “no opinion was supported by a majority of owners, ... the vote does indicate that voters supported the retention of the conservation district over its removal by a margin of 170 to 30 in a tally of all countable ballots or about 5 ½ to 1.” “Based upon this vote,” it goes on to say, “the Prospect Hill Conservation District should be retained, unless other action is taken by the Common Council.” Please note that combining the votes of those who wish to retain the conservation district with those who object to the elevation to a full historic far exceeds a majority of the votes cast.

After reciting some of the relevant history of this conservation district, the resolution resolves that it “will continue and maintain its status as a conservation district.”

Two Birthdays

**Happy Birthday Chris Sturbaum on March 27th
and Mike Satterfield on March 29th**

⁷ The memo notes that this number is an estimate because GIS lists no more than three owners per parcel when, in fact, there may be more owners than that.

⁸ The memo to the Council notes that three ballots comprising eight possible votes were thrown out because the necessary information could not be confirmed. It also noted that the potential votes on another two ballots were not fully counted because the ballots did not indicate how many votes were cast. In any event, the memo concludes that these actions did not change the results.

NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL COMMITTEE OF THE WHOLE
7:30 P.M., WEDNESDAY, MARCH 30, 2011
COUNCIL CHAMBERS
SHOWERS CENTER, 401 N. MORTON ST.

Chair: Steve Volan

1. Resolution 11-05 To Maintain the Status of the Prospect Hill Conservation District as a Conservation District

Asked to attend: Nancy Hiestand, Program Manager,
Housing and Neighborhood Development Department

2. Ordinance 11-03 To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” (Two Signalized Intersections and Certain Items Deferred from Ord 10-15)

Asked to attend: Susie Johnson, Director, Public Works

Note: Councilmember Sturbaum intends to introduce Am 01, which would convert the stop at 4th and Maple from a 2-way to a 4-way stop.

3. Ordinance 11-04 To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” – Re: The Repeal and Reenactment of Section 2.12.020 entitled “The Bloomington Arts Commission”

Asked to attend: Miah Michaelson, Assistant Director for the Arts,
Department of Economic and Sustainable Development



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

To: Council Members
From: Council Office
Re: Calendar for the Week of 27 March-02 April 2011

Sunday, 27 March 2011

Happy Birthday Councilmember Chris Sturbaum!

Monday, 28 March 2011

11:00 am AsianFest Planning Meeting, Dunlap
2:00 pm Suicide Prevention Coalition Resource Committee, Dunlap
4:00 pm Council for Community Accessibility, McCloskey
5:00 pm Utilities Service Board, Board Room, 600 E Miller Dr
6:00 pm Women in Government Reception, Council Chambers

Tuesday, 29 March 2011

10:30 am Safe Routes to School Task Force, McCloskey
5:30 pm Board of Public Works, McCloskey
6:00 pm Central Indiana Commuter Services - Bloomington to Indianapolis VanPool

Happy Birthday Councilmember Mike Satterfield!

Wednesday, 30 March 2011

12:00 noon Council of Neighborhood Associations, McCloskey
5:00 pm Bloomington Arts Commission, McCloskey
7:30 pm Common Council Committee of the Whole, Council Chambers

Thursday, 31 March 2011

10:30 am GIS Coordination Meeting, McCloskey
5:30 pm Joint City of Bloomington-Monroe County Deer Task Force, McCloskey

Happy Birthday, Michelle Hoover, Office of the City Clerk!

Friday, 01 April 2011

No meetings are scheduled for this date.

Saturday, 02 April 2011

8:00 am Bloomington Community Farmers' Market, Showers Common, 401 N. Morton

Posted and Distributed: Friday, 25 March 2011

RESOLUTION 11-05

**TO MAINTAIN THE STATUS OF THE PROSPECT HILL CONSERVATION DISTRICT
AS A CONSERVATION DISTRICT**

- WHEREAS, the Prospect Hill Conservation District was established by Common Council Ordinance 08-04 in April, 2008; and,
- WHEREAS, Indiana Code 36-7-11-19 authorizes and Bloomington Municipal Code 8.08.010(b) provides that a historic district may be established in two phases, unless a majority of the property owners objects in writing; and,
- WHEREAS, the City of Bloomington Historic Preservation Commission has duly followed the requirements of polling the opinions by vote of all owners with a recorded property interest in a property in the Prospect Hill Conservation District, and did so within the time frame required, according to the Indiana Code, the Bloomington Municipal Code, and the Bloomington Historic Preservation Commission's rules and procedures; and,
- WHEREAS, a certified vote has been tallied by the City Clerk's office, which was undertaken on December 28, 2010 and completed on January 6, 2011; and,
- WHEREAS, the vote indicated an overwhelming preference by owners who voted to retain the status of Conservation District for the Prospect Hill neighborhood; and,
- WHEREAS, a report of the vote was made to and accepted by the City of Bloomington Historic Preservation Commission at its regular meeting on January 13, 2011; and,
- WHEREAS, a map of the Prospect Hill Conservation District, which was adopted by the Common Council in April 2008, and the Report from the Commission are incorporated into this Resolution;

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

Section 1. The Prospect Hill Conservation District, established in April 2008, will continue and maintain its status as a Conservation District.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2011.

