



City of Bloomington Common Council

Legislative Packet

Regular Session

14 July 2010

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

812.349.3409

council@bloomington.in.gov
<http://www.bloomington.in.gov/council>



Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

- **Schedule for Consideration of the 2011 City Budget**

Legislation for Final Action:

None

Legislation and Background Material for First Reading:

- **Ord 10-08** To Amend the Bloomington Zoning Maps from Quarry (QY) to Residential Medium-Density (RM) - Re: 3020 and 3040 S. Rockport Road (Rockport Road Trust LLC, Petitioner)
 - Certification (Negative: 9 – 0); Aerial Photo; Maps of Surrounding Areas and Uses; Memo to Council; Staff Report (June 14, 2010); Memo from Environmental Commission; Draft Plan Commission Minutes (June 14, 2010); Staff Report (March 8, 2010); Plan Commission Minutes (March 8, 2010); Supplemental Petitioner Statement; Proposed Recordable Commitment (Revised); Initial Petitioner Statement; Proposed Recordable Commitment (Initial); Property Time-Line; Site Plan – Identifying Structures; Site Plan – with Contours; Site Plan – Proposing Conservation Areas; Letter from Neighbor

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

Minutes from Regular Session:

- June 16, 2010

Memo

No Items Ready for Final Action and One Item Ready for Introduction at the Regular Session on Wednesday, July 14th

There are no items ready for final action and one ordinance ready for introduction at the Regular Session next Wednesday. The ordinance and associated documents are included in this packet and is summarized herein.

Schedule for Consideration of the 2011 City Budget

Please see the enclosed Schedule for the 2011 City Budget which includes the Departmental Budget Hearings which run four evenings in July and the introduction, discussion and final action for the underlying legislation in September. Please remember that the hearings run July 19-22 and begin at 6:00 p.m. Please check to see whether you are presiding on one of those evenings.

First Readings

Item One - Ord 10-08 – Rezoning 8 Acres of Land at 3020 and 3040 South Rockport Road from Quarry (QY) to Residential Multi-family (RM)

Ord 10-08 is one of the rare occasions where a zoning ordinance brings forward a petition with a negative recommendation from the Plan Commission. According to the Reports to the Plan Commission, the petition to rezone eight acres of land from Quarry (QY) to Residential Multi-family (RM) “is an attempt by the petitioner (Rockport Road Trust) to resolve the zoning violations and allow them future development options on the buildable portions of the property.” This summary is based upon a *Memo to the Council (Memo)* prepared by Jim Roach, Senior Zoning Planner, and background material provided by the Planning Department.

Site, Surroundings and Physical Conditions. This eight-acre site lies along Rockport Road a few hundred feet south of the intersection with Tapp Road. It is surrounded by:

- Kingdom Hall of Jehovah’s Witnesses to the north;
- Large-lot residential and the Country Club to the east;
- Commercial office buildings to the south; and
- Tee to Green golf driving range to the west.

It “is partially wooded and contains many sinkholes.” Like many properties to the south and west, it was zoned Quarry in 1973. But, while the other parcels have since been rezoned, this parcel remains with that designation, despite never having been quarried and now unsuitable for that purpose.

It consists of a two-acre parcel near the road on the north with a single-family home at 3020 South Rockport Road. This structure is known as the “Borland House,” which dates from the 1860s and is listed as Outstanding on the 1989 Monroe County Interim Survey of Historic Sites and Structures. There is also a six-acre parcel that stretches from the northwest to the southeast portion of the site. It contains a barn and a three-unit apartment building built in the 1990s that is located at 3040 South Rockport Road.

Illegal Uses – History and Possible Consequences. The two structures on the six-acre parcel contain illegal uses, which, in part, motivated this petition. These include the barn with an upper-story apartment and the three-unit apartment building (two one-bedroom and one two-bedroom units) – all of which are not allowed in a Quarry zone and do not have permit. Please also note that the Borland House and barn get water from a well and dispose of water through a sewage holding tank (the historic house also has a partial finger septic system as well), while the newer single-family structure gets water from the City of Bloomington and disposes of it through a septic system. Here is a brief history of the illegal uses:

- 1987 - the property was bought by the current owner;
- 1992 - the barn was restored with an apartment installed for daughter who lived there until 1997. No building permit or septic permit were located;
- 1996 - the petitioner obtained a Use Variance from the BZA to build a single family house on the six acre parcel (without disclosing the apartment in the barn);
- 1997 - the City approved a building permit for a single-family home with unfinished basement. Around that time, the building permit authority transferred from the City to the County, but petitioner never obtained the necessary inspections from the County;
- 1999 - husband and wife divorced and husband moved into the proposed single-family structure where he began constructing an apartment on the main floor and roughed-in an apartment in the basement;
- 2004 - recently remarried wife obtained city water and installed a septic field under a permit for the “4-bedroom” structure;
- 2005 - divorced husband moved in with daughter in Michigan and died soon thereafter;

- 2006 to 2008 – proposed single family home was converted into three apartments one after another and then rented; and
- 2009 – City Planning became aware of the four illegal apartments after petitioner requested an address for the barn unit and gave the petitioner three options:
 - Remove the barn apartment and convert the multi-family structure into a single family home;
 - Petition for a Use Variance to allow multi-family units in a QY district; or
 - Petition to change the zoning from QY to a multi-family district (RM or RH) – *which is the avenue chosen by the petitioner.*

Petitioner Goals As mentioned previously, the petitioner wants to resolve the zoning violations and allow development options on the buildable portions of the property sometime in the future. In pursuit of this goal, the petitioner has also offered to be bound by recordable and enforceable zoning commitments that would:

- Be noted on the site plan and deed;
- Include areas dedicated for preservation of trees, conservation of other environmental features (e.g. sinkholes), and development (including the envelope for future construction);
- Commit to obtaining septic repair permits that convert the historic house and barn from storage tanks to a “Presby” onsite treatment system;
- Require all existing units to be connected to sanitary sewer at the time of the development of any new units, which also must be connected to a sanitary sewer line;
- Further limit densities from an original offer of a net density calculation yielding 15 units on the buildable portions of the site to a maximum of 13 units which includes the existing five and an additional eight units;
- Dedicate easement for the extension of the water main (in a manner that reasonably preserves the maximum number of trees) and upon the extension convert the historic house and barn from well to City water;
- Dedicate the right-of-way for a road through the southern portion of the site that would connect Rockport Road to the driving range at the western edge of the property via a street-stub; and
- Require the future multi-family units to have the appearance of a large single-family home.

Growth Policies Plan. In determining conformance with the Growth Policies Plan, the *Memo* discusses this proposal in terms of the site’s location within an Urban Residential Area (which is one of the 11 areas set forth in the Geography of the Policies) and four Policy Essences (Compact Urban Form, Nurture Environmental Integrity, Mitigate Traffic, and Conserve Community Character).

Urban Residential Area. Urban Residential Areas are neighborhoods located outside of the Urban and Core Residential areas where “some minor development is still taking place” with densities that should be in the range of two to fifteen units per acre. While not necessarily accurate in respect to this site, these areas are depicted as having “good access to roads, public water and sewer and other public services.” The goals for development here include providing predominantly residential uses with marginally higher densities while protecting existing residential fabric and maintaining adequate levels and when possible improving the capacity of urban services. It also calls for preserving sensitive environmental features and accounting for the capacity of existing infrastructure.

Compact Urban Form. This policy “essence” proposes increasing housing densities within the planning jurisdiction, cautions against “outward expansion,” yet recognizes opportunities for growth toward the west and southwest, as long as it will preserve greenspace and not compromise the conservation of sensitive areas.

Nurture Environmental Integrity. This policy “essence” calls for protecting open space and designing site plans that identify and preserve environmentally sensitive areas, particularly by “clustering” them within one or more conservation areas.

Mitigate Traffic and Conserve Community Character. Mitigate traffic, in part, recommends placing multi-family and commercial projects within walking distance to transit routes. Conserve Community Character frequently speaks of protecting “culturally and historically significant structures in the community.”

Site Issues for this Rezone

Building Codes. The lack of permits for the apartment in the barn and the three apartments in the recently-built structure will require:

- Inspections and issuance of retroactive permits for both structures; and
- A State Design Release for the three-unit structure, which will necessitate compliance with the current International Building Code and possible retrofitting for two-hour fire separation and a fire sprinkler system.

Sewage and Water. As noted above, the barn uses a storage tank, the historic house uses a storage tank and partial finger system, and the newer three-apartment structure uses a septic field for sewage. Petitioner is working with the County Health Department and will commit to put the historic house and barn on modern septic systems.

The developer to the south is working with the Utilities Department to install a water main from Wickens Drive (on the south) along Rockport Road to an existing water main north of the historic house. Petitioner will commit to dedicate additional easement area for this extension, with the understanding that it may continue to negotiate the placement in order to preserve trees along the road front. Upon completion of the extension, the petitioner will further agree to convert the historic house and barn from well to City water.

Road Right-of-Ways and Sidewalk. The petitioner will agree to dedicate the 32.5 feet from the center line of Rockport Road as required by the Master Thoroughfare Plan. The petitioner will also commit to dedicate another right-of-way for a road through the southern part of the site which would connect Rockport Road with the driving range to the west. In addition, the petitioner would be required to install the five-foot sidewalk along Rockport Road (probably over the water main).

Conservation of Environmentally Sensitive Areas – Karst, Trees, Steep Slopes. The petitioner has mapped and will commit to preserve sinkholes in 1.78 acres of karst conservation easement. The petitioner will also commit to another 2.3 acres of tree conservation easements. This total of 4.08 acres exceeds the minimum of 2.86 acres otherwise required by the UDO. Please note that some steep slopes were identified late in the planning process, which would also need to be mapped and conserved in the event of future development.

Environmental Commission. The Environmental Commission submitted a memo for the June 14th Plan Commission meeting recommending denial of this petition because it is an “example of sprawl” and “legitimize(s) four illegally constructed apartments ... in an area that is not appropriate for the requested use.”

Densities. While the UDO would permit a maximum of 56 units under the proposed RM zoning (which might not be possible given the environmental constraints of the site), the petitioner would agree to limit that number to no more than 13 (five existing and eight new units).

Historic Preservation. The historic Borland House is outside of the City and, therefore, not subject to the City’s historic preservation provisions. While the petitioner started discussions with the Indiana Landmarks Foundation, it is not willing to commit to preservation at this time.

Timing. The *Memo* indicates that “timing was the essential issue with this petition,” particularly “whether (the) request was premature given the lack of utility service and no timeframe for the provision of utility service.” The petitioner offered the following rebuttal: 1) timing didn’t matter for the existing units because they already had or will have septic fields (once approved by the Health Department); and 2) timing for the future units was secured with the zoning commitment that tied development to the future availability of sewer service.

In response, the *Memo* indicates that the illegal use leaves the City with an unsatisfactory status quo: multi-family units will be served by a septic field “which is not appropriate ... especially in a heavy karst area.” And, despite commitments to defer development until sewer is available, the petitioner does not hasten the day when the situation will be rectified by offering to provide sewer in the near future. The *Memo* also notes that while committing to dedicate a future roadway through the site, the petitioner does not offer to build it.

Conclusion. In conclusion, the Plan Commission found that the lack of sanitary sewer for multi-family was not outweighed by concessions offered by the petitioner that would go beyond requirements of the UDO. These included densities that would be lower and conservation areas that would higher than otherwise provided in an RM zone. Thus, after hearings on March 8th and June 14th, the Plan Commission voted 10 – 0 to forward this petition to the Council with a negative recommendation. *Please note that given this negative recommendation, the ordinance will be deemed denied should the Council fail to act within 90-days of its certification to the Council (approximately September 27th).*

Happy Birthday Nichole Bolden – July 13th!

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, JULY 14, 2010
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: June 16, 2010 (Regular Session)

IV. REPORTS FROM:

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

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

None

VII. LEGISLATION FOR FIRST READING

1. Ordinance 10-08 To Amend the Bloomington Zoning Maps from Quarry (QY) to Residential Medium-Density (RM) – Re: 3020 and 3040 S. Rockport Road (Rockport Road Trust LLC, Petitioner)

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

IX. ADJOURNMENT

Please note:

City Departmental Budget Hearings will be held in the Council Chambers from Monday, July 19th to Thursday, July 22nd starting at 6:00pm.

The next Committee of the Whole will be held on Wednesday, July 29th at 7:30pm.



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

To: Council Members
From: Council Office
Re: Calendar for the Week of July 12-17, 2010

Monday, July 12, 2010

4:30 pm Pastors for Peace Caravan -- Reception, Atrium
5:00 pm Redevelopment Commission, McCloskey
5:30 pm Plan Commission, Council Chambers

Tuesday, July 13, 2010

4:00 pm Bloomington Community Farmers' Market, Madison St; between 6th & 7th St
5:30 pm Bloomington Public Transportation Corporation, Public Transportation Center, 130 W Grimes Lane
6:00 pm City of Bloomington Commission on Sustainability, McCloskey
6:00 pm Emergency Shelter Taskforce, Council Chambers
6:30 pm Sister Cities International, Dunlap

Happy Birthday, Nicole Bolden, Office of the City Clerk!

Wednesday, July 14, 2010

2:00 pm Hearing Officer, Kelly
4:00 pm Board of Housing Quality Appeals, McCloskey
4:15 pm Commission on the Status of Black Males, Hooker Room
6:30 pm Garden Hill Conservation District Public Meeting, Hooker Room
7:30 pm Common Council Regular Session, Council Chambers

Thursday, July 15, 2010

8:00 am Bloomington Housing Authority, Housing Authority, 1007 N Summit, Community Room
3:00 pm Centerstone Art Exhibit -- Reception, Atrium

Friday, July 16, 2010

12:00 noon Domestic Violence Taskforce, McCloskey

Saturday, July 17, 2010

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

Posted and Distributed: Friday, July 7, 2010

**SCHEDULE
FOR BUDGET-RELATED HEARINGS AND
OTHER MEETINGS OF THE COMMON COUNCIL
TO BE HELD IN JULY, AUGUST & EARLY SEPTEMBER OF 2010
Departmental Budget Hearings (6:00 pm), Regular and Special Sessions (7:30 pm)
in the City Council Chambers (Room 115)
Showers Center - 401 North Morton Street**

July

Wednesday, July 7, 2010 Presiding: Piedmont-Smith 7:30 pm
Special Session

Wednesday, July 14, 2010 Presiding Piedmont-Smith 7:30 pm
Common Council Regular Session

Monday, July 19, 2010 Chair: Sandberg 6:00 pm
Departmental Hearings

Overview
Compensation and Health Insurance
Employee Services
Legal (*Includes Risk Management, Human Rights, and Board of Public Safety as Programs*)
Information and Technology Services
Telecommunications
City Council
City Clerk
Controller (*Includes Bonds and Leases*)
Office of the Mayor

Tuesday, July 20, 2010 Chair: Satterfield 6:00 pm
Departmental Hearings

Police Department
Police Pension
Fire Department
Fire Pension
Public Transit
Utilities

Wednesday, July 21, 2010 Chair: Sturbaum 6:00 pm
Departmental Hearings (*Note: The Committee of the Whole usually scheduled for the fourth Wednesday of the month was moved to the fifth Wednesday and has since been replaced with a Special Session*)

Planning
Housing and Neighborhood Development
Community and Family Resources
Parks and Recreation
Economic and Sustainable Development

Thursday, July 22, 2010 Chair: Volan 6:00 pm

Departmental Hearings

Public Works

- Public Works General
- Sanitation
- Facilities
- Fleet Maintenance
- Traffic Control
- Street
- Parking Enforcement
- Engineering
- Animal Control

Wednesday, July 28, 2010 Chair: Wisler 7:30 pm

Common Council Committee of the Whole

August

Wednesday, August 4, 2010 Presiding: Piedmont-Smith 7:30 pm

Common Council Regular Session

(Council August Recess Begins After August 4th Meeting and Ends September 1, 2010)

September

Wednesday, September 1, 2010 Presiding: Piedmont-Smith 7:30 p.m.

Common Council Regular Session

Introduction of Budget-Related Ordinances
(Immediately Followed By)

Chair: Mayer

Common Council Committee of the Whole

Discussion of Budget Related Ordinances

Wednesday, September 8, 2010 Presiding: Piedmont-Smith 7:30 p.m.

Common Council Special Session

Final Action on Budget-Related Ordinances
(Immediately Followed By)

Chair: Rollo

Common Council Committee of the Whole

(Council intends to meet on the remaining Wednesdays in September according to its posted annual schedule.)

These meetings are open for the public to attend, observe and record what transpires.

ORDINANCE 10-08

**TO AMEND THE BLOOMINGTON ZONING MAPS
FROM QUARRY (QY) TO RESIDENTIAL MEDIUM-DENSITY (RM) -
Re: 3020 and 3040 S. Rockport Road
(Rockport Road Trust LLC, Petitioner)**

WHEREAS, Ordinance 06-24, which repealed and replaced Title 20 of the Bloomington Municipal Code entitled, "Zoning", including the incorporated zoning maps, and incorporated Title 19 of the Bloomington Municipal Code, entitled "Subdivisions", went into effect on February 12, 2007; and

WHEREAS, the Plan Commission has considered this case, ZO-01-01; recommended that the petitioner, Rockport Road Trust, be *denied* this request to rezone the property from Quarry (QY) to Residential Medium-Density (RM); and, thereby requests that the Common Council consider this petition;

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

SECTION 1. Through the authority of IC 36-7-4 and pursuant to Chapter 20.09.160 of the Bloomington Municipal Code, the property located at 3020 and 3040 S. Rockport Road shall be rezoned from Quarry (QY) to Residential Medium-Density (RM). The property is further described as follows:

A part of the Northwest quarter of Section 17, Township 8 North, Range 1 West, bounded as follows, to-wit: Commencing at a point in the centerline of Rockport Road 389 feet Southwest of the intersection of Tapp Road and Rockport Road; thence west 436 feet to an iron stake; thence South 260 feet to an iron stake; thence East 261 feet to the centerline of Rockport Road; thence Northeast 321 feet to the place of beginning. Containing 2 acres, more or less.

Also, a part of the Northwest quarter of Section 17, Township 8 North, Range 1 West, Monroe County, Indiana, described as follows: Beginning at a point that is 1308.39 feet East and 264.22 feet South of the Northwest corner of the said quarter section, said point being in the centerline of Rockport Road; thence over and along the said road centerline South 35 degrees 48 minutes 47 seconds West for 61.66 feet; thence leaving the said road centerline and running West for 436.00 feet; thence South for 260.00 feet; thence East for 251.93 feet and to the aforementioned centerline of Rockport Road; thence over and along the said road centerline South 35 degrees 17 minutes 49 seconds West for 355.32 feet; thence leaving the said road centerline and running West 374.17 feet; thence North for 600.00 feet; thence East for 799.63 feet and to the point of beginning. Containing 6.00 acres, more or less.

SECTION 2. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstance 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 3. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2010.

ISABEL PIEDMONT-SMITH, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2010.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2010.

MARK KRUZAN, Mayor
City of Bloomington

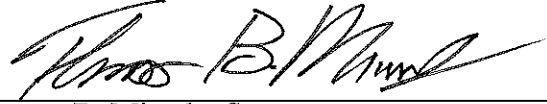
SYNOPSIS

This ordinance brings forward a rezoning petition that received a negative recommendation from the Plan Commission. If adopted, the ordinance would approve the rezoning of 8.03 acres of land at 3020 and 3040 S. Rockport Road from Quarry (QY) to Residential Medium-Density (RM). In addition, the petition includes a proposed recordable zoning commitment that addresses the timing of future development, environmental protection and site improvements.

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 10-08 is a true and complete copy of Plan Commission Case Number ZO-01-10 which was given a recommendation of denial by a vote of 10 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on June 14, 2010.

Date: June 21, 2010



Thomas B. Micuda, Secretary
Plan Commission

Received by the Common Council Office this 21st day of June, 2010.