Bloom
ATTEST:

SUSAN SANDBERG, President
ington Common Council

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2011.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2011.

MARK KRUZAN, Mayor

City

of Bloomington

SYNOPSIS

This resolution continues the status of the Prospect Hill Conservation District as a Conservation District, following a vote of the property owners.

MEMORANDUM

To: Common Council
From: City Legal Department, Inge Van der Cruysse
Re: Conservation District Prospect Hill
Date: February 4, 2011

In April 2008, the Common Council passed a resolution, establishing the Prospect Hill Conservation District. A map of the Prospect Hill Conservation District was adopted at that time, pursuant to Ind. Code 36-7-11-6 and 7 and Bloomington Municipal Code 8.08.10(c) and (d) and is provided in this packet.

Per Ind. Code 36-7-11-19 and the Bloomington Municipal Code 8.08.10(b), the establishment of a Conservation District can happen in two phases: the initial establishment of a conservation district for three years, and after three years, rescission or continuation of the conservation district, or its elevation to full historic district.

A conservation district provides the least restrictive level of historic preservation protection for structures under the Bloomington Municipal Code. In a conservation district, a property owner must obtain a certificate of appropriateness from the Historic Preservation Commission, per Ind. Code 36-7-11-10 and Bloomington Municipal Code 8.08.020, prior to:

1. moving a building;
2. demolishing a building; or,
3. constructing a new principal or accessory building, visible from a public way

In a conservation district, property owners are free to make any other changes or additions to the exterior appearance of their property. This is the primary difference between a conservation district and a full historic district. In a historic district a property owner must obtain a certificate of appropriateness from the HPC prior to making a conspicuous change in the exterior appearance of a structure in form of reconstruction, alteration, maintenance involving exterior color change, pursuant to Ind. Code 36-7-11-10 and Bloomington Municipal Code 8.08.020.

The Bloomington Municipal Code, Title 8, provides for the Common Council to review a conservation district three years after its initial establishment. At that time, the Common Council could consider three options: (1) rejection of any historic preservation protection, (2) maintaining the conservation district historic preservation protection, or (3) elevating the neighborhood to full historic district.

Per the Bloomington Historic Preservation Rules and Procedures, Article V on Historic Designation, Paragraph B, the Historic Preservation Commission polled property owners on two questions:

1. Should the conservation district status be retained or rescinded?
2. Should the conservation district be elevated to full historic district?

The method of polling the property owners in the Prospect Hill Conservation District, and the results of that vote are outlined in the report that Nancy Hiestand submitted to the Common Council. The rules of the Code of Federal Register for the National Register of Historic Places were adopted for the polling of the McDoel Conservation District by the Common Council, and applied here: 36 CFR Part 60.3(k) defines that an owner is a person (individual, partnership, corporation) or a public agency which holds fee simple title to property. The list of owners was obtained through county tax records, pursuant to 36 CFR Part 60.6(c). And each owner of a private property in a district was given one vote, regardless how many properties or what part of one property that party owns. The final outcome of that vote is to maintain the Conservation District status permanently.

**Report to the City of Bloomington Historic Preservation Commission and Common
Council
Prospect Hill Conservation District Vote**

Background

Prospect Hill was the subject of a neighborhood plan in the Fall of 2005. One of the adopted goals of the plan was the implementation of a Conservation District. The Prospect Hill Conservation District was established by Common Council Ordinance 08-04 on April 17, 2008.

Although Prospect Hill also has an existing local historic district of 27 buildings, the Conservation District placed another 355 buildings under regulation in order to minimize radical change in the neighborhood. This kind of historic district regulates only new construction of a building, moving a building or total demolition of a building within the boundaries of the district. According to state statute and the Commission's rules and procedures, unless a majority of owners within the district vote to rescind, then the district is automatically elevated to a historic district with full review. It also provides that the district may continue. The Commission has conducted a referendum (ballot attached) according to its rules and procedures. The rules state that a referendum should be conducted before the third anniversary of the district.

“After three years, the status of a Conservation District will be reviewed by Common Council which will make a decision to maintain the conservation district, upgrade to historic district, or repeal. Property owners will be notified 185 days before the 3rd anniversary of designation. Owners may submit their opinions on the matter in writing to the Historic Preservation Commission which will make a report to Council. If 51% of the owners object in writing the Conservation District will be rescinded.”