Regina Moore, City Clerk

Appropriation Ordinance # _____	Fiscal Impact Statement Ordinance # _____	Resolution # _____
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Type of Legislation:

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

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

Cause of Request:

Planned Expenditure _____	Emergency _____
Unforeseen Need _____	Other _____

Funds Affected by Request:

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

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No _____

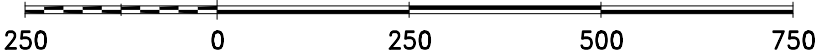
If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

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

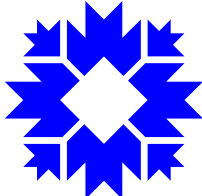


ZO-01-10
2006 Aerial Photo

By: roachja
 4 Jan 10

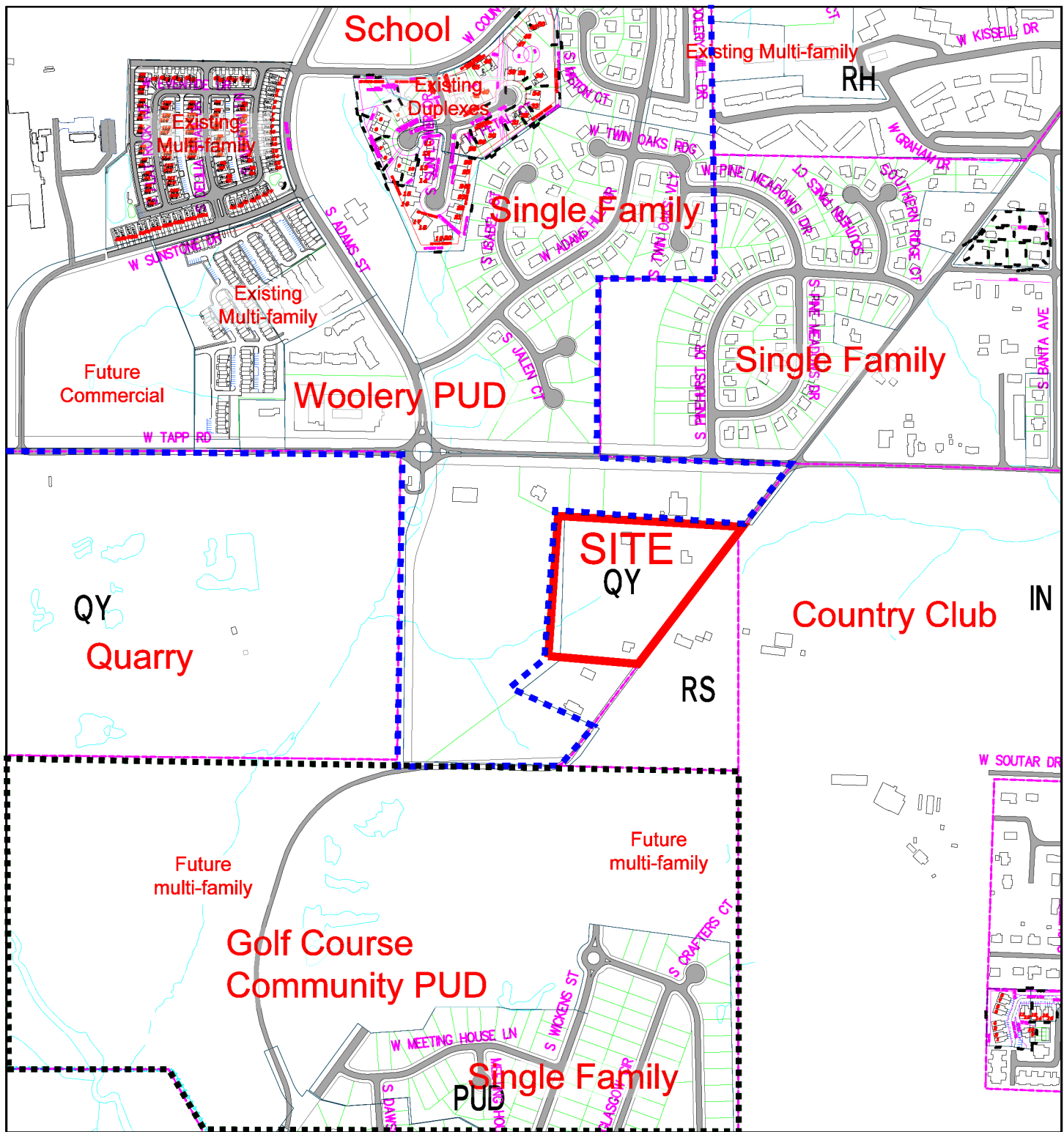


City of Bloomington
 Planning



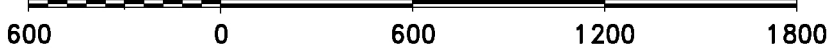
Scale: 1" = 250'

For reference only; map information NOT warranted.

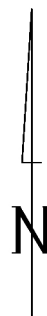


ZO-01-10
Location Map

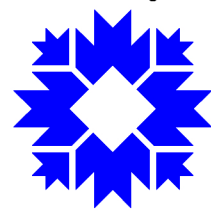
By: roachja
4 Jan 10



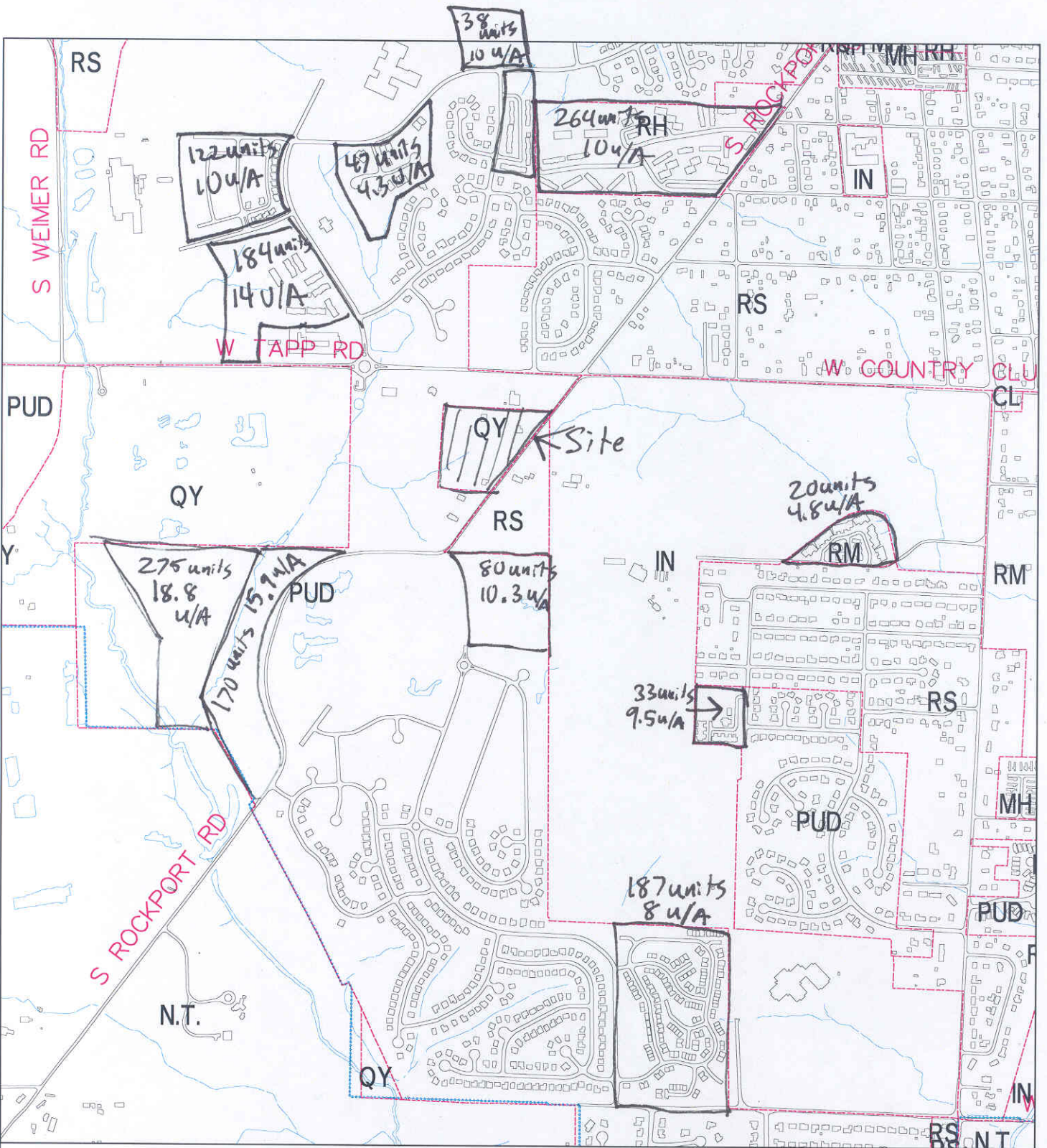
For reference only; map information NOT warranted.



City of Bloomington
Planning



Scale: 1" = 600'



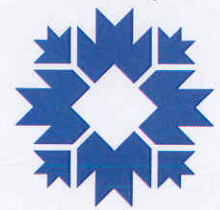
ZO-01-10
Nearby Multi-family

By: roachja

7 Jun 10 1000 0 1000 2000 3000



City of Bloomington
Planning



Scale: 1" = 1000'

For reference only; map information NOT warranted.

Interdepartmental Memo

To: Members of the Common Council
From: James Roach, AICP, Senior Zoning Planner
Subject: Case # ZO-01-10
Date: June 17, 2010

Attached are the staff report, petitioner's statements, maps, and exhibits which pertain to Plan Commission Case # ZO-01-10. The Plan Commission heard this petition at its June 14, 2010 meeting and voted 10-0 to send this petition to the Common Council with a negative recommendation. The Commission's 10-0 action was based on City staff's recommendation that the rezoning request ultimately be denied because of the petitioner's inability to provide proper infrastructure services, particularly sewage disposal, for the existing and proposed dwelling units on the property.

REQUEST: The petitioner is requesting that the property be rezoned from Quarry (QY) to Residential Multifamily (RM).

BACKGROUND:

Area: 8.03 acres
Current Zoning: QY
GPP Designation: Urban Residential
Existing Land Use: Single family house, 3-unit building, apartment above barn
Surrounding Uses: **South** – Office
Northeast – Bloomington Country Club
Southeast – Single family
North – Place of worship
West – Golf driving range

REPORT: The property in question includes two parcels along the west side of S. Rockport Road, one property south of the intersection of Country Club Drive/Tapp Road and S. Rockport Road. The property is surrounded to the north by the Kingdom Hall of Jehovah's Witnesses, to the east by large single family lots and the Bloomington Country Club, to the west by the "Tee To Green" golf driving range and to the south by commercial office buildings. The two properties include a 2.05 acre parcel that has been developed with a single family house and a 6 acre parcel with a 3-unit multi-family building and an accessory barn for the historic house. The property is partially wooded and contains many sinkholes. The property has been zoned Quarry since 1973, as were many of the properties to the south and west prior to development or PUD creation (such as the Woolery and Golf Course Community PUDs).

The properties contain three buildings:

1. 3020 S. Rockport Road: Historic "Borland House", circa 1860. Listed as Outstanding on the 1989 Monroe County Interim Survey of Historic Sites and Structures. Utilizes a sewage holding tank with partial fingers and a well.
2. Barn: Contains an illegal second floor apartment installed in 1992. Utilizes a sewage holding tank and well.
3. 3040 S. Rockport: Approved by the BZA in 1996 as a single family house but constructed as a three unit apartment building, with two 1-bedroom apartments and one 2-bedroom unit. Utilizes municipal water and a septic system, both installed in 2004.

Property History:

- 1987: Current owner bought the property
- 1992: Apartment built in second floor of barn. No building permit located. Zoning at the time would not have allowed a new dwelling unit in a Quarry district. No septic permit located. Apartment utilizes a sewage holding tank that is periodically pumped.
- 1996: Use Variance #UV-02-96 approved by the BZA for a single family house on the 6 acre parcel. Petitioner did not disclose barn apartment
- 1997: Building permit for new single family house, with an unfinished basement, approved by the City. Soon after, building permit authority shifted from City to County Building Department. Petitioner never called for any required inspections on house. County Building has never inspected this structure.
- 1999: Upper level of partially constructed structure converted into a separate apartment.
- 2004: Water and septic installed at new structure. Septic permit was for a "4-bedroom" structure.
- 2007: First floor converted into second apartment.
- 2008: Basement converted into third apartment.
- 2009: Planning Department became aware of the 4 illegal apartments after petitioner requested that an address be assigned to the barn unit.
- 2010: Plan Commission rezoning hearings March 8th and June 14.

The current use of the property violates the UDO in two ways. The first is the second floor apartment in the barn that was installed in 1992. Neither single family nor multi-family units are permitted in current or previous Quarry zoning districts. The second violation is the structure at 3040 S. Rockport Rd. This structure was approved through a use variance by the BZA as a single family house in 1996, but constructed as a multi-unit building. The petitioner was made aware of the zoning violations in November, 2009 and given three options to resolve the violations. They could:

1. Remove the apartment in the barn and convert the multi-family building into a single family house
2. Petition for a use variance to allow multi-family units in a QY district
3. Petition for a rezoning, to change the zoning to a multi-family district (RM

or RH).

The petitioner has brought forward a petition which includes rezoning the property from QY to RM and committing to several future site planning commitments that would be enforced through a recorded zoning commitment.

GROWTH POLICIES PLAN: The GPP designates these lots as Urban Residential. The Urban Residential land use area includes areas developed with densities ranging from 2 units per acre to 15 units per acre. The designation includes primarily single family development, but also includes “places of religious assembly, schools, home occupations, and multifamily housing.” The GPP notes that there are some larger underdeveloped parcels in the category, known as “new urban growth areas.”

The GPP states that “When development occurs in new urban growth areas, the goal should be to encourage higher densities, ensure street connectivity, and protect existing residential fabric.” It also urges the development of sites for “predominantly residential uses; however, incorporate mixed residential densities, housing types, and nonresidential services where supported by adjacent land use patterns”.

In general the GPP notes that the Urban Residential areas have “good access to roads, public water and sewer, and other public services” and have “full accessibility to all modern urban services.” Staff notes that this description is not accurate for the subject parcel. The main infrastructure goal is to “maintain adequate levels of service and when possible improve the capacity” of urban services.

One site planning goal that is pertinent to evaluating this rezoning request is that the GPP recommends “provid[ing] for marginally higher development densities while ensuring the preservation of sensitive environmental features and taking into consideration infrastructure capacity as well as the relationship between the new development and adjacent existing neighborhoods.”

The Compact Urban Form guiding principle also makes numerous statements and recommendations that can guide the review of this rezoning. The GPP states that “In order to achieve compact urban form, outward expansion of development must be limited through effective growth management policies. At the same time, these policies should be supplemented by strategies to increase housing densities within the planning jurisdiction.” It goes on to state that “compactness implies directing growth - directing growth toward those locations where it is desirable, where it is in the public interest to grow, and where options conducive to future growth can be exercised.” It cautions that “Compact form is not to be achieved at the expense of greenspace, environmental protection, and other policies.” Finally, it states that “as the community has expanded outward from its beginnings at the urban core, an ever-greater strain has been placed on the City’s ability to provide adequate urban services. Likewise, some citizens have

stated that it has become increasingly difficult for residents to enjoy the quality of life that a diverse urban community like Bloomington offers. Bloomington must look inward for opportunities to accommodate continued growth within the existing limits of the community. The first part of any serious strategy to accomplish this is to explore methods of curtailing outward expansion.”

Compact Urban Form Policy 1 states the following:

Land use planning policies offer one method of achieving [compact urban form]. Clearly, the west and southwest sectors of Bloomington offer the most opportunities for residential growth, while areas to the east and southeast have been virtually built-out with residential development in recent years. Bloomington must work to shift more residential development to the west and southwest as development limits are reached in other sectors of the community. This development will not compromise nor diminish the conservation of sensitive areas and will take advantage of opportunities for greenspace preservation and acquisition.

The Nurture Environmental Integrity guiding principle states that “...conservation oriented design standards be incorporated... so that the majority of new developments will contain a substantial percentage of protected open space. Once environmentally sensitive areas such as karst features, native tree stands, steep slopes, and wetlands are identified and mapped, a creative site plan that preserves these features can be designed. Techniques such as the use of clustering...to achieve these goals should be incorporated into the development review process.”

Finally, the Mitigate Traffic implementation measure #MT-2 requires “the siting of future high density multifamily and commercial projects within walking distance to transit routes,” and the Conserve Community Character guiding principle Policy 3 contains many recommendations about preserving Bloomington’s Historic Character through the “protection of culturally and historically significant structures and districts” in the community.

ISSUES:

Building Codes: Neither the barn apartment nor the multi-family building have ever been inspected by a building inspector. If this rezoning is approved, the County Building Department will require retroactive permits for these structures. In addition, because the new structure was permitted as a single family house and built as a multi-family building, a State Design Release is likely required. This type of issue has been handled in the past when single family structures were remodeled into multi-family structures. Approval of the building permit would be subject to the current International Building Code, which includes a 2-hour fire separation between the units as well as installation of a fire sprinkler system.

Sewage: The historic house utilizes a septic tank and partial finger system to the southeast of the house. This area will be disturbed with construction of the water main. The petitioner has agreed to replace the existing tank and partial finger system with a modern septic system. This will be located to the west of the house.

The apartment above the barn utilizes a second holding tank installed illegally in 1992. The County Health Department is now aware of the holding tank for the apartment and will require that the apartment be placed on a modern septic field. This field will be located to the northwest of the barn.

The multi-family building utilizes a modern septic system, permitted and installed in 2004. This permit was for “4 Bedrooms” and is not dependent on the number of units in the building.

Water: The historic house and the barn utilize well water. The multi-family building is connected to the municipal water supply. With the construction of the new water main along Rockport Road, the petitioner has committed to removing the barn and historic house from well water and connecting to the water main.

Water Main Easement: The City Utilities Department is working with the developer of the Golf Course Community PUD to the south, Jim Wray and Richland Development, to extend a water main from Wickens Street to the water main northeast of the historic house. This main extension was required as part of The Highlands development. Current plans for the main place it to the west of an existing tree line along the edge of Rockport Rd. This plan will help to preserve some, but not all of the trees along the petitioner’s street frontage. This main cannot be placed entirely within the new right-of-way and preserve the trees. Additional easement is necessary to maximize tree preservation. The petitioner is willing to dedicate additional easement area with an approved rezone, but would like to continue to negotiate with City Utilities on the exact placement of the main.

Right-of-way: The petitioner has agreed to dedicate the required right-of-way for Rockport Rd. immediately following any approved rezoning. The Thoroughfare Plan requires 32.5 feet from the centerline of Rockport Rd.

The petitioner has also agreed to record a zoning commitment to dedicating a right-of-way through the southern part of the property to allow a road to be built from Rockport Road to connect to the golf driving range to the west. This road will allow for greater connectivity in the area, especially if the driving range is redeveloped in the future.

Sidewalk: A five-foot wide, concrete sidewalk is required along Rockport Rd. This sidewalk is a standard requirement for multi-family site plans. The sidewalk will be placed inbound of the existing tree line and will likely be placed over the

water main in order to avoid additional tree root disturbance.

Karst: The property contains a large compound sinkhole area. The petitioner and their engineer accurately mapped the location of the features and easement areas. All features must be preserved within a required karst conservancy easement.

Conservation Areas: The petitioner has proposed several conservation areas to preserve the environmental features on the property. These features include the trees near the historic house at 3020 S. Rockport Road, the clustered karst features and the woods to the southwest of the barn. These areas include approximately 1.78 acres to be preserved in conservation easements around the sinkhole and an additional 2.3 acres to be preserved as tree preservation easements, for a total of 4.08 acres preserved.

The UDO would require the karst conservancy easements of this type regardless of the type of development on the property. In addition, another 1.08 acres of trees must be preserved to meet tree preservation requirements, for a total of 2.86 acres. The petitioner proposes preservation of 4.08 acres.

Steep slopes: Late in the review process, the Planning Staff discovered areas of possible 18%+ slopes on the west side of the property. Without an up to date topographic study, the extent of the slopes cannot be calculated. However, no disturbance is planned in this area. Future development on the lot would necessitate mapping and compliance with the UDO in terms of avoidance and conservation.

Densities: The UDO would permit a total of 56 units on this property with RM zoning, however it is unlikely that this number of units could be constructed given the environmental protection requirements that apply to the property. The petition proposes a total of 13 units (the five existing units and 8 future units).

- Existing: 5 units (0.62 u/a gross, 1.58 u/a net)
- RM density: 56 units (7 u/a gross, 16.67 u/a net)
- Proposal: **13 units** (1.62 u/a gross, 3.86 u/a net)

Historic Preservation: The historic house at 3020 S. Rockport Rd. is listed as an "Outstanding" structure in the 1989 Monroe County Interim Survey of Historic Sites and Structures. Because this property is in the Areas Intended for Annexation (AIFA) and not within the City limits, the City Council cannot designate the property as historic. Instead, the petitioner has started discussions with the Indiana Historic Landmarks Foundation (HLF), West Regional Office, to record a historic preservation easement for the house or the house and part of the property. While the petitioner has not started this process yet, their early discussions with HLF have been positive and the West Regional Office Director has visited the property. The petitioner is not willing to commit to preservation

through HLF or any particular timeline at this time.