Ballots were mailed on October 14th, 2010. Voting closed December 20th of 2010.

REPORT TO THE COMMISSION

Filed on January 6, 2011

GENERAL PROCEDURE

The Prospect Hill Conservation District Ballots were counted on December 28, 2010 and January 06, 2011 in the Clerk's office.

In attendance were:

Regina Moore, City Clerk, staff to the Common Council

Sue Wanzer, City Clerk staff

Nancy Hiestand, Program Manager, Department of Housing and Neighborhood Development, staff to the Historic Preservation Commission

Inge Van der Cruysse: staff attorney assigned to the Historic Preservation Commission

Ballots were sent out covering **432 Owners** in the Prospect Hill Conservation District. No ballots were opened (except a handful accidentally during the internal mail sorting process) until Moore, Wanzer, Hiestand and Van der Cruysse met on December 28, 2010. At that meeting the ballots were opened and counted. A final tally was not possible, because some ballots presented questions as to the intentions of the owner(s). The group established strict guidelines to safeguard the integrity of the voting process, and to try to assure that a person's vote was not discarded due to a technicality. A ballot that contained all required information in the proper format was considered 'unambiguous.' This category covered ballots with names of all persons voting, address of the property covered, and a numerical notation of the number of votes for each option. Several 'ambiguous' ballots were returned. Those include:

- ballots that had two eligible voters but voted with a single check mark or "X."
- ballots that omitted the property address.
- ballots that had different names on them than the names listed in the county's GIS system (including corporations, LLC's etc. that required the signature of a corporate representative)

All the unambiguous votes were tallied on a list by Nancy Hiestand and Inge Van der Cruysse, as Regina Moore and Sue Wanzer checked each ballot.

There were 21 ambiguous ballots that were set aside, and it was decided on December 28, 2010 to delay the final tally until the owners could be contacted. The final tally was deferred to January 6 as individuals were phoned.

- for approximately 8 ambiguous ballots, there appeared to be a discrepancy with ownership between the listing in the County's GIS system and the ballot submitted. Nancy Hiestand checked the County GIS system and printed out the property information and attached that to the ballot. Inge Van der Cruysse also verified the property information in the GIS system with the Assessor's office.
 1. It was determined that a trust was only allowed a single vote.
 2. Because of marriage, 2 women owners had name discrepancies and were asked to verify their identities
 3. There was a contract sale that did not show up as an ownership change in the GIS data. It was traced to the Recorder's office and the vote was allowed.
 4. one ballot was signed by a couple who was listed under the GIS system as being "in care of" the property. The Clerk's office verified ownership with the people who signed the ballot.
 5. An LLC was allowed a single vote after signatures were verified.
- 13 ambiguous ballots were of properties where more than one person was listed as owner, but instead of a numerical, only one checkmark or X was recorded on the ballot: the Clerk's office called all those owners to verify their intent of their vote by. The Clerk's Office made a note on each ballot it called the owners about to state what the response of the owner was.

As of January 6, 2011 three ballots were disallowed because no response had been received.

VOTE

Tally of unambiguous ballots as of 1/06/11

Total Number of unambiguous ballots: **432**
Number to retain the Conservation District: **169**
Number to rescind the Conservation District: **30**
Number to object to elevation to Historic District: **127**
Number in favor of elevation to Historic District: **47**

Each Person (individual, a corporation, trust, partnership) listed as having a property interest got one vote. If a Person (individual, corporation, trust, partnership) owned more than one property in the district, that Person still got one vote.

Tally of Ambiguous Ballots

Total Number of ambiguous ballots thrown out: 3; and 2 other ballots were counted as a single vote because verification was not received for any other voter on the ballot. The 3 ballots thrown out were for 2 ballots for which no return calls to the clerk's office came on time, and 1 whose phone was disconnected. The votes of those 3 ballots were as follows: 4 votes in favor of keeping the Conservation District, 3 votes against elevation to Historic District, 1 vote in favor of elevation to Historic District. There was no change in the results when ambiguous ballots were taken into account. Other ambiguous ballots were clarified to the satisfaction of staff and are counted in the final tally.

Summary of the Results of the Vote

The rules and procedures of the Bloomington Historic Preservation Commission provide that a report concerning this Conservation District vote be filed with the Common Council no later than 45 days before the 3rd anniversary of the existence of the Conservation District. The following is a summary of the balloting.