Development Timing: Much of the Plan Commission discussion on the petition dealt with the of the rezoning request, specifically whether such request was premature given the lack of utility service and no timeframe for the provision of utility service. The petitioner contended that timing was handled in two ways. Firstly, the timing of the existing units did not matter because they were already in place. Secondly, timing of future units was handled by the proposed recorded zoning commitment prohibiting future development until sanitary sewer service was available to the property.

The Planning Staff contended and the Plan Commission agreed that timing was the essential issue with this petition. When rezoning or other development occurs, developers are required to provide sanitary sewer service to the property, if it is not already available. In the past, some very large PUDs have been approved with no specific plan for sanitary sewer service, but these PUDs are expected to phase service into the property as it develops.

The petition deviates from standard development practice in two ways. First, the property has already been developed, without proper approvals and without sanitary sewer service. While serving a single-family home on 6 acres with a septic system may be appropriate, as the BZA approved in 1996, the Plan Commission found that it is not appropriate for multi-family uses, especially in a heavy karst area. In addition, the multi-family building was constructed without other standard site planning requirements like bike racks, parking lot landscaping or sidewalks.

Second, the petition makes no provision or commitment to provide sanitary sewer service to either the existing units or future units. Instead the petitioner states that no additional development will take place until sanitary sewers are available. The availability of sanitary sewers could be the responsibility of the public, or an adjacent land development project, or the petitioner. The petitioner also shifts responsibility of road infrastructure onto adjacent land developers. While the petitioner's statement agrees to dedicate a right-of-way from Rockport Rd. to the west property line to facilitate street connectivity, the petitioner's representative at the Plan Commission hearing stated that they were not committing to actually constructing this street.

CONCLUSIONS: While non-quarry uses are supported by GPP for this property, the Urban Residential land use category could support multi-family or single family zoning. Without the essential urban service of sanitary sewers, development of this property with multi-family housing units is inappropriate at this time. While this petition preserves more land than required by the UDO, commits to less density than permitted by the RM zoning district and meets some of the GPP's goals toward sensitive land preservation, mixed residential housing options and moderately higher densities; it still allows the continuation of 5

residential units on septic systems in a heavy karst area.

The Plan Commission found that while the proposed use may be appropriate in the future, it is not appropriate at this time given the surrounding development pattern and lack of sanitary sewer service and no firm commitment to providing sanitary sewers. They found that continuation of the 5 units on septic systems in a heavy karst area to be inappropriate from a public health perspective.

RECOMMENDATION: The Plan Commission voted unanimously (10-0) to forward a negative recommendation to the Common Council.

**BLOOMINGTON PLAN COMMISSION
FINAL REPORT
LOCATION: 3020 and 3040 S. Rockport Road**

**CASE #: ZO-01-10
DATE: June 14, 2010**

PETITIONER: Rockport Road Trust
3020 S. Rockport Road, Bloomington

COUNSEL: Mike Carmin
Andrews, Harrell, Mann, Carmin and Parker
400 W. 7th Street, Bloomington

REQUEST: The petitioner is requesting that the property be rezoned from Quarry (QY) to Residential Multifamily (RM).

BACKGROUND:

Area: 8.03 acres
Current Zoning: QY
GPP Designation: Urban Residential
Existing Land Use: Single family house, 3-unit building, apartment above barn
Surrounding Uses: **South** – Office
Northeast – Bloomington Country Club
Southeast – Single family
North – Place of worship
West – Golf driving range

REPORT: The property in question includes two parcels along the west side of S. Rockport Road, one property south of the intersection of Country Club Drive/Tapp Road and S. Rockport Road. The property is surrounded to the north by the Kingdom Hall of Jehovah’s Witnesses, to the east by large single family lots and the Bloomington Country Club, to the west by the “Tee To Green” golf driving range and to the south by commercial office buildings. The two properties include a 2.05 acre parcel that has been developed with a single family house and a 6 acre parcel with a 3-unit multi-family building and an accessory barn for the historic house. The property is partially wooded and contains many sinkholes. The property has been zoned Quarry since 1973, as were many of the properties to the south and west prior to development or PUD creation (such as the Woolery and Golf Course Community PUDs).

The properties contain three buildings:

1. 3020 S. Rockport Road: Historic “Borland House”, circa 1860. Listed as Outstanding on the 1989 Monroe County Interim Survey of Historic Sites and Structures. Utilizes a sewage holding tank with partial fingers and a well.
2. Barn: Contains an illegal second floor apartment installed in 1992. Utilizes a sewage holding tank and well.

3. 3040 S. Rockport: Approved by the BZA in 1996 as a single family house but constructed as a three unit apartment building, with two 1-bedroom apartments and one 2-bedroom unit. Utilizes municipal water and a septic system, both installed in 2004.

Property History:

- 1987: Current owner bought the property
- 1992: Apartment built in second floor of barn. No building permit located. Zoning at the time would not have allowed a new dwelling unit in a Quarry district. No septic permit located. Apartment utilizes a sewage holding tank that is periodically pumped.
- 1996: Use Variance #UV-02-96 approved by the BZA for a single family house on the 6 acre parcel. Petitioner did not disclose barn apartment
- 1997: Building permit for new single family house, with an unfinished basement, approved by the City. Soon after, building permit authority shifted from City to County Building Department. Petitioner never called for any required inspections on house. County Building has never inspected this structure.
- 1999: Upper level of partially constructed structure converted into a separate apartment.
- 2004: Water and septic installed at new structure. Septic permit was for a "4-bedroom" structure.
- 2007: First floor converted into second apartment.
- 2008: Basement converted into third apartment.
- 2009: Planning Department became aware of the 4 illegal apartments after petitioner requested that an address be assigned to the barn unit.
- 2010: First Plan Commission rezoning hearing March 8th.

The current use of the property violates the UDO in two ways. The first is the second floor apartment in the barn that was installed in 1992. Neither single family nor multi-family units are permitted in current or previous Quarry zoning districts. The second violation is the structure at 3040 S. Rockport Rd. This structure was approved through a use variance by the BZA as a single family house in 1996, but constructed as a multi-unit building. The petitioner was made aware of the zoning violations in November, 2009 and given three options to resolve the violations. They could:

1. Remove the apartment in the barn and convert the multi-family building into a single family house
2. Petition for a use variance to allow multi-family units in a QY district
3. Petition for a rezoning, to change the zoning to a multi-family district (RM or RH).

Second Hearing: This is the second of two required hearing for this petition. The petition to rezone the property from QY to RM is an attempt by the petitioner to resolve the zoning violations and allow them future development options on the buildable portions of the property. Although the RM zoning allows up to 7 units

per acre, no new construction is planned at this time. The petitioner has provided a draft zoning commitment to ensure that future development does not take place until there are adequate utilities for the property as well as immediate protection of the environmental features on the property.

At the first hearing there was discussion about the following items

- The status of the sewage holding tanks on the property
- The status of water main easement dedication commitment
- The amount of preserved land proposed as part of the petition and how it compared to UDO requirements
- The appropriateness of the timing of the rezoning

Since the first hearing, the petitioner has made several modifications to the petition. The changes are as follows:

- More accurate mapping of sinkholes and required easements
- Commitment to place the historic house on a new septic system
- Commitment to easement dedication for water main extension
- Changed densities to a maximum of 13 units, or the 5 existing units and 8 new units. The original petition included up to 15 total units
- Commitment to constructing a stub street through the property to connect to the driving range property to the west with any future development on the lot
- Commitment that future multi-family unit will have the appearance of larger single family homes
- Commitment to connect barn and historic house to new water main

GROWTH POLICIES PLAN: The GPP designates these lots as Urban Residential. The Urban Residential land use area includes areas developed with densities ranging from 2 units per acre to 15 units per acre. The designation includes primarily single family development, but also includes “places of religious assembly, schools, home occupations, and multifamily housing.” The GPP notes that there are some larger underdeveloped parcels in the category, known as “new urban growth areas.”

The GPP states that “When development occurs in new urban growth areas, the goal should be to encourage higher densities, ensure street connectivity, and protect existing residential fabric.” It also urges the development of sites for “predominantly residential uses; however, incorporate mixed residential densities, housing types, and nonresidential services where supported by adjacent land use patterns”.

In general the GPP notes that the Urban Residential areas have “good access to roads, public water and sewer, and other public services” and have “full accessibility to all modern urban services.” Staff notes that this description is not accurate for the subject parcel. The main infrastructure goal is to “maintain adequate levels of service and when possible improve the capacity” of urban

services.

One site planning goal that is pertinent to evaluations this rezoning request is that the GPP recommends “provid[ing] for marginally higher development densities while ensuring the preservation of sensitive environmental features and taking into consideration infrastructure capacity as well as the relationship between the new development and adjacent existing neighborhoods.”

The Compact Urban Form guiding principle also makes numerous statements and recommendations that can guide the review of this rezoning. The GPP states that “In order to achieve compact urban form, outward expansion of development must be limited through effective growth management policies. At the same time, these policies should be supplemented by strategies to increase housing densities within the planning jurisdiction.” It goes on to state that “compactness implies directing growth - directing growth toward those locations where it is desirable, where it is in the public interest to grow, and where options conducive to future growth can be exercised.” It cautions that “Compact form is not to be achieved at the expense of greenspace, environmental protection, and other policies.” Finally, it states that “as the community has expanded outward from its beginnings at the urban core, an ever-greater strain has been placed on the City’s ability to provide adequate urban services. Likewise, some citizens have stated that it has become increasingly difficult for residents to enjoy the quality of life that a diverse urban community like Bloomington offers. Bloomington must look inward for opportunities to accommodate continued growth within the existing limits of the community. The first part of any serious strategy to accomplish this is to explore methods of curtailing outward expansion.”

Compact Urban Form Policy 1 states the following:

Land use planning policies offer one method of achieving [compact urban form]. Clearly, the west and southwest sectors of Bloomington offer the most opportunities for residential growth, while areas to the east and southeast have been virtually built-out with residential development in recent years. Bloomington must work to shift more residential development to the west and southwest as development limits are reached in other sectors of the community. This development will not compromise nor diminish the conservation of sensitive areas and will take advantage of opportunities for greenspace preservation and acquisition.

The Nurture Environmental Integrity guiding principle states that “...conservation oriented design standards be incorporated... so that the majority of new developments will contain a substantial percentage of protected open space. Once environmentally sensitive areas such as karst features, native tree stands, steep slopes, and wetlands are identified and mapped, a creative site plan that preserves these features can be designed. Techniques such as the use of

clustering...to achieve these goals should be incorporated into the development review process.”

Finally, the Mitigate Traffic implementation measure #MT-2 requires “the siting of future high density multifamily and commercial projects within walking distance to transit routes,” and the Conserve Community Character guiding principle Policy 3 contains many recommendations about preserving Bloomington’s Historic Character through the “protection of culturally and historically significant structures and districts” in the community.

SITE ISSUES:

Building Codes: Neither the barn apartment nor the multi-family building have ever been inspected by a building inspector. If this rezoning is approved, the County Building Department will require retroactive permits for these structures. In addition, because the new structure was permitted as a single family house and built as a multi-family building, a State Design Release is likely required. This type of issue has been handled in the past when single family structures were remodeled into multi-family structures. Approval of the building permit would be subject to the current International Building Code, which includes a 2-hour fire separation between the units as well as installation of a fire sprinkler system.

Sewage: The historic house utilizes a sewage holding tank that is periodically pumped out. After the last hearing, the petitioner discovered that this tank does have more than one “finger” to the southeast of the house. This area will be disturbed with construction of the water main. The petitioner has agreed to replace the existing holding tank and partial finger system with a modern septic system. This will be located to the west of the house.

The apartment above the barn utilizes a second holding tank. The County Health Department is now aware of the holding tank for the apartment and will require that the apartment be placed on a modern septic field. This field will be located to the northwest of the barn.

The multi-family building utilizes a modern septic system, permitted and installed in 2004. This permit was for “4 Bedrooms” and is not dependent on the number of units in the building.

Water: The historic house and the barn utilize well water. The multi-family building is connected to the municipal water supply. With the construction of the new water main along Rockport Road, the petitioner has committed to removing the barn and historic house from well water and connecting to the water main.

Right-of-way: The petitioner has agreed to dedicate the required right-of-way for Rockport Rd. immediately following any approved rezoning. The Thoroughfare

Plan requires 32.5 feet from the centerline of Rockport Rd.

Water Main Easement: The City Utilities Department is working with the developer of the Golf Course Community PUD to the south, Jim Wray and Richland Development, to extend a water main from Wickens Street to the water main northeast of the historic house. This main extension was required as part of The Highlands development. Current plans for the main place it to the west of an existing tree line along the edge of Rockport Rd. This plan will help to preserve some, but not all of the trees along the petitioner's street frontage. This main cannot be placed entirely within the new right-of-way and preserve the trees. Additional easement is necessary to maximize tree preservation. The petitioner is willing to dedicate additional easement area with an approved rezone, but would like to continue to negotiate with City Utilities on the exact placement of the main.

Sidewalk: A five-foot wide, concrete sidewalk is required along Rockport Rd. This sidewalk is a standard requirement for multi-family site plans. The sidewalk will be placed inbound of the existing tree line and will likely be placed over the water main in order to avoid additional tree root disturbance.

Karst: The property contains a large compound sinkhole area. The petitioner and their engineer have accurately mapped the location of the features and easement areas. All features must be preserved within a required karst conservancy easement.

Conservation Areas: The petitioner has proposed several conservation areas to preserve the environmental features on the property. These features include the trees near the historic house at 3020 S. Rockport Road, the clustered karst features and the woods to the southwest of the barn. These areas include approximately 1.78 acres to be preserved in conservation easements around the sinkhole and an additional 2.3 acres to be preserved as tree preservation easements, for a total of 4.08 acres preserved.

The UDO would require the karst conservancy easements of this type regardless of the type of development on the property. In addition, another 1.08 acres of trees must be preserved to meet tree preservation requirements, for a total of 2.86 acres. The petitioner proposes preservation of 4.08 acres.

Steep slopes: Late in the review process, the Planning Staff discovered areas of possible 18%+ slopes on the west side of the property. Without an up to date topographic study, the extent of the slopes cannot be calculated. However, no disturbance is planned in this area. Future development on the lot would necessitate mapping and compliance with the UDO in terms of avoidance and conservation.

Net Densities: At the first hearing, the petitioner committed to a net density formula that would permit less units than the standard 7 units/acre allowed within

the proposed RM zoning district. Since that time, the petitioner has changed the commitment to a maximum number of units on the property of 13. This includes the 5 existing units and 8 future units. This is less than the 15 units proposed at the last hearing. The UDO would permit a total of 56 units on this property with RM zoning, however it is unlikely that this number of units could be constructed given the environmental protection requirements that apply to the property.

- Existing: 5 units (0.62 u/a gross, 1.58 u/a net)
- RM density: 56 units (7 u/a gross, 16.67 u/a net)
- Original proposal: 15 units (1.87 u/a gross, 7 u/a net)
- Current proposal: **13 units** (1.62 u/a gross, 3.86 u/a net)

Historic Preservation: The historic house at 3020 S. Rockport Rd. is listed as an “Outstanding” structure in the 1989 Monroe County Interim Survey of Historic Sites and Structures. Because this property is in the Areas Intended for Annexation (AIFA) and not within the City limits, the City Council cannot designate the property as historic. Instead, the petitioner has started discussions with the Indiana Historic Landmarks Foundation (HLF), West Regional Office, to record a historic preservation easement for the house or the house and part of the property. While the petitioner has not started this process yet, their early discussions with HLF have been positive and the West Regional Office Director has visited the property. The petitioner is not willing to commit to preservation through HLF or any particular timeline at this time.

CONCLUSIONS: While non-quarry uses are supported by GPP for this property, the Urban Residential land use category could support multi-family or single family zoning. Without the essential urban service of sanitary sewers, development of this property with multi-family housing units is inappropriate at this time. While petition preserves more land than required by the UDO, commits to less density than permitted by the RM zoning district and meets some of the GPP’s goals toward sensitive land preservation, mixed residential housing options and moderately higher densities it still allows the continuation of 5 residential units on septic systems in a heavy karst area. The idea to create a Planned Unit Development has been suggested but staff does not believe this would be any more appropriate than the proposed rezoning with commitments. Finally, staff believes that while the proposed use may be appropriate in the future, it is not appropriate at this time given the surrounding development pattern and lack of sanitary sewer service.

RECOMMENDATION: Staff recommends that this rezoning request be forwarded to the Common Council with a negative recommendation.

MEMORANDUM

Date: January 23, 2010
To: Bloomington Plan Commission
From: Bloomington Environmental Commission
Through: Linda Thompson, Senior Environmental Planner
Subject: ZO-01-10, Rockport Road Trust apartments: Change of zoning district

This memorandum contains the Environmental Commission's (EC) input and recommendations regarding the request for a change of zone from Quarry (QY) to Residential Multifamily (RM) Zoning District. The property is located at 3020 and 3040 S. Rockport Road and covers about eight acres. Currently there are four illegally constructed apartments on the site that are not permitted in a QY district.

The rezoning of this site at this time contradicts the Growth Policies Plan's (GPP) Compact Urban Form goal. The goal states that Bloomington should "Create a compact land use development pattern that is sufficiently compact to provide efficient delivery of services, to effectively manage existing infrastructure resources, and to maximize return on public expenditures while limiting sprawl and maintaining the special nature of Bloomington." Rezoning this location to RM at this time is an example of urban sprawl because it is not served with necessary infrastructure of water, sewer, transit, or connectivity. The EC believes that developing this site as multifamily is not appropriate at this time.

The existing geology, topography, and biology, manifested by multiple sinkholes, steep slopes, and extensive tree cover, severely constrains the development of this site. Given these constraints, the existing zoning (QY) is sensible and appropriate at this time.

The EC is aware that the petitioner did not comply with Bloomington or Monroe County regulations and already began development without the required permits. Some of the required permits would have been denied in a QY district had they been sought. At this time, the petitioner seeks a zoning change in part to legitimize the four illegally constructed apartments completed thus far. The EC does not believe that is a valid reason to retroactively approve what has been done in an area that is not appropriate for the requested use. The EC is opposed to rezoning this site.

EC RECOMMENDATIONS:

Code Compliance Recommendations

- 1.) The EC recommends that the request to rezone this site be denied.

PC--Summary Minutes: June 14, 2010

PC minutes are transcribed in a summarized manner. Audiotapes are available in the Planning Department for reference. Videotapes are also available for viewing in the Audio-visual (CATS) Department (phone #349-3111 or E-mail address: moneill@monroe.lib.in.us) of the Monroe County Public Library, 303 E. Kirkwood Ave.

The City of Bloomington Plan Commission (PC) met on Monday, June 14, 2010 at 5:30 p.m. in the Council Chambers. Members present: Jack Baker, Scott Burgins, Susan Fernandes, Joe Hoffmann, Milan Pece, Adrian Reid, Chris Smith, Chris Sturbaum, Travis Vencel and Pat Williams.

ROLL CALL

MINUTES TO BE APPROVED:

*****May 10, 2010: Travis Vencel moved approval of the minutes. Milan Pece seconded. The minutes were approved by a vote of 10:0.**

REPORTS, RESOLUTIONS AND COMMUNICATIONS:

PETITIONS CONTINUED TO July 12, 2010 Hearing:

SP-13-10 3rd & College (Flaherty & Collins)
301 S. College & 300 S. Walnut St.
Site plan approval to allow construction of a mixed-use building

PUD-12-10 Parcel E (Richland Construction)
3201 S. Wickens St.
Site plan and preliminary plat approval to allow construction of 54 owner-occupied condominium units and 34 multifamily apartment units. Also requested is preliminary plat approval of a 57-lot residential subdivision.

PETITIONS:

ZO-01-10 Rockport Rd. Trust
3020 & 3040 S. Rockport Rd.
Rezone property from Quarry (Q) to Residential Multifamily (RM)

Jim Roach presented the staff report. The Plan Commission (PC) heard this petition in March. The property is a little more than 8 acres. The petitioner is requesting that the property be rezoned from Quarry (QY) to Residential Multifamily (RM). The barn and the 3-unit structure are the crux of the case. This is the second of two required hearings. There are 2 current zoning violations on the property. The first violation concerns the apartment in the barn that was constructed in the 1990s without building permits or zoning approvals. A single-family house was permitted by use variance in 1996. Over the last 12 years, the house has been built as 3-unit apartment building. Rezoning this area into an RM zoning designation would make these uses legal. He reviewed the issues raised at the last hearing. Since March the petitioner has been working to bring the property into compliance. They have proposed a zoning commitment that would include details about future development of the property. They will commit to no new construction on that property until there is sanitary sewer available. The sinkholes on the property have been more accurately mapped. They are committing to place the historic house on a new septic system. They commit to dedicate a new water main easement dedication and that there will never be more than 13 units until the property on sewer. After that time, they could potentially add 8 additional units. They will build a street on the southern end of the property that will stub into the property to the west. New buildings will look like large single-family homes. He discussed possible density. The petitioner is proposing around 4 units per acre. He presented a map showing the multifamily units in the area. The primary issue for staff is the absence of sanitary sewer to the property. The petitioner has committed to replacing the old septic system

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which serves the historic house. The petitioner has agreed to put in a new septic system for the barn. The multifamily building has a legal modern septic system that was installed in 2004. There is no commitment to connecting into the sanitary sewer system in the near future. The petitioner has agreed to work with CBU and Richland Development to hook onto the water main along Rockport Rd. There are around 3 acres of sinkhole areas on the site. The petitioner has also committed to 4.08 acres of tree preservation which is more than the code requires. There are both areas that will be mowed and some left naturalized. They will dedicate the required right-of-way along Rockport Rd., install a 5-foot sidewalk, protect of steep slopes and will work with Indiana Historic Landmarks Foundation. This is a change in zoning request. The GPP does support non-Quarry uses in this area including multifamily. It does not provide any kind of assurance of development on sanitary sewer. Staff recommends that no construction on this site should happen until after sanitary sewer is installed or at least the sewer commitment is in place. Staff recommends that this rezoning request be forwarded to the Common Council with a negative recommendation.

Mike Carmin spoke for the petitioner. They are planning on preserving 5 units not 8. When the waterline is in place, the historic home will be taken off well and put on the waterline. The barn unit will not be. There are areas nearby that have much higher densities. This is not an enforcement action. The owner built the barn apartment for a relative. The owner assumed that her husband was doing things right and didn't re-check. She finished out the work that was already started. He argued that the staff report was actually a positive recommendation. The timing has been taken care of. The septic didn't come up until the last meeting. He presented three possible outcomes if the petition is denied. A denial only gets rid of one unit. There will be a lot of positive improvements that won't happen if this is denied. The PC is not an enforcement organization.

Travis Vencel asked if the new septic systems have been permitted by the County. (Carmin said yes.) What long-term uses are planned for this property?

Carmin said she is not planning to sell or further develop the property. She wants to continue work on the historic home.

Vencel asked staff about the extension of Adams through the driving range.

Micuda answered that the developer of the golf driving range signed a commitment that when certain development triggers occurred the roadway would be constructed. The triggers have occurred. Staff has met with the property owners associated with driving range. They say that they don't have the financial ability to build that road connection currently. The City could put a lien on the property and go forward with the extension but has not done so yet.

Vencel asked if that road were through, would the potential for sewer line be included.

Micuda said the road development has not been designed.

Vencel asked if the sewer would go through with the road.

Micuda said you can't count on that.

Roach said that he meant to say that that would be the only way to provide gravity-fed sanitary sewer.

Vencel asked what the likelihood would be that a road will be put through there in the next 5 years.

Micuda said staff doesn't know.

Vencel asked if staff agrees that only one unit would be lost if this is denied.

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Micuda said they could always petition for a variance or subdivision but none of those processes have occurred.

Vencel asked what would happen if this is given a negative recommendation.

Micuda said if the petition is ultimately denied by City Council, Planning staff would begin enforcement action to reduce the unit count to comply to zoning code.

Roach said two units, the historic house and a single-family home in the new structure would be allowed. The unit in the barn would need to be removed and the 3 units would have to be converted to one unit that could be rented to no more than 3 unrelated adults in the structure.

Pat Williams asked what the recommendation would be if this petition was coming to the PC without the enforcement issues.

Roach said moderate density multifamily is not out of place here with the petitioner providing sanitary sewer to the property.

Micuda said the sanitary sewer is the crux of the issue. We do not have a specific plan for this property for sewer service. The developer has committed to no more development until the service is established. But until the service is provided, we would have several units that would be on a less-than-preferred treatment for sewage disposal. That is the basis of the denial recommendation from staff.

Chris Sturbaum asked if Mr. Carmin is proposing a "good deal." What's wrong with all those goodies?

Micuda said that some of them are requirements of any rezone including sidewalks and utility service. There are bonuses in terms of the reduction in density and the environmental protection. This is not a plan that provides for sanitary sewer service.

Sturbaum said that it seems that the appropriate time to ask for a rezone would be when the sanitary sewer service is available.

Joe Hoffmann asked if the decision on the rezoning petition would have any bearing one way or the other on enforcement proceedings. He guessed there would not be any enforcement action if the zoning change made the current level of development on the site legal in terms of zoning law.

Micuda agreed.

Milan Pece asked about the timing of installing the water line and sidewalk.

Roach said staff did not get into that kind of detail since we are recommending denial.

Carmin said it depended on when Richland Construction got the water line in.

Adrian Reid asked Roach if City of Bloomington Utilities (CBU) had weighed in on this and if they had any long-term plans for sewer in this area.

Roach said he had discussed with CBU the coordination of the water line and how that would be accomplished. They are fairly confident in their negotiations with Richland Construction. In terms of the sanitary sewer, they suggest that best method to serve this property would be to install a gravity-fed sewer to the west downhill towards the existing lift station. There are no plans for public installation of sanitary sewer in this area at this time.

Fernandes discussed septic holding tanks not getting pumped and the fingers becoming drains into sinkholes and karst topography. This area is not a good location for septic tanks. They could be contaminating well water. It is so expensive to pump holding tanks that she believes that they don't get pumped. She does not support this development until the utilities are in place.

Jack Baker asked what would trigger this stub street.

Roach answered that he interpreted "future development" as additional construction on this site. When one of those 8 additional units is built, the street would most likely be triggered. They will probably be multiple unit buildings. There probably will not be any phasing. The road would be built at that time from Rockport to the property line.

Baker said then a small development would have to build the road. He asked about street location.

Roach suggested some locations.

Baker asked for public comment. There was none.

Carmin said the petitioner would not build the road. The commitment is to provide easement for the road but not construct it. He said he thought Fernandes shouldn't condemn all sewage systems in the area since she has not seen them. He did not agree that there was a timing problem. Infrastructure does not come with rezoning it comes with redevelopment. If this gets denied for rezoning, the worst that can happen is that they will lose one unit—the one in the barn. Denial will not get rid of 1 septic tank.

Hoffmann asked staff about the petitioner constructing a stub street through this development with any future development on the lot. This is incorrect, isn't it?

Roach said that is incorrect. The building commitment states that they will dedicate right-of-way for the road connecting Rockport Road to the property line. Staff believes that a road should access the houses rather than a private drive. He suggested the PC adding a condition requiring this.

Hoffmann said that if they were receiving a petition that was actually connected to a proposal to develop the property. Isn't that an issue that would be hashed out at that time? But it is a fact that the petitioner isn't committing to build the road just provide the easement.

Micuda agreed.

Carmin said that this is how it has been from the beginning. It depends on which property builds out first.

Vencel asked if this is like the road south of Tapp Rd. What makes the road actually happen?

Micuda said if this was proper rezoning petition, you would not only require the right-of-way dedicated but you would indicate that the future development will take care of that roadway being built. Staff's position is that this petition should be denied. If you want to talk about approving the rezone, we could talk about it.

Reid said that Engineering's enforcement mechanism is in the form of a bond which doesn't occur until the final plat approval.

*****Hoffmann moved that ZO-01-10 rezoning request be forwarded to the Council with a**

negative recommendation. Fernandes seconded.

Hoffmann said he believes this is a matter of timing. He couldn't remember a time when the PC approved a zoning petition for an area that wasn't yet ready to be developed and did so on spec. They may have approved a development that the developer viewed as spec but the PC didn't know it. We need to stage development when the public amenities are more in place. We don't typically rezone on spec because it leaves issues unresolved. A perfect example is the petition tonight that would leave the road that would serve some part of the property but there is no proposal before the PC. It seems that this is being proposed to clear up the enforcement action.

Sturbaum said this is a perfect example of why you don't build and then try to get the zoning for what you built and why you don't build without permits. You can get in front of the planning.

Vencel said we messed up by allowing this site to be remained zoned "Quarry." We should have rezoned it when we did the UDO. Also we didn't enforce the issues with the builder next door. He didn't buy Mr. Carmin's excuse that the owner didn't know the rules. He didn't think that this was a matter for the PC.

Baker said this matter could be resolved by zoning or by enforcement. You need detail to do a good job rezoning. This property doesn't seem to be ready for rezone. We have vague and speculative commitments.

*****A roll call vote was taken. The vote was unanimous for denial (10).**

DRAFT

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**BLOOMINGTON PLAN COMMISSION
PRELIMINARY REPORT
LOCATION: 3020 and 3040 S. Rockport Road**

**CASE #: ZO-01-10
DATE: March 8, 2010**

PETITIONER: Rockport Road Trust
3020 S. Rockport Road, Bloomington

COUNSEL: Mike Carmin
Andrews, Harrell, Mann, Carmin and Parker
400 W. 7th Street, Bloomington

REQUEST: The petitioner is requesting that the property be rezoned from Quarry (QY) to Residential Multifamily (RM).

BACKGROUND:

Area: 8.05 acres
Current Zoning: QY
GPP Designation: Urban Residential
Existing Land Use: Single family house, 3-unit building, apartment above barn
Surrounding Uses: **South** – Office
Northeast – Bloomington Country Club
Southeast – Single Family
North – Place of worship
West – Golf driving range

REPORT: The property in question includes two parcels along the west side of S. Rockport Road, one property south of the intersection of County Club Road/Tapp Road and S. Rockport Road. The property is surrounded to the north by the Kingdom Hall of Jehovah’s Witnesses, to the east by large single family lots and the Bloomington Country Club, to the west by the “Tee To Green” golf driving range and to the south by commercial office buildings. The two properties include a 2.05 acre parcel that has been developed with a single family house and a 6 acre parcel with a 3-unit multi-family building and an accessory barn for the historic house. The property is partially wooded and contains many sinkholes. The property has been zoned Quarry since 1973, as were many of the properties to the south and west prior to development or PUD creation (such as the Woolery and Golf Course Community PUDs).

The properties contain three buildings:

- 3020 S. Rockport Road: Historic “Borland House”. Listed as Outstanding on the 1989 Monroe County Interim Survey of Historic Sites and Structures. Circa 1860. Utilizes a sewage holding tank and a well.
- Barn: Contains an illegal second floor apartment installed in 1992. Utilizes a sewage holding tank and well.
- 3040 S. Rockport: Approved by the BZA in 1996 as a single family house

but constructed as a three unit apartment building, with two 1-bedroom apartments and one 2-bedroom unit. Utilizes municipal water and a septic system, both installed in 2004.

The current use of the property violates the UDO in two ways. The first is the second floor apartment in the barn that was installed in 1992. Neither single family nor multi-family units are permitted in current or previous Quarry districts. The second violation is the structure at 3040 S. Rockport Rd. This structure was approved through a use variance by the BZA as a single family house in 1996, but constructed as a multi-unit building. The petitioner was made aware of the zoning violations in November, 2009 and given three options to resolve the violations. They could:

1. Remove the apartment in the barn and convert the multi-family building into a single family house
2. Petition for a use variance to allow multi-family units in a QY district
3. Petition for a rezoning, to change the zoning to a multi-family district (RM or RH).

The current petition, to rezone the property from QY to RM, is an attempt by the petitioner to resolve the zoning violations and allow them future development options on the buildable portions of the property. The RM zoning allows for up to 7 units per acre, but there is no new construction planned at this time. The petitioner has stated a willingness to place deed restrictions on the property as part of this petition to ensure that future development does not take place until there are adequate utilities for the property as well as protect the environmental and historic features on the property immediately.

Property history:

- 1987: Current owner bought the property
- 1992: Apartment built in second floor of barn. No building permit located. Zoning at the time would not have allowed a new dwelling unit in a Quarry district. No septic permit located. Apartment utilizes a sewage holding tank that is periodically pumped.
- 1996: Use Variance #UV-02-96 approved by the BZA for a single family house on the 6 acre parcel. Petitioner did not disclose barn apartment
- 1997: Building permit for new single family house, with an unfinished basement, approved by the City. Soon after, building permit authority shifted from City to County Building Department. Petitioner never called for any required inspections on house. County Building has never inspected this structure.
- 1999: Upper level of partially constructed structure converted into a separate apartment
- 2004: Water and septic installed at new structure. Septic permit was for a "4-bedroom" structure.
- 2007: First floor converted into second apartment

- 2008: Basement converted into third apartment
- 2009: Planning Department became aware of the 4 illegal apartments after petitioner requested an address be assigned to the barn unit.

GROWTH POLICIES PLAN: The GPP designates these lots as Urban Residential. The Urban Residential land use area includes areas developed with densities ranging from 2 units per acre to 15 units per acre. Includes primarily single family development, but also includes “places of religious assembly, schools, home occupations, and multifamily housing.” The GPP notes that there are some larger underdeveloped parcels in the category, known as “new urban growth areas.”

The GPP states that “When development occurs in new urban growth areas, the goal should be to encourage higher densities, ensure street connectivity, and protect existing residential fabric.” It also urges the development of sites for “predominantly residential uses; however, incorporate mixed residential densities, housing types, and nonresidential services where supported by adjacent land use patterns”.

In general the GPP notes that the Urban Residential areas have “good access to roads, public water and sewer, and other public services” and have “full accessibility to all modern urban services.” Staff notes that this description is not necessarily accurate for the subject parcel. The main infrastructure goal is to “maintain adequate levels of service and when possible improve the capacity” of urban services.

One site planning goal that relates to this development is that the GPP recommends “provid[ing] for marginally higher development densities while ensuring the preservation of sensitive environmental features and taking into consideration infrastructure capacity as well as the relationship between the new development and adjacent existing neighborhoods.”

The Compact Urban Form guiding principle makes numerous statements and recommendations that can guide the review of this rezoning. The GPP states that “In order to achieve compact urban form, outward expansion of development must be limited through effective growth management policies. At the same time, these policies should be supplemented by strategies to increase housing densities within the planning jurisdiction.” It goes on to state that “compactness implies directing growth - directing growth toward those locations where it is desirable, where it is in the public interest to grow, and where options conducive to future growth can be exercised.” It cautions that “Compact form is not to be achieved at the expense of greenspace, environmental protection, and other policies.” Finally, it states that “as the community has expanded outward from its beginnings at the urban core, an ever-greater strain has been placed on the City’s ability to provide adequate urban services. Likewise, some citizens have

stated that it has become increasingly difficult for residents to enjoy the quality of life that a diverse urban community like Bloomington offers. Bloomington must look inward for opportunities to accommodate continued growth within the existing limits of the community. The first part of any serious strategy to accomplish this is to explore methods of curtailing outward expansion.”

Compact Urban Form Policy 1 states the following:

Land use planning policies offer one method of achieving [compact urban form]. Clearly, the west and southwest sectors of Bloomington offer the most opportunities for residential growth, while areas to the east and southeast have been virtually built-out with residential development in recent years. Bloomington must work to shift more residential development to the west and southwest as development limits are reached in other sectors of the community. This development will not compromise nor diminish the conservation of sensitive areas and will take advantage of opportunities for greenspace preservation and acquisition.

The Nurture Environmental Integrity guiding principle states that “...conservation oriented design standards be incorporated... so that the majority of new developments will contain a substantial percentage of protected open space. Once environmentally sensitive areas such as karst features, native tree stands, steep slopes, and wetlands are identified and mapped, a creative site plan that preserves these features can be designed. Techniques such as the use of clustering...to achieve these goals should be incorporated into the development review process.” Nurture Environmental Integrity implementation measure #NEI-1 recommends that “areas found to be dense with karst features should receive stronger protection than individual sinkholes. The preservation of sinkhole clusters rather than just individual features is essential to groundwater protection.”

Finally, the Mitigate Traffic implementation measure #MT-2 requires “the siting of future high density multifamily and commercial projects within walking distance to transit routes” and the Conserve Community Character guiding principle Policy 3 contains many recommendations about preserving Bloomington’s Historic Character through the “protection of culturally and historically significant structures and districts” in the community.

SITE ISSUES:

Building Codes: Neither the barn apartment nor the multi-family building have ever been inspected by a building inspector. If this rezoning is approved, the County Building Department will require retroactive permits for these structures. In addition, because the new structure was permitted as a single family house and built as a multi-family building, a State Design Release is likely required. This type of issue has been handled in the past when single family structures are

remodeled into multi-family structures. Approval of the building permit would be subject to the current International Building Code, which includes a 2-hour fire separation between the units as well as installation of a fire sprinkler system.

Sewage: The historic house utilizes a sewage holding tank that is periodically pumped out. The apartment above the barn utilizes a second holding tank. The County Health Department is now aware of the holding tank for the apartment and will require that the apartment be placed on a modern septic field. Staff estimates that this field will be located to the west of the barn. They will also work with the petitioner to try to place the historic house on a septic field.

The multi-family building utilizes a modern septic system, permitted and installed in 2004. This permit was for "4 Bedrooms" and is not dependent on the number of units in the building.

Water: The historic house and the barn utilize well water. The multi-family building is connected to the municipal water supply. Currently the water main stops to the northeast of historic house.

Right-of-way: The petitioner has agreed to dedicate the Thoroughfare Plan required right-of-way for Rockport Rd. immediately following an approved rezoning. This would amount to 32.5 feet from the centerline of Rockport Rd.

Water Main Easement: The City Utilities Department is working with the developer of the Golf Course Community PUD to the south, Jim Wray and Richland Development, to extend a water main from Wickens Street to the water main northeast of the historic house. This main extension was required as part of The Highlands development. Current plans for the main place it to the west of an existing tree line along the edge of Rockport Rd. This plan will help to preserve some, but not all of the trees along the petitioner's street frontage. This main cannot be placed entirely within the new right-of-way and preserve the trees. Additional easement is necessary to maximize tree preservation. The petitioner is willing to dedicate additional easement area, but would like to continue to negotiate with City Utilities on the exact placement of the main.

Sidewalk: While the petitioner has not specifically committed to sidewalk construction in their statement or draft Zoning Commitment, they are aware that a five-foot wide, concrete sidewalk is required along Rockport Rd. This sidewalk is a standard requirement for multi-family site plans. The sidewalk will be placed inbound of the existing tree line and will likely be placed over the water main in order to avoid additional tree root disturbance.

Karst: The property contains many single and compound sinkholes. The submitted site plan does not include at least two karst features that were field identified by staff. The petitioner and their engineer will locate these features by the second hearing. All features must be preserved with the required karst

conservancy easements. Some karst features are located within a larger conservancy area.

Conservation Areas: The petitioner has proposed several conservation areas to preserve the environmental features on the property. These features include the trees near the historic house at 3020 S. Rockport Road, the scattered karst features and the woods to the southwest of the barn. These areas include approximately 4.11 acres, not including the scattered karst features. While the petitioner's site plan shows these areas as all being "preservation areas" staff recommends that the karst features and the currently undisturbed wooded areas be preserved as conservancy easements instead. Other areas would be better to be preserved as tree preservation easements. While the petitioner has committed to immediately placing these areas in easements, the UDO would require this type of easement protection regardless of the nature of development on the property.

Net Densities: The petitioner has committed that any future development on the property would utilize the net allowed density, after taking out all conservation areas. Based on this idea, there are 2.19 acres available to develop on the south side of the property. With the 7 units per acre allowed in the RM district, this area could have 12 new units in addition to the 3 existing units. Without this commitment, the net density component of the UDO, 20.02.160 Maximum Density, would allow this 2.19 acre area to have up to 46 multi-family units.

Historic Preservation: The historic house at 3020 S. Rockport Rd. is listed as an "Outstanding" structure in the 1989 Monroe County Interim Survey of Historic Sites and Structures. Because this property is in the Area Intended for Annexation (AIFA) and not within the City Limits, the City Council cannot designate the property as historic. Instead, the petitioner has started discussions with the Indiana Historic Landmarks Foundation (HLF), West Regional Office, to record a historic preservation easement for the house or the house and part of the property. While the petitioner has not started this process yet, their early discussions with HLF have been positive and the West Regional Office Director has visited the property.

Rezoning Considerations: The Plan Commission must determine if this property should be rezoned to RM. The PC should discuss if RM is an appropriate zoning district. The Commission must also determine if this rezoning is appropriate now or if it should wait until there are either services in place or firm plans for construction and utility extensions. Some points to consider are as follows:

Items to consider:

- Non-quarry uses are supported by GPP, but Urban Residential land use category could support multi-family or single family zoning
- A new septic system would serve the barn unit in addition to the

- previously installed system of the multi-unit building, however septic systems are not recommended in a heavy karst area
- No new development until sanitary sewer is available, but no commitment to immediately provide sanitary sewer service to property or public water to the two structures on a well.
 - Immediate preservation of environmental features on about 4 acres, however the UDO requires much of these areas to be preserved regardless
 - Immediate sidewalk construction, however sidewalk construction would be required of any multi-family development
 - Historic house protected through easement
 - Facilitation of construction of water main along Rockport Rd.
 - Immediate right-of-way dedication
 - Future development would utilize net densities lower than UDO maximums
 - Multi-family development far from center of City
 - No public transit service south of Graham Drive
 - Narrow rural road without curbs or gutters
 - Congested intersection at Country Club/Tapp Road and Rockport Road

Staff requests clear guidance from the Plan Commission on the appropriateness of the rezoning. In absence of this guidance, staff anticipates recommending denial of this petition at the final hearing.