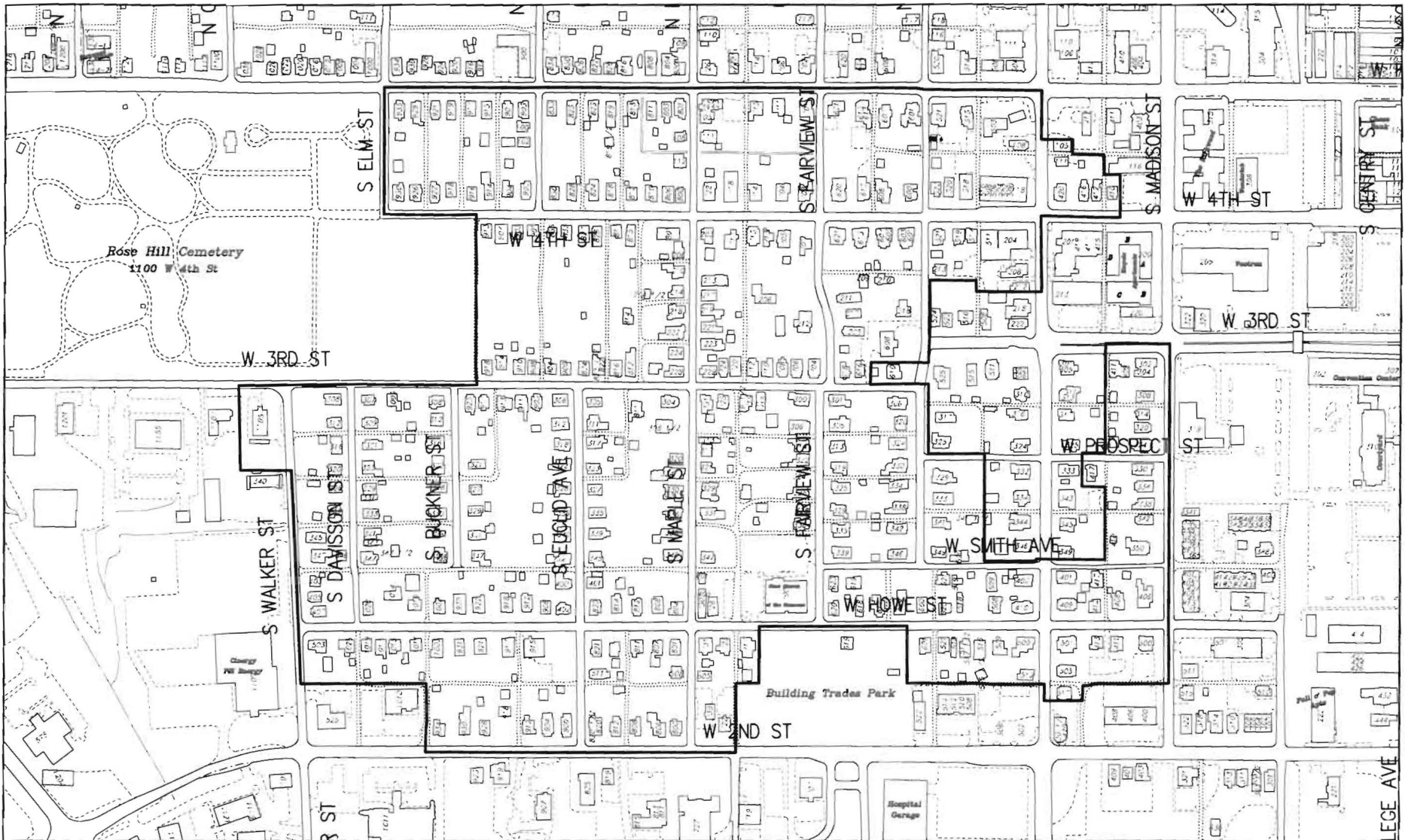
Ballots were sent out to parcels representing over 432 individual property owners. This figure is estimated because the GIS property ownership record only lists up to three property owners per parcel in some instances, when in fact this figure could be higher. Using this figure, it is clear that no opinion was supported by a majority of all owners. However, the vote does indicate that voters supported retention of the conservation district over its removal by a margin of 170 to 30 in the tally of all countable ballots or about 5 ½ to one.

Of eligible voters 39% voted to retain the conservation district while 7% voted against retention.

About 29% of all eligible voters were against elevation to a full historic district and 11% expressed the desire to upgrade the neighborhood to a full historic district.

The greatest number of voters voted to retain the district.

Based upon this vote, the Prospect Hill Conservation District should be retained, unless other action is taken by the Common Council. A resolution will be proposed to that end.



Housing and Neighborhood Development
Prospect Hill Conservation District

By: winklec
28 Mar 08
File: LLphcdaddr



For reference only; map information NOT warranted.



City of Bloomington



Scale: 1" = 400'