RECOMMENDATION: Staff recommends that this rezoning request be forwarded to the April 5, 2010 Plan Commission meeting.

Excerpts from Plan Commission Meeting on March 8, 2010-06-18

Re: ZO-01-10 Rockport Rd. Trust

3020 & 3040 S. Rockport Rd.

Rezone property from Quarry (Q) to Residential Multifamily (RM)

Jim Roach presented the staff report. The petitioner is requesting that the property be rezoned from Quarry (QY) to Residential Multifamily (RM). The Growth Policies Plan calls for urban style development. The property has been in violation. This zoning change will bring the property into compliance and allow more residential construction in the future. In 1996, a use variance was granted to allow construction of a single-family home however the owner built a 3-unit building. Also on the property is a historic house surrounded by some very large trees. A tree line flanks Rockport Rd. There are many sinkholes on the property. The barn is along the north property line. In 1992 the barn unit was constructed evidently with no building permit. The use variance mentioned previously was approved in 1996. A building permit was issued for a single-family home. In 1999, the upper floor was partitioned into a separate apartment. In 2004, water and septic were installed. In 2007-2008 the final two apartments were finished on the main floor and the basement area. The Planning Department became aware of the violations in 2009. The owner was notified and given several options. The primary option would be to bring the property completely into compliance with code. The second option would have been to request a use variance for multifamily uses in a Quarry (Q) district. The property owners elected to pursue a 3rd option which would be to petition the Plan Commission and the City Council to rezone the property to Residential Multifamily (RM).

The GPP encourages more dense construction in this area to help prevent urban sprawl. Roach explained some of the building code violations and their possible remedy. The Monroe Co. Building Department will be requiring retroactive building permit. If the petition is approved both buildings will have to meet all current building codes. Sanitary sewage service is not available to this property yet. The historic house uses a sewage holding tank. The Barn unit uses a second holding tank. The Monroe Co. Health Department has pointed out that this was never approved. The petitioner will have to install a modern septic system for the Barn apartments. The multifamily building on the south end of the property has a valid septic permit. CBU is planning to extend a water main up Rockport Rd. The petitioner will need to grant an easement for this water system. Karst features will be preserved. Future multifamily will be subject to net density (of the 2.19 acres). This means only 12 units could be built on the southern part of the property. The Borland House was built around 1860 and has been listed as Outstanding in the 1989 Historic Survey. The house is not within city limits so the City can't locally designate it. The petitioner is working with the Indiana Historic Landmarks Foundation to include a historic preservation easement to protect the house. Right-of-way dedication is required as well as a 5-foot sidewalk. He presented issues for consideration such as GPP compliance, adequacy of public services, environmental preservation and the commitments made by the petitioner. Staff recommends that this rezoning request be forwarded to the April 5, 2010 Plan Commission meeting.

Mike Carmin spoke for the petitioner. He wished that this petition had not been a compliance issue. He asked the Plan Commission to look at the petition on its own merits. The petitioner's husband who is now deceased started all the construction and changes to the property. The property owner did not know that her husband had not gotten the proper permits. He discussed the possible densities and surrounding uses. Multifamily zoning will allow concentration of units in one building and save more greenspace. The recordable commitments would prevent the property from being overbuilt. They commit to no more development until sewer is in place. He believes that the City services will be extended since it is currently in the AIFA. The waterline presents a challenge to extend it without clearing all the trees. The addition of the sidewalk will be the only change brought about by this petition. He asked for comments from the Plan Commission.

Baker asked for EC comment. There was none.

Pat Williams asked what happens if this is not approved.

Roach said the petitioner could take it to the City Council with a negative vote from the PC. If the City Council denied the rezoning request, the only other option would be compliance. That would mean that the 3-unit building would need to be converted into a single family home and the apartment in the garage would need to be removed.

Williams asked if this was in effect a retroactive permit.

Roach said it is more like a retroactive site plan approval.

Williams asked if the petitioner was trying to get 12 units.

Roach said net density would come out to 15 units per acre. There are already 3 on the property so they would be adding 12 units.

Chris Smith asked if we don't approve this and they remove the tenants, do they still have to modify anything.

Roach said yes, they would have to remove the kitchen/kitchens and open up the buildings to make them one unit.

Smith asked about the log cabin rule.

Pat Shay said the log cabin rule applies to building codes not to zoning.

Smith asked if the petitioner intends to continue leasing this property.

Roach said yes.

Tom Seeber asked why RM is being considered with RS across the street.

Roach answered the petitioner brought forward the RM proposal since it is the least dense multi-family district that would make the existing units legal.

Seeber asked about the commitment on page 13-14. Is it more restrictive or less restrictive than the RM zoning district.

Roach said staff has not reviewed this too closely since they knew it would be a two-hearing case. Some of it is more restrictive (item e: net densities) than the RM district.

Seeber said he thought that the proposed restrictions are more restrictive than the zoning code. Staff and Mr. Carmin agreed.

Milan Pece asked about the sidewalk and the public benefits provided by this petition.

Roach said they did put some things forward to make the rezoning appear better. They have committed to an immediate dedication of right-of-way, immediate construction of the sidewalk, net densities, easement dedication beyond the sidewalk for the waterline and historic preservation of the house. No additional units to be added until sanitary sewer are available and the intersection of Rockport and Country Club is improved.

Chris Sturbaum asked why not consider single-family (RS) zoning.

Roach said RS zoning wouldn't solve their problem. They have illegal apartments on the property. Single-family versus multi-family in urban residential land use category is the crux of the issue. That land use category has a wide range of densities. It is a matter of when and how it is allowed. Should this wait until there are more adequate public services available?

Sturbaum said he would like to understand why they might be approving something that might not happen for 10 years. Is there road frontage possible?

Roach said it was possible. There are various site plans that could work. The owners of the property to the west have been discussing changing the zoning on the Golf Driving Range from PUD to Multi-family.

Sturbaum pointed out that this could be timed with the eventual creation on that road.

Roach agreed. The logical place for sanitary sewer service would be through the property to the west.

Sturbaum noted that he had heard the possibility of designing the project to resemble single-family housing.

Susan Fernandes asked if this property could have been a PUD.

Shay talked about the timing of the development. We have to consider surrounding possible development and how that would affect what is done on this property.

Roach said it is large enough for a PUD. It would not be appropriate since it is a single use and not dealing with more complex issues.

Fernandes said that they have considered several small PUDs. We would have more control.

Micuda said he understood what Fernandes was saying. The staff report seems to lean toward waiting based on the timing issue. They could choose to wait and then zone it as a PUD or do a straight zoning change. More services will be present in the future.

Fernandes discussed the public benefit that is gotten for the community through PUDs. Is this the only way that we can get this?

Roach said no. Many of the benefits stated by the petitioner are code requirements anyway.

Fernandes said it seems we would get the waterline through there anyway. She feels the City has some control over the timing issues. She doesn't like holding tanks or septic over karst topography. Holding tanks were banned in Monroe County for a very good reason. She wouldn't want to see the units approved with holding tanks. She would like to see how the holding tanks are holding up and how often they are pumped.

Seeber asked Micuda if the staff is leaning toward denial.

Micuda said staff anticipates making a negative recommendation. The PC has to evaluate the number of commitments beyond code justify the change in zone. Staff would prefer waiting and the property to come into compliance.

Seeber asked how they would get into compliance.

Micuda explained about establishing a compliance schedule for the units. Then, at sometime in the future, they could come back and try to do a PUD or a rezone based on changed conditions in terms of availability of services.

Baker asked for public comment.

Rachel Loop lives at 3035 S. Rockport Rd. directly east of this property. The petitioner has done a lot of work on the property. They applauded the restoration of the historic house. When the apartment for one of the children went in and they proposed to construct a small mother-in-law cottage, she didn't object. But she objects to this proposal-especially the

apartment buildings that are proposed to be built directly across the road from her house. Changing to Multi-family zoning will drastically change their neighborhood. They have had drainage and flooding problems on Rockport Rd. resulting from other development. The infrastructure is inadequate. It is premature to move forward with this kind of proposal at this time.

Joe Loop said that the karst features on that property are fairly severe. They would need storm sewers as well as sanitary sewers. They have a well that they have had to stop using since the apartment has been added to the barn. The land slopes to the west but the limestone slopes to the east. So when water goes into those sinkholes it actually runs east instead of west. The Highlands have really packed the houses in tightly. He believes they are creating a slum that will happen in a few years.

Matthew Dixon spoke representing the Jehovah's Witnesses property. They don't have much money. Any future growth would be reliant on the value of land. They were concerned that higher density development could reduce the value of their property. They are not so concerned with the southern part of the land. Will the commitments be legally enforceable?

Mike Carmin asked what Fernandes thinks they would achieve with a PUD. The services are all in line to happen sometime. The timing issue is attached to the sewer's existence. This could come forward as a site plan. Drainage issues would be dealt with upon site plan review not as part of the rezoning. This could come forward as a 6-7 lot subdivision. The density would be comparable. The kitchens could be removed but they could still rent to 3 unrelated adults. Nothing would change.

*****Milan Pece moved forward case #ZO-01-10 to the April hearing for a second hearing. Adrian Reid seconded the motion.**

Scott Burgins agrees with staff that the timing is not right for this. The public benefit does not make the case for this petition.

Fernandes doesn't see the public benefit. It seems like with a PUD they would have more opportunity to work with the petitioner on it.

Sturbaum asked staff to make a list of the kind of commitments that would make this better. Is the future road reasonable or not? Could we get a commitment to it? Is single-family the more reasonable approach? What proposal would make staff support this? He would be open to considering this kind of arrangement but he would like to hear from staff regarding the particular questions.

Milan Pece said that compliance is the preferred alternative at this point.

Reid said he would be tempted to approve this based solely on the waterline. The City would like to have someone else pay for that. He would like to hear staff's answers to Sturbaum's questions.

Seeber asked for more guidance from staff and to know what the City would get right away and details about the water easement. He was concerned about possible risks included with the timing of the project.

Smith asked if the petition is denied will the waterline go through.

Reid said yes but they'd have to dig up the road and remove some large trees.

Williams said that she was concerned with the lack of compliance. She could understand that the timeline was complicated by family dynamics. But there are multiple structures on which there was no compliance. It seems that they have an issue to remedy non-compliance but that they are going to an extreme. The request that they are considering is RM. That changes the dynamic of the area.

Baker said he didn't think that the history of the property had anything to do with the petition they are reviewing. The commitments don't add anything to the community at this point. He would like to see how the whole area is developing. We are ahead of where we should be. Rezoning should be considered with the whole area in mind. He was inclined to not allow the rezone.

*****Roll call vote was taken. The petition will be forwarded to the next Plan Commission hearing by a vote of 9:0.**

SUPPLEMENTAL PETITIONER'S STATEMENT

May 28, 2010

To City of Bloomington Plan Commission:

Rockport Road Trust, Petitioner, has tendered a proposed Commitment Concerning the Use and Development of Real Estate. The key points of the Commitment are summarized as:

1. All of the commitments will be noted on a Site Plan to be approved by the Planning Staff and recorded. Appropriate notations will be made to Petitioner's record deed to help ensure that a purchaser of the real estate will have notice of the Site Plan and the Commitment. The Site Plan will include designation of areas for tree preservation, conservation and developable areas, including building envelopes for future construction.
2. Septic repair permits have been obtained from the Monroe County Health Department and repairs shall be in accordance with the permits and approval by the Health Department. Septic repairs will be completed notwithstanding the final decision on petition ZO-01-10. The current state of septic systems on the Real Estate is clarified as follows:
 - a. The old (historic) home uses a septic tank that was been in place when Petitioner purchased the real estate. A septic permit had not been issued prior to the current repair permit. The tank uses 2 fingers that extend generally eastward from the home to Rockport Road. Any waterline construction is expected to conflict with the existing fingers. The septic repair permit will replace the existing fingers with an absorption field west of the home and away from the future water main. The system type is approved as a Presby.
 - b. The barn with the single apartment in the loft is on a holding tank. The repair permit replaces the tank with a Presby system west of the barn.
 - c. The house/3-apartment building is on a permitted septic system.
3. Waterline Dedication. Petitioner will dedicate a waterline easement along Rockport Road. The specific details of the easement have been reviewed with City Utilities and the contractor who will install the water main. The easement will allow for flexibility in location of the waterline in an effort to reasonably maximize tree preservation. The new water main will allow for the historic home taken off of a well and connected to public water. The water service line (2" line) connected to the 3-apartment building will be removed and a direction added between the water main and the building.
4. Sanitary Sewer. There are no plans for a sanitary sewer at this time. No additional dwelling units will be permitted unless the units are served by sanitary sewer. At that time, the existing home/3-unit apartment building will be connected to the sanitary sewer.
5. Density. Petitioner has withdrawn calculation of additional dwellings based on an acreage/density calculation in favor of a simpler statement of maximum density. The Real Estate is approximately 8 acres. There are 5 existing dwelling units. The Commitment limits additional dwelling units to no more than 8 for a maximum density of 13 dwelling units on 8 acres.

6. Road Connection. Building envelopes are shown on the Site Plan. Additional dwelling units are restricted to the building envelopes. The interior road for access to the building envelopes will be preserved for future dedication as a right-of-way for connection between Rockport Road and the west property line.

7. Aesthetics. Additional dwelling units constructed on the Real Estate will use exterior materials, a roof design and have an appearance substantially similar to a single family home.

8. Historic Designation. Petitioner began work on preservation of the old home before the zoning issues were known or the current petition filed. Petitioner intends to continue with her work to preserve the home and to seek formal historic designation unrelated to approval or not of ZO-01-10 but the timing for the formal designation has not been determined..

OWNER/PETITIONER

Rockport Road Trust

By: Michael L. Carmin
Michael L. Carmin, Attorney

**COMMITMENT CONCERNING THE USE AND
DEVELOPMENT OF REAL ESTATE**

ROCKPORT ROAD TRUST (the “Owner”) makes the following commitment to the City of Bloomington Plan Commission (the “Commission”) regarding the use and development of the following described real estate (the “Real Estate”), located in Bloomington, Indiana:

Section 1. Description of Real Estate.

A part of the Northwest quarter of Section 17, Township 8 North, Range 1 West, bounded as follows, to-wit: Commencing at a point in the centerline of Rockport Road 389 feet Southwest of the intersection of Tapp Road and Rockport Road; thence west 436 feet to an iron stake; thence South 260 feet to an iron stake; thence East 261 feet to the centerline of Rockport Road; thence Northeast 321 feet to the place of beginning.

Also, a part of the Northwest quarter of Section 17, Township 8 North, Range 1 West, Monroe County, Indiana, described as follows: Beginning at a point that is 1308.39 feet East and 264.22 feet South of the Northwest corner of the said quarter section, said point being in the centerline of Rockport Road; thence over and along the said road centerline South 35 degrees 48 minutes 47 seconds West for 61.66 feet; thence leaving the said road centerline and running West for 436.00 feet; thence South for 260.00 feet; thence East for 251.93 feet and to the aforementioned centerline of Rockport Road; thence over and along the said road centerline South 35 degrees 17 minutes 49 seconds West for 355.32 feet; thence leaving the said road centerline and running West 374.17 feet; thence North for 600.00 feet; thence East for 799.63 feet and to the point of beginning. Containing 6.00 acres, more or less.

(“Real Estate”).

Section 2. Case Number. ZO-01-10

Section 3. Statement of Commitment. As part of and as a condition of rezoning of the

Real Estate to RM, Owner commits to:

- a. Development of a site plan of the Real Estate depicting conservation areas for the preservation and protection of trees and karst features. The site plan will be recorded and cross-referenced to Owner's record deed. The site plan will denote areas as conservation area, tree preservation area, and developable area. The plan will be submitted to the City of Bloomington Planning Staff for approval prior to recording. The site plan will incorporate building envelopes for the construction of any additional dwelling units and will provide for the location of an interior road to serve the additional dwelling units and, on request by the City of Bloomington, dedication of a area for a right-of-way connecting Rockport Road to the west property line of Tract 2 of the Real Estate.
- b. Dedication of Right-of-Way along Rockport Road consistent with the right-of-way requirements for a major collector street as noted in the thoroughfare plan.
- c. No additional development of the Real Estate by construction of additional buildings or alteration of existing improvements to increase the number of dwelling units prior to completion of intersection improvements at Tapp Road and Rockport Road by the City of Bloomington.
- d. No development of the Real Estate by adding dwelling units unless all additional dwelling units and the existing three-apartment building are served by sanitary sewer.
- e. No more than eight additional dwelling units shall be constructed on the Real Estate. Additional dwelling units shall be constructed within the building envelopes as shown on the approved site plan.
- f. Dedication of a water line easement along Rockport Road. The specific terms and description of the easement shall be agreed upon with the City of Bloomington Utilities Department. The location of the water line to be adjusted as reasonably possible to maximize tree preservation of existing mature trees along the east property line of the Real Estate and west right-of-way of Rockport Road.
- g. Septic repairs for the existing home and single apartment constructed in the converted barn to be completed as required by the Monroe County Health Department.
- h. Additional dwelling units constructed on the real estate shall be subject to Planning Staff Review. Any structures for additional dwelling units shall employ construction materials, roof design and exterior features to give an appearance substantially similar to a single family home.

- i. Additional dwelling units constructed on the Real Estate must be served by public water.

Section 4. Binding Effect.

a. These commitments are a condition of approval of rezoning of the Real Estate from Quarry to Residential-Multi Family (RM). Failure to honor the commitments shall constitute a violation of the zoning ordinance and shall be subject to the penalties for a violation in addition to all other enforcement remedies.

b. These commitments are binding upon the Owner, subsequent owners of the Real Estate, and each other person acquiring an interest in the Real Estate, unless modified or terminated.

c. These commitments may be modified or terminated only by a decision of the Bloomington Plan Commission upon a public hearing held by the Commission wherein notice has been given as provided by the Commission's rules.

Section 5. Effective Date. The commitments contained herein shall be effective upon adoption of an ordinance by the City of Bloomington assigning Residential-Multi Family zoning to the Real Estate identified in Case No. ZO-01-10.

Section 6. Recording. The undersigned hereby authorizes the Clerk of the City of Bloomington Common Council to record these commitments in the Office of the Recorder of Monroe County, Indiana at the owner's expense. A copy of the recorded commitments bearing the recording stamp of the Recorder of Monroe County, Indiana shall be submitted to the Planning Department within thirty (30) days of final approval of the rezoning of the Real Estate.

Section 7. Enforcement. These commitments may be enforced by the Commission or any adjacent property owner or other interested party, as defined by the Planning Commission rules and procedures.

IN WITNESS WHEREOF, Rockport Road Trust has caused this commitment to be executed as of the _____ day of _____, 2010.

Carole Danner-Johns, Trustee

DEED REFERENCES:

Instrument No. 2004002680
Recorded February 11, 2004, Office of Recorder of Monroe County

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Subscribed and sworn to before me, a Notary Public, in and for said county and state, this _____ day of _____, 2010, at which time Carole Danner-Johns personally appeared and acknowledged the execution of the above and foregoing Commitment Concerning the Use and Development of Real Estate to be a voluntary act and deed.

My Commission Expires: _____
_____, Notary Public
A resident of _____ County

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. Michael L. Carmin.

This Instrument Prepared By
Michael L. Carmin, Attorney at Law
ANDREWS, HARRELL, MANN, CARMIN & PARKER, P.C.
400 W. 7th Street, Suite 104, P.O. Box 2639
Bloomington, Indiana 47402-2639
Telephone: (812) 332-4200

PETITIONER'S STATEMENT

To City of Bloomington Plan Commission:

Rockport Road Trust is the owner of approximately eight acres located near the southwest corner of the intersection of Tapp Road and Rockport Road. The real estate consists of a two acre and a six acre parcel. The two acre parcel has an existing single-family home. The home has been noted on a historic property inventory. A barn is located on the six acre parcel west of the home and is also identified in the historic property inventory. The barn previously has been altered by creation of an upper story apartment. The home and the barn are served by wells and septic systems. Along the property adjacent to Rockport Road in the southeast corner of the six acre parcel is a single-family home previously converted to three apartments.

Owner has been advised that the conversion of the home to three apartments was done without proper permits and constitutes a zoning violation. Owner has also been advised that both parcels are presently zoned Quarry, which allows for one residential unit on a tract. The apartment presently located in the converted upper story of the barn on the same parcel as the three apartment units in the converted home constitute a zoning violation.

Petitioner seeks to rezone both parcels from Quarry to Residential Multi-family. The real estate has never been the site of any quarry activity and is not now suitable for mineral extraction. Multi-family residential zoning of low density allows for reasonable use of the real estate that is not incompatible with surrounding land uses. Petitioner will commit to use restrictions on the real estate to ensure compatibility with surrounding land uses. Owner/Petitioner has no present intention or interest in further developing the real estate. Owner intends to designate significant portions of the real estate for tree preservation, which will also encompass any karst features identified on the real estate. Right-of-way dedication along Rockport Road will comply with the right-of-way requirements of the thoroughfare plan. The dedication of right-of-way will provide additional space for City of Bloomington Utilities to locate a water line. A sidewalk to be constructed along Rockport Road will be located within the dedicated right-of-way. Tree preservation along Rockport Road will also be designated.

Petitioner will submit a site plan depicting the conservation/preservation areas, right-of-way designation and tree preservation. The final site plan will be recorded to create a public record of the conservation and preservation areas. The real estate is not presently served by sanitary sewer. Petitioner will commit to no further development of the real estate with the addition of buildings or the creation of additional dwelling units unless such buildings and units will be served by sanitary sewer.

Density calculations for further development of the real estate shall be based on the net acreage available (deducting from the calculation areas designated as conservation or preservation areas).

Petitioner has been advised that the City of Bloomington anticipates road improvements for the intersection of Tapp Road and Rockport Road. Petitioner will further commit to no additional

development of the real estate or creation of additional dwelling units prior to completion of the intersection improvements at Tapp Road and Rockport Road.

OWNER/PETITIONER

Rockport Road Trust

By: 
Michael L. Carmin, Attorney

308646

February 24, 2010

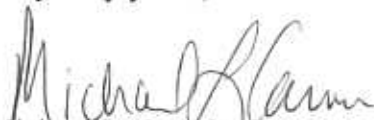
Mr. Jim Roach
City Planning
Showers Building
401 North Morton Street
Bloomington, IN 47404

RE: 3020 and 3040 S. Rockport Road
Our File No.: 21721-1

Dear Jim:

Enclosed is Petitioner's proposed Commitment Concerning the Use and Development of Real Estate submitted as conditions of approval of the rezoning of the Rockport Road property. Not stated in the Commitment is Petitioner's willingness to grant the necessary waterline easement. The final design and layout of the waterline easement is to be modified to minimize the risk of damage to the mature trees on the property. The Commitment for the waterline easement is not stated in the Commitment Concerning the Use and Development of Real Estate. The waterline easement will be a separate recorded easement to be prepared after site plan approval.

Very truly yours,


Michael L. Carmin

MLC/srh
Enclosure
310657

**COMMITMENT CONCERNING THE USE AND
DEVELOPMENT OF REAL ESTATE**

ROCKPORT ROAD TRUST (the "Owner") makes the following commitment to the City of Bloomington Plan Commission (the "Commission") regarding the use and development of the following described real estate (the "Real Estate"), located in Bloomington, Indiana:

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Also, a part of the Northwest quarter of Section 17, Township 8 North, Range 1 West, Monroe County, Indiana, described as follows: Beginning at a point that is 1308.39 feet East and 264.22 feet South of the Northwest corner of the said quarter section, said point being in the centerline of Rockport Road; thence over and along the said road centerline South 35 degrees 48 minutes 47 seconds West for 61.66 feet; thence leaving the said road centerline and running West for 436.00 feet; thence South for 260.00 feet; thence East for 251.93 feet and to the aforementioned centerline of Rockport Road; thence over and along the said road centerline South 35 degrees 17 minutes 49 seconds West for 355.32 feet; thence leaving the said road centerline and running West 374.17 feet; thence North for 600.00 feet; thence East for 799.63 feet and to the point of beginning. Containing 6.00 acres, more or less.

("Real Estate").

Section 2. Case Number. _____

Section 3. Statement of Commitment. As part of and as a condition of rezoning of the Real Estate to RM, Owner commits to:

- a. Development of a site plan of the Real Estate depicting conservation areas for the preservation and protection of trees and karst features. The site plan will be recorded and cross-referenced to Owner's record deed. The areas denoted as conservation areas will be free of alteration, including structures or improvements of any type except as may be approved by the City of Bloomington Plan Commission.
- b. Dedication of Right-of-Way along Rockport Road consistent with the right-of-way requirements for a major collector street as noted in the thoroughfare plan.
- c. No additional development of the Real Estate by construction of additional buildings or alteration of existing improvements to increase the number of dwelling units permitted prior to completion of intersection improvements at Tapp Road and Rockport Road by the City of Bloomington.
- d. No development of the Real Estate adding dwelling units unless all additional dwelling units are served by sanitary sewer.
- e. Dwelling unit density applicable to the real estate shall be calculated on the net developable acreage (gross acreage less conservation area, tree preservation area, buffer area and right-of-way dedication).

Section 4. Binding Effect.

a. These commitments are a condition of approval of rezoning of the Real Estate from Quarry to Residential-Multi Family (RM). Failure to honor the commitments shall constitute a violation of the zoning ordinance and shall be subject to the penalties for a violation in addition to all other enforcement remedies.

b. These commitments are binding upon the Owner, subsequent owners of the Real Estate, and each other person acquiring an interest in the Real Estate, unless modified or terminated.

c. These commitments may be modified or terminated only by a decision of the Bloomington Plan Commission upon a public hearing held by the Commission wherein notice has been given as provided by the Commission's rules.

Section 5. Effective Date. The commitments contained herein shall be effective upon adoption of an ordinance by the City of Bloomington assigning Residential-Multi Family zoning to the Real Estate identified in Case No. _____.

Section 6. Recording. The undersigned hereby authorizes the Clerk of the City of Bloomington Common Council to record these commitments in the Office of the Recorder of Monroe County, Indiana at the owner's expense. A copy of the recorded commitments bearing the recording stamp of the Recorder of Monroe County, Indiana shall be submitted to the Planning Department within thirty (30) days of final approval of the rezoning of the Real Estate.

Section 7. Enforcement. These commitments may be enforced by the Commission or any adjacent property owner or other interested party, as defined by the Planning Commission rules and procedures.

IN WITNESS WHEREOF, Rockport Road Trust has caused this commitment to be executed as of the _____ day of _____, 2010.

Carole Danner-Johns, Trustee

DEED REFERENCES:

Instrument No. 2004002680
Recorded February 11, 2004, Office of Recorder of Monroe County

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Subscribed and sworn to before me, a Notary Public, in and for said county and state, this _____ day of _____, 2010, at which time Carole Danner-Johns personally appeared and acknowledged the execution of the above and foregoing Commitment Concerning the Use and Development of Real Estate to be a voluntary act and deed.

My Commission Expires:

_____, Notary Public
A resident of _____ County

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. Michael L. Carmin.

This Instrument Prepared By
Michael L. Carmin, Attorney at Law
ANDREWS, HARRELL, MANN, CARMIN & PARKER, P.C.
400 W. 7th Street, Suite 104, P.O. Box 2639
Bloomington, Indiana 47402-2639
Telephone: (812) 332-4200

308638

Development Chronology for 3020 and 3040 Rockport Road

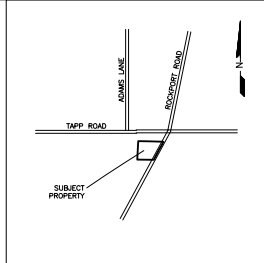
- 1987 Bought both parcels of land and began restoration on historic house
- 1990 Restoration of house completed.....moved in
- 1992 Restored historic barn and built apartment for my daughter to live in since house has only one bathroom
- 1993 Daughter moved into barn apartment for her college years
- 1997 Daughter moved into her own place....apartment used as guest quarters
Wayne began building speculative house at 3040
His physical and mental health problems intensify
- 1999 Divorce....Wayne moved into semi-finished top floor of 3040 and made himself an apartment there where he lived without water or sewage. He began developing an apartment on the main floor and roughed in an apartment in the basement. I dealt with him as little as possible
- 2003 Kent and I married
- 2004 I retired..... We had water and septic installed at 3040
- 2005 Wayne became very ill and moved to his daughter's in Michigan
He died three weeks later of undiagnosed lung cancer
- 2006 Rented apartment A and used the income to finish apartment B
- 2007 Rented apartment B and used the income to finish apartment C
- 2008 Rented apartment C
- 2009 Caretaker moved into Barn apartment to help us maintain the properties

Call from Planning Department checking out a report that we were "building an apartment" in our barn. I explained that we were only painting and repairing the barn, not building an apartment. The apartment had been there for a number of years and the caretaker was now living there. I was informed that it would be illegal to have a rental on that parcel since it was zoned Quarry"

I thought that the problem was that I would need to change the zoning to make it legal so I came in to the Planning department the next week to do that.

CITY OF BLOOMINGTON REZONE EXHIBIT

A PART OF NORTHWEST QUARTER OF SECTION 17, T8N, R1W, MONROE COUNTY, INDIANA



**Barn
with 2nd floor apartment**

Historic House

Septic Field

Future development area

3-unit building

- LEGEND:**
- A YARD LIGHT
 - B LIGHT POLE
 - C SIGNAL POLE
 - D UTILITY POLE
 - E GUY WIRE LINE
 - F CATCH BASIN
 - G CURB INLET
 - H ELECTRIC MH
 - I MANHOLE
 - J PHONE MH
 - K SANITARY MH
 - L SIGNAL MH
 - M STEAM MH
 - N STORM MH
 - O WATER MH
 - P WATER VALVE
 - Q GAS VALVE
 - R WATER VALVE
 - S FIRE HYDRANT
 - T SPR. HOODUP
 - U SPRINKLER
 - V DEVELOPMENT AREA
 - W PRESERVATION AREA
 - X BUFFER AREA
 - Y FD AXEL
 - Z FD BRASS DISK
 - AA FD CUT ON SPIKE
 - AB FD CHISELED X
 - AC CHISELED R
 - AD SET DRILL HOLE
 - AE FD HARRISON METAL
 - AF SET HARRISON MON.
 - AG HOUS. TACK
 - AH FD REBAR
 - AI SET REBAR
 - AJ FD MAG. NAL.
 - AK SET MAG. NAL.
 - AL FD NAL.
 - AM SET MAG. NAL.
 - AN FD PIPE
 - AO SET RR SPIKE
 - AP FD RR SPIKE
 - AQ MEASURED BAD
 - AR RECORDED BAD
 - AS PROPORTIONED INSET.
 - AT CALCULATED BAD
 - AU ABOVE GROUND
 - AV BELOW GROUND
 - AW CONF. TREE
 - AX DECID. TREE
 - AY SHRUB
 - AZ PHONE RISER-BOX
 - BA TV RISER-BOX
 - BB ELEC. RISER-BOX
 - BC GAS RISER-BOX

OWNER/TITLE:
Rockport Road Trust
Inss #200602020; Deed lines illustrated are subject to a boundary survey.
C/O Michael Carmin, Attorney
Andrews, Harrell, Mann, Carmin & Parker, PC

PROPERTY ADDRESS:
3029 South Rockport Road
Bloomington, Indiana 47401
3040 South Rockport Road
Bloomington, Indiana 47401

ZONE SUBJECT:
Quarry (QY)

ZONE ADJOINING:
Planned Unit Development

RECORD DESCRIPTION:
A part of the Northwest quarter of Section 17, Township 8 North, Range 1 West, Monroe County, Indiana, described as follows: Beginning at a point that is 1308.39 feet East and 264.22 feet South of the Northwest corner of the said quarter section, said point being in the centerline of Rockport Road; thence over and along the said road centerline South 35 degrees 48 minutes 47 seconds West for 61.66 feet; thence leaving the said road centerline and running West for 436.00 feet; thence South for 260.00 feet; thence East for 251.93 feet and to the aforementioned centerline of Rockport Road; thence over and along the said road centerline South 35 degrees 17 minutes 49 seconds West for 353.32 feet; thence leaving the said road centerline and running West 374.17 feet; thence North for 400.00 feet; thence East for 799.63 feet and to the point of beginning. Containing 6.00 acres, more or less.

EXISTING SITE CONDITIONS:
The site is currently open and wooded with areas of scrub growth. There are three structures on the two tracts.

UTILITY LOCATE INFORMATION:
#3026: 1001 190 143
#3046: 1001 190 145

Date	
By	
Revised	

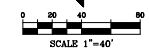
PRO FORMA SURVEY

Elessee Riggert Guentzler
LAND SURVEYING & CIVIL ENGINEERING
101 West Tapp Road
Bloomington, IN 47401
P: 812-338-9177
F: 812-338-9171

**ROCKPORT ROAD TRUST
BLOOMINGTON, IN**
FOR
ANDREWS, HARRELL, MANN, CARMIN & PARKER, PC

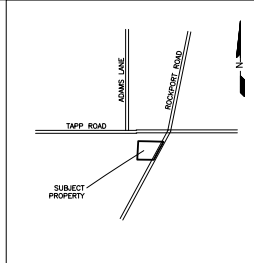
SURVEYED BY	
DRAWN BY	
CHECKED BY: AG	
DATE: JANUARY 25, 2009	
CITY OF BLOOMINGTON REZONE EXHIBIT	
SHEET	1 OF 1
PROJECT NO.	6816

**ZO-01-10
Site Plan**



CITY OF BLOOMINGTON REZONE EXHIBIT

A PART OF NORTHWEST QUARTER OF SECTION 17, T8N, R1W, MONROE COUNTY, INDIANA



- LEGEND:**
- | | | | | | |
|---|-------------------|---|---------------------|---|-------------------------------------|
| ⊙ | YARD LIGHT | — | FENCE | ⊙ | FD AXEL |
| ⊙ | LIGHT POLE | — | OVERHEAD WIRE | ⊙ | FD BRASS DISK |
| ⊙ | SIGNAL POLE | — | UNDER ELEC. | ⊙ | FD LOT OR SPIRE |
| ⊙ | UTILITY POLE | — | GAS LINE | ⊙ | FD CHISELED X |
| ⊙ | GUY WIRE | — | SAN SEWER LINE | ⊙ | FD CHISELED R |
| ⊙ | CATCH BASIN | — | STORM SEWER LINE | ⊙ | FD HARRISON METAL SET |
| ⊙ | CURB INLET | — | UNDER TELEPHONE | ⊙ | FD HARRISON METAL SET HARRISON MON. |
| ⊙ | ELECTRIC MH | — | EXISTING WATER LINE | ⊙ | FD HOT TACK |
| ⊙ | MANHOLE | — | CHILLED WATER LINE | ⊙ | FD REBAR |
| ⊙ | PHONE MH | — | SAN | ⊙ | FD REBAR |
| ⊙ | SANITARY MH | — | R.O.W. MON. | ⊙ | FD MAG. NAL. |
| ⊙ | SIGNAL MH | — | MONITORING WELL | ⊙ | FD MAG. NAL. |
| ⊙ | STEAM MH | — | BOLLARD | ⊙ | FD NAL. |
| ⊙ | STORM MH | — | ROSE HOLE | ⊙ | FD PIPE |
| ⊙ | WATER MH | — | DOWNSPILT | ⊙ | FD RR SPIKE |
| ⊙ | ELEC. METER | — | POLE POST | ⊙ | FD RR SPIKE |
| ⊙ | CLEANOUT | — | POLE | ⊙ | FD STON. |
| ⊙ | GAS METER | — | PARKING METER | ⊙ | MEASURED BAD |
| ⊙ | GAS VALVE | — | SPRINT | ⊙ | RECORDED BAD |
| ⊙ | WATER VALVE | — | WOOD POST | ⊙ | PROPORTION BAD |
| ⊙ | FIRE HYDRANT | — | PARKING SPACES | ⊙ | CALCULATED BAD |
| ⊙ | SPR. HOOPUP | — | TRANSFORMER | ⊙ | ABOVE GROUND |
| ⊙ | SPRINKLER | — | ELEC. WALT | ⊙ | BELOW GROUND |
| ⊙ | DEVELOPABLE AREA | — | STEAM WALT | ⊙ | CONF. TREE |
| ⊙ | PRESERVATION AREA | — | PHONE WALT | ⊙ | DECID. TREE |
| ⊙ | BUFFER AREA | — | BRD. FEEDER | ⊙ | SHRUB |
| ⊙ | | — | PHONE BOOTH | ⊙ | PHONE RISER-BOX |
| ⊙ | | — | PROP. TANK | ⊙ | TV RISER-BOX |
| ⊙ | | — | PARKING BLOCK | ⊙ | ELEC. RISER-BOX |
| ⊙ | | — | | ⊙ | GAS RISER-BOX |

OWNER/TITLE:
Rockport Road Trust
In: #200602020; Deed lines illustrated are subject to a boundary survey.
C/O Michael Carmin, Attorney
Andrews, Harrell, Mann, Carmin & Parker, PC

PROPERTY ADDRESS:
3029 South Rockport Road
Bloomington, Indiana 47401
3040 South Rockport Road
Bloomington, Indiana 47401

ZONE SUBJECT:
Quarry (QY)

ZONE ADJOINING:
Planned Unit Development

RECORD DESCRIPTION:
A part of the Northwest quarter of Section 17, Township 8 North, Range 1 West bounded as follows, to-wit: Commencing at a point in the centerline of Rockport Road 389 feet Southwest of the intersection of Tapp Road and Rockport Road; thence west 436 feet to an iron stake; thence South 240 feet to an iron stake; thence East 261 feet to the centerline of Rockport Road; thence Northeast 321 feet to the place of beginning.

Also, a part of the Northwest quarter of Section 17, Township 8 North, Range 1 West, Monroe County, Indiana, described as follows: Beginning at a point that is 1308.39 feet East and 264.22 feet South of the Northwest corner of the said quarter section, said point being in the centerline of Rockport Road; thence over and along the said road centerline South 35 degrees 48 minutes 47 seconds West for 61.66 feet; thence leaving the said road centerline and running West for 436.00 feet; thence South for 260.00 feet; thence East for 251.93 feet to the aforementioned centerline of Rockport Road; thence over and along the said road centerline South 35 degrees 17 minutes 49 seconds West for 353.32 feet; thence leaving the said road centerline and running West 374.17 feet; thence North for 460.00 feet; thence East for 799.63 feet and to the point of beginning. Containing 6.00 acres, more or less.

EXISTING SITE CONDITIONS:
The site is currently open and wooded with areas of scrub growth. There are three structures on the two tracts.

UTILITY LOCATE CERTIFICATION:
#3026: 1001 190 143
#3046: 1001 190 145

Date	
By	
Revised	

PRO FORMA SURVEY

Bledsoe Riggert Guentzler
LAND SURVEYING & CIVIL ENGINEERING
101 West Tapp Road
Bloomington, IN 47404
P: 812-338-9277
F: 812-338-9217

ROCKPORT ROAD TRUST
BLOOMINGTON, IN
FOR
ANDREWS, HARRELL, MANN, CARMIN & PARKER, PC

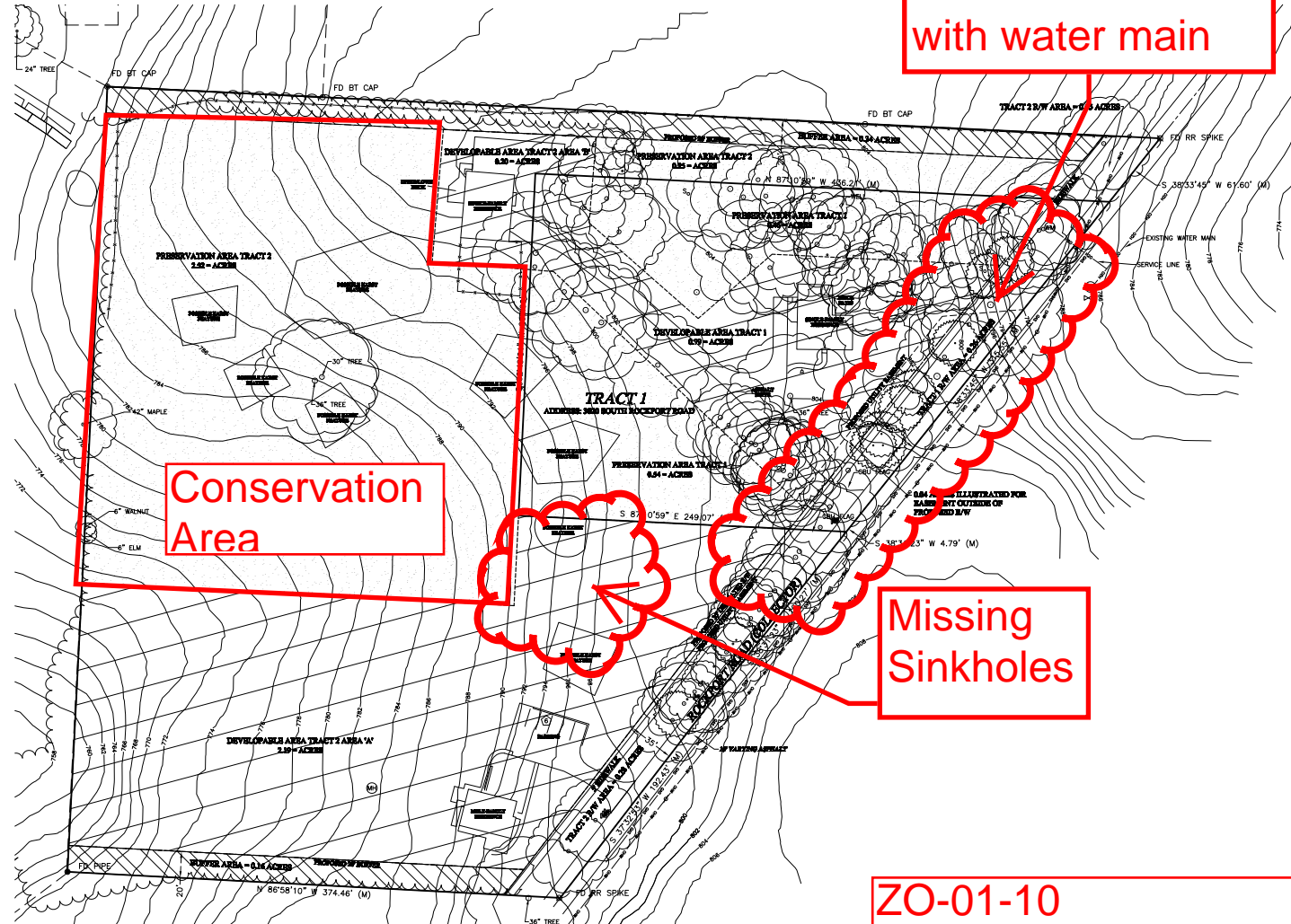
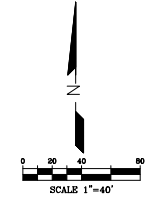
SURVEYED BY	
DRAWN BY	
CHECKED BY	
DATE	JANUARY 28, 2009
CITY OF BLOOMINGTON	
REZONE EXHIBIT	
SHEET	1 OF 1
PROJECT NO.	6816

Trees of concern with water main

Conservation Area

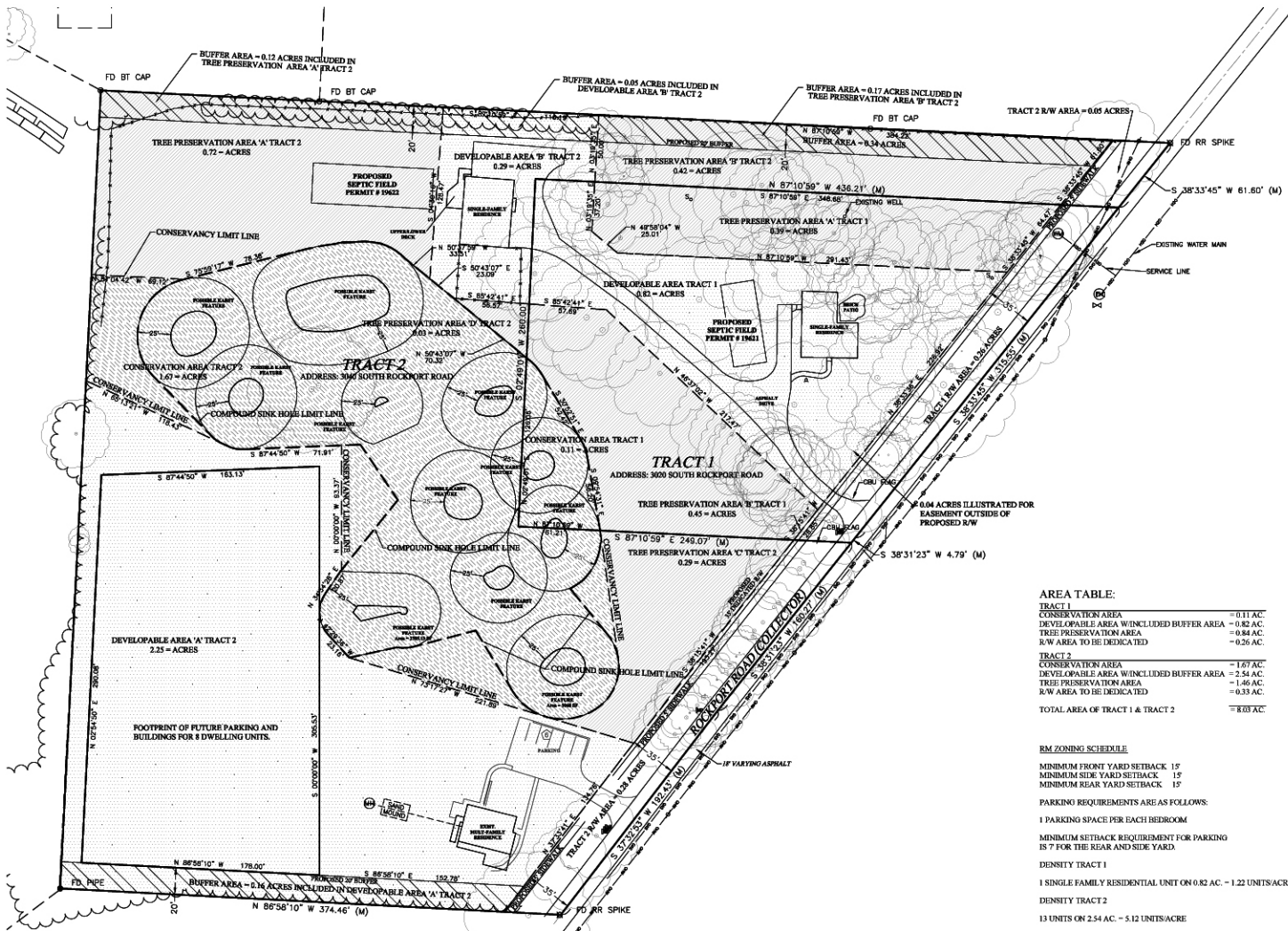
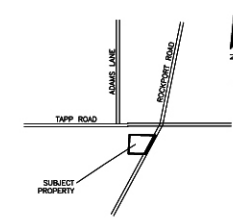
Missing Sinkholes

ZO-01-10
Site Plan with contours



CITY OF BLOOMINGTON REZONE EXHIBIT

A PART OF NORTHWEST QUARTER OF SECTION 17, T8N, R1W, MONROE COUNTY, INDIANA



LEGEND:

A	YARD LIGHT	FENCE GENERAL	FD ABEL
B	LIGHT POLE	OVERHEAD WIRES	FD BRASS DISK
C	SIGNAL POLE	UNDER ELEC.	FD COT ON SPOLE
D	UTILITY POLE	GAS LINE	FD CHASELED X
E	GUY WIRE	RAIN SEWER LINE	FD CHILL HOLE
F	CATCH BASIN	STORM SEWER LINE	FD HARRISON MON.
G	CURB INLET	UNDER TELEPHONE	FD HARRISON MON.
H	ELECTRIC MH	EXISTING WATER LINE	SET HUB/JACK
I	MANHOLE	CHILLED WATER LINE	FD REBAR
J	PHONE MH	SIGN	FD REBAR
K	SANITARY MH	SIGN MON. MON.	SET MAG NAIL
L	SIGNAL MH	MONITORING WELL	FD MAG
M	STEAM MH	SOFT HOLE	FD RAIL SPIKE
N	STORM MH	DOWNCUT	FD RAIL SPIKE
O	WATER MH	WOOD POST	FD RAIL SPIKE
P	ELEC. METER	PARKING SPACES	PROPORTIONAL B&D
Q	CLEANOUT	ELEC. VAULT	MEASURED B&D
R	GAS METER	PHONE VAULT	PROPORTIONAL DST.
S	GAS VALVE	STREAM VAULT	ABOVE GROUND
T	WATER VALVE	VALVE VAULT	D.G. BELOW TREE
U	FIRE HYDRANT	AC UNIT	DECID. TREE
V	SPIR. HOODUP	PHONE BOOTH	SHRUB
W	SPRINKLER	BIRD FEEDER	PHONE RISER-BOX
X	DEVELOPABLE AREA	PROP. TANK	TV RISER-BOX
Y	CONSERVATION AREA	PARKING BLOCK	ELEC. RISER-BOX
Z	BUFFER AREA	SINKHOLE PRESERVATION LIMITS	GAS RISER-BOX
AA	CONSERVANCY LIMITS	LAST CLOSED ELEVATION OF POSSIBLE KARST FEATURE	

OWNER/TITLE:
Rockport Road Tract
Inet. # 200402680; Deed lines illustrated are subject to a boundary survey.
C/O Michael Carmin, Attorney
Andrews, Harrell, Mann, Carmin & Parker, PC
Bloomington, Indiana 47403

PROPERTY ADDRESS:
3020 South Rockport Road
Bloomington, Indiana 47403

ZONE SUBJECT:
Quincy (Q2)

ZONE ADJACENT:
Planned Unit Development

RECORD DESCRIPTION:
A part of the Northwest quarter of Section 17, Township 8 North, Range 1 West, Monroe County, Indiana, described as follows: Beginning at a point in the centerline of Rockport Road 300 feet Southwest of the intersection of Tapp Road and Rockport Road; thence west 416 feet to an iron stake; thence South 260 feet to an iron stake; thence East 201 feet to the centerline of Rockport Road; thence Northeast 321 feet to the place of beginning.

Also, a part of the Northwest quarter of Section 17, Township 8 North, Range 1 West, Monroe County, Indiana, described as follows: Beginning at a point that is 138.39 feet East and 254.22 feet South of the Northwest corner of the said quarter section, said point being in the centerline of Rockport Road; thence over and along the said road centerline South 15 degrees 48 minutes 47 seconds West for 61.66 feet; thence leaving the said road centerline and running West for 436.00 feet; thence South for 260.00 feet; thence East for 251.93 feet and to the aforementioned centerline of Rockport Road; thence over and along the said road centerline South 75 degrees 17 minutes 49 seconds West for 353.32 feet; thence leaving the said road centerline and running West 374.17 feet; thence North for 690.00 feet; thence East for 799.63 feet and to the point of beginning. Containing 6.00 acres, more or less.

EXISTING SITE CONDITIONS:
The site is currently open and wooded with areas of scrub growth. There are three structures on the two tracts.

UTILITY LOCATE CONFIRMATION:
#3020: 1001 190 143
#3040: 1001 190 145

AREA TABLE:

TRACT 1	
CONSERVATION AREA	= 0.11 AC
DEVELOPABLE AREA W/INCLUDED BUFFER AREA	= 0.82 AC
TREE PRESERVATION AREA	= 0.84 AC
R/W AREA TO BE DEDICATED	= 0.26 AC
TRACT 2	
CONSERVATION AREA	= 1.67 AC
DEVELOPABLE AREA W/INCLUDED BUFFER AREA	= 2.54 AC
TREE PRESERVATION AREA	= 1.46 AC
R/W AREA TO BE DEDICATED	= 0.33 AC
TOTAL AREA OF TRACT 1 & TRACT 2	= 8.03 AC

RM ZONING SCHEDULE

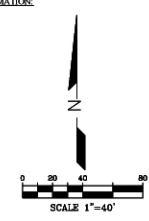
MINIMUM FRONT YARD SETBACK 15'
MINIMUM SIDE YARD SETBACK 15'
MINIMUM REAR YARD SETBACK 15'

PARKING REQUIREMENTS ARE AS FOLLOWS:
1 PARKING SPACE PER EACH BEDROOM
MINIMUM SETBACK REQUIREMENT FOR PARKING IS 7' FOR THE REAR AND SIDE YARD.

DENSITY TRACT 1
1 SINGLE FAMILY RESIDENTIAL UNIT ON 0.82 AC - 1.22 UNITS/ACRE

DENSITY TRACT 2
13 UNITS ON 2.54 AC - 5.12 UNITS/ACRE

GROSS AREA = 2.54 ACRES
ACCESS EASEMENT AREA = 0.28 ACRES
TOTAL AREA FOR THE 13 UNITS = 2.54 ACRES
OVERALL DENSITY = 148.06 - 1.73 UNITS/ACRE



DATE: _____
BY: _____
REVISION: _____

Blairline Riggett Guentzler
LAND SURVEYING & CIVIL ENGINEERING
185 West 16th Road
Bloomington, Indiana 47403
P: 812-338-8277
F: 812-338-8877

ROCKPORT ROAD TRUST
BLOOMINGTON, IN
FOR
ANDREWS, HARRELL, MANN, CARMIN & PARKER, PC

SURVISED BY: _____
DRAWN BY: _____
CHECKED BY: B.G.
DATE: MARCH 04, 2010

CITY OF BLOOMINGTON
REZONE EXHIBIT

SHEET
1 OF **1**
PROJECT NO: **6816**

SOUTH BLOOMINGTON CONGREGATION
OF JEHOVAH'S WITNESSES

March 1, 2010

Bloomington Planning Commission
401 N Morton St Ste 160
Bloomington IN 47404

Re: Petition for Change of Zone; Case 20-01-10

Dear Members,

Having been neighbors with the petitioner for more than fourteen years, we commend her for the diligent care of her real estate. It is well maintained and attractive. Having carefully reviewed the request documents and plan by BRG Inc. we would like to make the following comments, observations, and requests.

We did appreciate the historical timeline provided as we wondered what happened to Wayne after we no longer saw him active. Some of our number had done business with him in the past and were aware of the impending divorce and that he had started a triplex without approvals from the local Zoning and Building Depts., so we were aware of the violations as was the petitioner.

Back in the early 1990's the City of Bloomington hired an outside firm to study zoning and land use. It concluded that development should occur toward the southwest part of the city, which is closer to existing utilities. The then owner of the Woolery Farm and Stone Mill sought and received PUD designation for most of the 160 acres of their property. This property remained Quarry while the rest was rezoned from Quarry to PUD. Presently it is surrounded by land zoned BP as part of that PUD.


Just to the south of this parcel is a 3.5 acre tract that the planning dept has refused to consider a change of use from BP until gravity sewer has been extended to the site. It would seem inconsistent to allow such a zoning change while no such requirement has been met. It would be much more consistent to allow a change to PUD, granting the existing status quo, with a residential single family zoning on the 2.19 acre TRACT 2 AREA "A". Presently, it appears to be a single family home even though an illegal conversion has been done. We do agree that the conservation areas be excluded from any calculation for future density. We also question why the two Karst features on this tract are not part of the conservation area? To rezone this parcel to multi-family could result in total density for that parcel of sixteen total units or maybe fewer if the above are protected. Subtract the four units already on the property and twelve units could be built in the future. We suggest that this is too dense on too small a parcel.


Re: Petition for Change of Zone; Case 20-01-10
March 1, 2010
Page 2

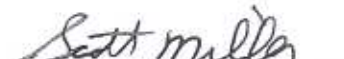
We feel that in some fashion the planning commission should protect Tract One in its entirety, not just with some areas protected and a promise to protect it in the future. We feel that the barn as a supporting structure should be protected and should be on the same parcel as the house, or else receive protection from a PUD designation. It would be a shame if these two historical structures were to have separate ownership by reason of this request. If this were a PUD then all of these separated conservancies could be protected by one statement of Conditions of Preservation. As it stands in this proposal the historical home on tract one could have several other structures (7/ acre times .79 acres yields 5.53 dwelling units) added that would destroy the nature of the site.

In summary we would request that the historic home and barn and all of its grounds be protected. We are not opposed to limited development on the 2.19 acres, with conditions.

Sincerely,


Martin Boling, Trustee


Robert Lynch, Trustee


Scott Miller, Trustee

South Bloomington Congregation of Jehovah's Witnesses
Title Holder for Bloomington Congregations, Indiana

Cc: Kirk Dorrance, Circuit Overseer

In the Council Chambers of the Showers City Hall on Wednesday, June 16, 2010 at 7:30 pm with Council President Isabel Piedmont-Smith presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
June 16, 2010

Roll Call: Mayer, Piedmont-Smith, Rollo, Ruff, Sandberg, Satterfield, Sturbaum, Volan, Wisler

ROLL CALL

Council President Piedmont-Smith gave the Agenda Summation

AGENDA SUMMATION

The minutes of May 5, 2010 and June 2, 2010 were approved by a voice vote.

APPROVAL OF MINUTES

It was moved and seconded to amend the agenda by moving Reports from Council Members to the end of the report section of this meeting. The motion was approved by a roll call vote of Ayes: 8, Nays: 0. (Volan had not yet arrived at the meeting.)

AMENDING AGENDA

REPORTS:

Cathi Crabtree, Chair of the Commission on the Status of Women, read a proclamation signed by the mayor stating the city's support of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women and urging the US Senate to join 186 countries around the world by ratifying the treaty with all due haste and committing itself to its provisions.

MAYOR and CITY OFFICES

- Commission on the Status of Women

Mike McAfee reported on the economic impact study that the Visitors and Convention Bureau conducted in conjunction with the Department of Recreation, Park and Tourism Studies at Indiana University. The study, intended for use in strategic planning for the tourism industry in the area, estimated the economic impact of visitors and looked at demographics of visitors. The estimated economic impact was \$279 million in sales and in supporting businesses. McAfee noted the research methods used, the breakdown of expenditures, and also provided a profile of the average tourist to the area. He noted that conventions and sports events provided the longest visits and the highest expenditures. With an eye to the prospect of diminishing fuel availability, Rollo asked if regional tourism was a strategy for the future. McAfee said it was, and noted that most visitors came from Indiana and Illinois. An executive summary of the report was provided for the council members.

- Visitors and Convention Bureau

Nancy Hiestand, Special Projects Coordinator and staff to the Historic Preservation Commission, noted that the Chair of the Commission Marjorie Hudgins and Vice Chair Danielle Bachant-Bell were present. Hiestand noted that this was the first year for the Rosemary Miller Awards given to projects that illustrate best practices in local historic preservation and those that engage in forward looking policies towards historic buildings. Hiestand told the history of the Green Bean on West 4th Street and Hudgins presented Carolyn and Keith Clay with the award for Historic Preservation Leadership in Downtown Revitalization and Adaptive Reuse. Maurice Garnier received the Historic Preservation Leadership in Rehabilitation of a Residential Investment Property. Barbara Lund was given the award for Historic Preservation Leadership in Adapting an Historic Home.

- Historic Preservation Commission

Vickie Provine and Lisa Abbott, Housing and Neighborhood Development Department, reported the awards given at the June 5th Blooming Neighborhood Awards: Mayor's Excellence Award – Woodland/Winding Brook Neighborhood, and the City Council Neighborhood Enhancement Award -- Green Acres Neighborhood. They reported the HAND Neighbor of the Year Award was given to Phil

- Blooming Neighbor Awards

Worthington of the Garden Hill Neighborhood, Ida Bouvier from Broadview, Matt Press from McDoel Gardens and Jane Spearman from Green Acres. Special awards given were the Bloomington's Favorite Neighborhood Ink Slinger Award which went to Carrol Krause, and the Blooming Neighbor Lifetime Leader Extraordinaire Award which was awarded to Bill Sturbaum. Sturbaum received his award at this meeting, and thanked the city for the award.

Reports from the Mayor and City Offices (cont'd)

Patrick Shay, Development Review Manager with the Planning Department, gave an update from the Plan Commission for the council. He outlined 7 cases that the commission had reviewed, and 3 cases that the plan commission had in progress at this time.

COUNCIL COMMITTEES

- Plan Commission

Lorraine Farrell said that when the civil rights of any of our citizens were threatened, as she said was the case with Arizona Senate Bill 1070, one must speak out against such infringements. She thanked the mayor, clerk and council signatories for their willingness to speak out and help continue the important national dialogue surrounding this issue.

PUBLIC INPUT

David Keppel, Chair of the Just Peace Task Force of the Unitarian Universalist Church and a member of its Green Sanctuary Task Force on Global Climate Change, thanked the signatories of the letter written to Gov. Brewer of Arizona expressing strong disapproval of the Arizona immigration law SB 1070. He said it would certainly lead to racial profiling and noted that Indiana Senator Richard Lugar said "It is probably best to let the federal government deal with illegal immigration legislation." He noted UU Church President Reverend Peter Morales had made a statement that the bill was not about Arizona or about immigration, but the future direction of American society and its soul.

Rita Lichtenberg said she was proud and supported the city council for their words on the Arizona immigration legislation. She said that there would be national discussion on this issue soon. She quoted the 1946 statement of German pastor Martin Niemoller:

THEY CAME FIRST for the Communists, and I didn't speak up because I wasn't a Communist.

THEN THEY CAME for the trade unionists, and I didn't speak up because I wasn't a trade unionist.

THEN THEY CAME for the Jews, and I didn't speak up because I wasn't a Jew.

THEN THEY CAME for me and by that time no one was left to speak up."

Gary Pool, long time resident of Bloomington, said he wanted to add his voice to others in commending the mayor, council and clerk for their signatures on the letter to the governor of Arizona condemning the law that he said enshrined racial profiling and prejudice in legal statute. He said that immigration law needed reform, but this was not the way.

Pedro Roman said he had lived in Bloomington for 14 years. He said that the Indiana legislators were contemplating a similar law to that of Arizona and hoped the council would speak out on that when the time came. He said he was surprised by the reaction of the local Chamber of Commerce as he had received communication from National Council of La Raza saying that they were joining the US Chamber of Commerce on a legal action in federal court requesting the state of Arizona not implement their law. He said we should not make money or have income depending on civil rights violations. He said the local Chamber had yet to make clear that they do not support the spirit of the law.

Merle Hedrick preached that Jesus loved the city council, City of Bloomington and the whole world. He spoke of the recent Gaza flotilla issue and said that very few were speaking out on behalf of Israel and he felt compelled to do so.

Ramsey Harik, said he was a lifelong resident of Bloomington and a child of immigrants. He thanked the council, mayor and clerk for their letter to the governor of Arizona and said, while it was largely a symbolic act, it had made a clear statement that there are definite fundamental human principles of decency and compassion and constitutionality that have to take precedence over business as usual.

David R Grubb advocated for the mayor to spend four hours a day in his office to take calls from taxpayers.

Tim Mayer thanked his wife, Sue, for 48 years of wedded bliss!

COUNCILMEMBER COMMENTS

Chris Sturbaum read the following statement:

I am sorry that our letter to Arizona has caused some local businesses to worry about customer's possible reactions to our city action.

I do wish The Chamber and local businesses could hear how much our action has meant to some local members of Bloomington's Latino community.

I understand why the Chamber might take this stand based on its mission, but council members have a broader mission including an oath to uphold the Constitution of the United States. The Arizona action appears to be unconstitutional in its practice and intent.

As an elected official who took an oath to uphold the Constitution of the United States, I find it to be a matter of principle and obligation to join the many cities speaking up about SB 1070. The Arizona actions challenge ideas last engaged in the civil rights movement of the 60s. The previous crisis with Arizona was in response to their refusal to recognize the national holiday of Martin Luther King Jr. in the 90s.

My sister's children were born in the United States but they have experienced prejudice for being Latino in America. We want a better country than that. If the Chamber and local businesses disagree with this action, they will make their own disclaimers. I deeply regret any worry to local businesses our action has caused, but there are times to stand up against injustice. Perhaps there is a price for this action, but there is also a price for silence. I believe that SB 1070 is a step in the wrong direction for our country and will most likely be found to be unconstitutional.

Rollo expressed his appreciation to Sandberg and Sturbaum for drafting the letter to the governor of Arizona, adding that the signatories were steadfast in maintaining that SB 1070 was unconstitutional and would be overturned.

Susan Sandberg said she was proud to sit with her colleagues, mayor and clerk, and noted that the mayor's comments on WFIU's program "Ask The Mayor" were eloquent and heartfelt. She urged citizens to listen to it on podcast to hear a message of 'none of us are free until all of us are free.' She then thanked editor and publisher Malcolm Abrams for four years of Bloom Magazine and noted that the latest edition featured two city employees, Daniel Soto, humanitarian, and Beverly Calendar-Anderson, Director of Safe and Civil City Program. She said we were blessed to have these people in our community.

Isabel Piedmont-Smith said that many emails, letters and letters to the editor had condemned the letter written to the governor of Arizona by herself and her colleagues. She said that by their condemnation, the writers had indicated that they had not carefully read the letter, and that it did not state that the signatories were in favor of people breaking the law by entering the country illegally. She said that most of the letter addressed civil liberties and civil rights, and did not emphasize a 'boycott,' a word that she said was not included in the letter.

She said she had read Arizona Senate Bill 1070, and that she found two parts of it to be offensive. She also noted that as an elected official she had taken a oath to uphold the constitution of the US and had the obligation to speak out when it was being violated.

Referring to that law, Piedmont-Smith read Section 2, Part B:

“for any lawful contact made by a law enforcement official, where reasonable suspicion exists that a person is an alien who is unlawfully present in the United States, a reasonable attempt shall be made to determine the immigration status of the person.”

She said that this implied to her that any contact that a police officer or officer of the court had with an individual could result in the demand of proof of that person’s immigration status. She said ‘reasonable suspicion’ was not defined, and that citizens could sue the law enforcement officers if they felt they were not upholding this law. Piedmont-Smith said that this was clearly a racist law, and it was a clear violation of the civil liberties of residents of our country and would affect many people who were in the US legally.

She read another quote from Section 2 that read:

“a law enforcement officer without a warrant may arrest a person if the officer has probable cause to believe that the person has committed any public offense.”

She said that this disturbed her. She added that overall the intent of the law was good, but that that this was not what needed to be done to solve the problems of illegal immigrants and drugs. She added that this was not the American way of dealing with the problems and that the law defied the principles on which our nation was founded.

She thanked those who came to speak in support of the letter, and said she especially appreciated the fact that citizens came in person as many of the emails and calls that were made to the office were anonymous.

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

It was moved and seconded that Resolution 10-11 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis. It was moved and seconded that Resolution 10-11 be adopted.

Mike Satterfield, Chair of the Committee gave a brief report of the activities of the Jack Hopkins Committee for this year. He said the committee called for collaborative and innovative projects in this year’s initial announcement of the program cycle. He said that due to the extraordinary funding losses the public school system had experienced, the committee invited MCCSC foundation to apply, something that had not been done in the past. He said that 33 applications were received; 22 programs were recommended for funding. He noted that one public and one private school received a recommendation for funding. He noted that the total award was \$200,000 and as always the process was challenging. He acknowledged the committee’s attention to detail and work on this committee.

Marilyn Patterson, Program Director with the Housing and Neighborhood Department and monitor of the spending of the awardees, said she appreciated the work of the committee and said that the social service agencies had asked for things that were basic to the community.

Wisler asked for clarification about the fact that MCCSC was ‘invited’ to apply for funding, asking if others were invited as well. Satterfield said that the committee wanted to make sure the community knew that the process was open.

Sandberg, a member of the committee, explained that as agencies inquired about criteria for the funding, they were not discouraged. She said the committee recognized the crisis in the funding of the schools due to state funding decisions and that it was a good way for the committee to address the serious needs coming as a result of other

COUNCILMEMBER COMMENTS

(cont’d)

BOARD AND COMMISSION APPOINTMENTS

LEGISLATION FOR SECOND READING

Resolution 10-11 Authorizing the Allocation of the Jack Hopkins Social Services Program Funds for the Year 2010 and other Related Matters.

decisions made at the state level. Sandberg said that all non-profits serving the needs of low income individuals were welcome to apply for funding.

Sturbaum requested that the list of recipients be read into the record. Satterfield read:

• Community Kitchen of Monroe County, Inc.	\$7,851.00
• Interfaith Winter Shelter Initiative	\$15,193.75
• Middle Way House, Inc.	\$10,554.00
• Volunteers in Medicine of Monroe County	\$5,880.00
• Monroe County United Ministries, Inc.	\$5,540.53
• Amethyst House Inc.	\$7,860.00
• El Centro Comunal Latino	\$3,500.00
• Martha's House, Inc.	\$4,225.00
• Options, Inc.	\$9,750.00
• Catholic Charities Bloomington	\$8,894.25
• Girls Inc. of Monroe County	\$13,500.00
• Big Brothers Big Sisters of South Central Indiana	\$2,900.00
• Foundation of Monroe County Community Schools	\$32,000.00
• Pinnacle School	\$9,000.00
• Boys and Girls Clubs of Bloomington	\$3,567.14
• Stepping Stones	\$4,300.00
• Habitat for Humanity of Monroe County	\$17,000.00
• People & Animal Learning Services (PALS)	\$3,453.57
• Planned Parenthood of Indiana	\$5,000.00
• Bloomington Hospital Community Health	\$6,809.76
• South Central Community Action Program, Inc.	\$16,521.00
• Monroe County YMCA	\$6,700.00

Wisler said that at the first meeting 11 applications were eliminated from consideration and said that the remaining got funded at some level. He asked for further explanation of how that decision, that he called quick, was made. He asked if they were disqualified off the bat because of something in the application.

Satterfield said that there were various reasons for the early elimination -- applications that did not apply directly to the city or did not serve city residents. He said that there was a discussion about each application and that none was disqualified right off. He said the decisions were collective ones.

Sandberg said that in light of the many applications submitted, care was taken to give enough money to any one organization that would allow it to proceed with the project with an amount to have some impact on their work with the low income population of Bloomington. She said those 11 were worthy projects, but didn't meet this year's criteria.

Wisler asked if the committee was getting applications that did not meet the criteria at all. He questioned funding going to salaries and on-going expenses which he said did not fit the criteria. He said he realized that there were exceptions to the rule and wondered if there were more requests for that type of funding. He asked about the ranking of funding for one-time expenses versus on-going expenses.

Piedmont-Smith, member of the committee, said there were two cases where salaries were funded. She said that in both cases the funding was necessary because the agency did not get financial support from their usual source of funds -- either NAP credits or a service funding grant through Indiana University -- and that the agency planned to revive those sources in the future. She said she considered this bridge funding. She said that criteria also included the number of people who would be serviced by a particular program, and that might have accounted for the initial elimination of 11 applications.

Satterfield said that technically some salaries were being funded that were not on-going; they were start-ups or new initiatives.

Volan asked the amount of funding requested. Council Attorney/Administrator Dan Sherman said it was approximately \$427,000, with \$200,000 being the total amount available for funding this year. Volan asked if this was an increase over previous years. Sherman said it was more than last year, but consistent to years prior.

Rollo asked if it was still the practice for agencies come to make a public presentation. He said it was helpful to agencies for the public to see their needs and possibly help with their programs in the future. Piedmont-Smith said the eleven agencies that were eliminated in the first round were not asked to prepare and present requests at the public meeting.

Sandberg reiterated that all the meetings of the committee were public meetings, including the agency presentations.

Satterfield said that it was tough for agencies to stand up and make this presentation and he gave them his thanks.

The public comment on this legislation brought forth the following comments:

Larry Jacobs, member of the Monroe County United Ministries board, thanked committee members and staff for funding. He said that it was very difficult to provide the needs for their day care as state funding was down, and enrollment was up. He said that they provided breakfast, lunch and snacks to day care and summer camps as well as providing emergency services and food from their food pantry.

Scott Tibbs, resident of District 1, said he objected to funding for Planned Parenthood. He said Planned Parenthood didn't need JHSS funding according to their annual report; PP had \$73.9 M of revenue over their expenses and a total profit of over \$85Million through their organization. He said that PP was embroiled in a sex abuse scandal and didn't understand how they could possibly give birth control to thirteen year olds.

Melissa Britton said she applauded the committee for funding Planned Parenthood. She said she had been a former patient for 10 years and had received quality health care and information to make informed decisions that worked for her. She said she is now a donor.

Lorraine Farrell, read from the 2009 Annual Report of Planned Parenthood. She noted that the Recession Rx program was initially funded from a bequest and the program was instituted to serve areas where unemployment rates and plant closures had severely impacted communities in our state. She said that Recession Rx provided patients with free annual exams and STD screening as well as having reduced costs for contraceptives and was now funded through donations and grants. She thanked the committee members for their recommendation to fund Recession Rx which she said helped to support those who need help in making choices about their reproductive health.

David Keppel commended the council for the Jack Hopkins grant. He said it was heartbreaking that the needs were so great and that only half of the application requests could be funded. He added that national and personal priorities were reflected in the ways we spend money. He praised what he called a courageous decision in funding a Planned Parenthood request. He said he was saddened that this was considered controversial as a basic American value was the right to privacy and fairness. He said decisions about reproductive health fell under that privacy and that fairness spoke for the need for economic factors in not discriminating against those of lesser means.

Josh Congrove, an Indiana University PhD student, said he opposed tax dollars to support Planned Parenthood. He said that this organization mingled its reproductive services with what he said was the killing of our children.

Jillian Kinzie said she supported the decisions of the Jack Hopkins Social Services Committee. She said her thanks for this decision came at the 50th anniversary of the Food and Drug Administration's approval of the birth control pill. She noted that Planned Parenthood provided access to reproductive health care more than other health care services and also noted that the studies had shown that the rate of abortions decrease as access to reproductive choices increase.

Brian Bailey described himself as a citizen, Christian, father of 6 and an attorney opposed to Planned Parenthood funding. He noted wording in the Planned Parenthood application indicated that clients needing contraceptives were between the ages of 13 and 44. He said that Indiana Code used the age of 14 as the age at which active sexual activity would not be considered a felony. He said that the law didn't allow for the actions of Planned Parenthood and also criminalized sexual conduct with minors, 14 and 15 year olds. He called the Recession Rx plan a shell game. He said that this proved that the legal and moral authority to fund Planned Parenthood did not lie with the council.

Cathi Crabtree, Chair of the City of Bloomington Commission on the Status of Women, thanked the council for funding many of the agencies that pertain to the status of women. She spoke specifically to the Planned Parenthood funding saying it was the right of men and women to be informed and have access to safe, acceptable and affordable methods of family planning. She said that the commission supported the Recession RX program and thanked the council for their funding of it.

Julie Thomas, Monroe County Council member, thanked the council for the Jack Hopkins program, adding that it inspired the Monroe County Council to create their Community Service Awards. She noted that she was a board member of Planned Parenthood of Indiana, and encouraged the council to keep their funding in the packet this year. She noted that the agency provided services beyond birth control that including health screenings. She said the strain of losing a job and possibly losing a home was stress enough for a family and that the Recession Rx program would assist those families in preventing a pregnancy at this time of stress.

Carole Canfield said she had lived in Monroe County her entire life and the city for 40 years. She opposed funding Planned Parenthood, and called the funding hypocrisy. She said that no matter what good the agency did in other areas in regard to women's health, it was tainted and negated by their provision of abortion services. She said the council could not logically or morally support this organization.

Megan Hutchison thanked the committee for their work, adding that all the agencies were very deserving of the awards. She spoke in support of Planned Parenthood and their information services to young women. She said this information helped women in their daily lives, and helped them make smart and informed choices.

Wisler thanked the committees, agencies and those who spoke about this legislation saying that it was commendable that the community tackled sensitive issues and could remain civil. He added that he believed that the funding of social services was not something that government should stay out of, and that there were a lot of things in the funding proposal that were very worthy but questioned what he said were exceptions to

the original JHSSF rules. He said that he was concerned that the JHSSF and the CDBG processes were attracting the same applications and agencies applying year after year and that ones that were getting rejected were new organizations. He said that the single largest allocation was for a brand new program, one where the agency was encouraged to apply, and yet there were a lot of smaller agencies that were dealing with funding cuts and needing bridge funding. He gave the example of the Youth Services Bureau that he said unsuccessfully tried to fund salaries with grant monies. He said that eight or nine of the eleven agencies that were not funded could have been funded for the same amount that was being awarded to the school foundation for a new program. He noted that he voted in favor of this resolution in 2009.

Sandberg said that the community was blessed with incredible agencies that do incredible work for citizens in crisis. She said that as a former social worker, she was interested in prevention programs as well, and that decisions on the committee were difficult because of this balance. She said that many decisions made at the state and federal level created situations at the local level that local governments then had to deal with. She touted the arts program at Fairview School as one that could help turn the school around. She said she supported the Recession Rx program that allowed those hit hard by economic conditions to be able to get health care.

Rollo said that the JHSSF committee was one of the hardest working committees that the council had, especially in terms of the volume of work and complexity of the issues involved. He added that Mayor Kruzan had been cooperative in increasing the local funding as the federal government had been decreasing the dollars returned to local communities for social services. He noted that Planned Parenthood was the leading women's health care provider in the country and that it could not be denied that they led the way in preventing unintended pregnancies. He said it was a woman's discretion to control her reproductive destiny and he would stand on that belief. He thanked the committee for their work.

Ruff, also a JHSSF committee member, thanked his fellow committee members for their work, adding that it was a difficult, but rewarding job that afforded the council members the opportunity to learn more about the needs of the citizens and social service agencies in the community. He thanked the speakers for their positions, said he respected them, responded by saying that he rejected the premise that Planned Parenthood killed people or promoted child abuse and asked that the speakers respect his position as well.

Ruff addressed issues brought forth by Wisler saying that no one got a 'special' invitation to apply for the funds. He said that in the light of reduced school funding overall, there was an effort of outreach made to publicize the committee decision to consider projects related to schools. With reference to salaries, Ruff noted that the committee formally recognized bridge funding for salaries in light of dwindling funding sources. With reference to the same agencies applying for funding year after year, he said that there were only a set number of agencies in the community that addressed emergency needs, and it was logical that they would apply for the Hopkins grants.

Ruff said that there were a couple of issues that he struggled with this year – applications from the MCCSC Foundation and Bloomington Hospital. Regarding the school funding, he said he had a concern about setting a precedent since there could potentially be a large demand of this nature. He said the State of Indiana had a fund with several billion dollars that could fund schools and this very type of project. He said the

state's priorities were misplaced in funding interstate highways, an option of the past, but not schools, an option of the future.

Ruff said his other concern was about a community health initiative proposal from the Bloomington Hospital, the important Fresh Start to Life Program. He said that the hospital itself was a tremendous asset to the community, but questioned its structure and pay schedule that awarded the chief executive a salary package of seven figures, one that was not the norm of directors of other agencies that applied for funds. He said he struggled with the justification of funding an organization which, by the pay of the executive, suggested that it might not need this funding and might, by this salary package, stretch credibility of the term 'not-for-profit.' He said he respected the program proposal and the opinions of his committee colleagues and was convinced to support the committee's entire proposal for funding. Referring to the Living Wage Ordinance, he said that the committee considered the bottom of the wage scale for applying organizations, and said he felt it was just as legitimate to look at the top edge of the wage scale of the organization, too.

Mayer extended his thanks to SJ Rhoads, who Mayer said carried the load for this committee. He recognized Hans Huffman and Anthony Pizzo who served on the JHSSF committee as well. He said the committee's focus was on children, health care, food, shelter and people with special needs. He said the agencies that were not funded most likely did not propose projects with those emergency needs. He said that the concern about the same agencies coming forth year after year had to do with the limited number of agencies and that those who applied had been serving their mission for some time. He said that one of the criteria was for one time funding, but clarified that that meant the same budget line item would not be funded year after year, but that a different project could be funded in subsequent years.

Mayer gave a bit of history of the funding activities as he had served on the council with Jack Hopkins, who, with John Fernandez, asked then-Mayor Allison for public funds for children's inoculations. He said the award that year was to the CHAPS clinic and was for \$90,000. He said that it was fortunate that the community understood the need in this area and supported the council and administration in this venture. He added that most communities used the CDBG money for physical improvements but not as many had used the 15% for social services as Bloomington had done. He said this indicated the community's support for funding social service agencies. He ended by thanking the staff and committee members for their work in the process.

Satterfield thanked Mr. Congrove for what he termed was an eloquent argument and well thought out statement even though it wasn't congruent with his own. He said there were successful agencies in the town, but that sometimes they needed assistance with new initiatives and programs. He said that he appreciated the mention of Fairview's "Artful Learning Program." He said the Fairview project had been planned for some time, and then the funding bomb was dropped on them, and that the committee thought this was a good use of the funds. He added that the Pinnacle School had also applied for funding for a summer school program for at risk students, and he said that was also a worthy program to fund. He said that the need changed every year, and that the process and program were continually being reviewed and tweaked to make sure they were addressing the needs of the social service agencies of the community.

Satterfield said Ruff's comments were especially good in providing the public with a view on how hard it was to make decisions and thanked him for doing that.

Resolution 10-11 (cont'd)

Resolution 10-11 received a roll call vote of Ayes: 8, Nays: 1 (Wisler).

There was no legislation to introduce at this meeting.

LEGISLATION FOR FIRST
READING

It was moved and seconded that the Committee of the Whole meeting scheduled for June 16, 2010 be cancelled along with the Internal Work Session that had been scheduled for Friday, June 18th.

MOTION TO CANCEL MEETINGS

The motion was approved by a voice vote.

Michael Summers spoke about the Arizona immigration law.

PUBLIC INPUT

The meeting was adjourned at 10:22 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Isabel Piedmont-Smith PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

for approval