

CITY OF BLOOMINGTON



October 19, 2023 @ 5:30 p.m.
City Hall, 401 N. Morton Street
Common Council Chamber, Room #115

<https://bloomington.zoom.us/j/82448983657?pwd=enJxcnArK1pLVDI nWGROU43dEpXdz09>

Meeting ID: 824 4898 3657
Passcode: 319455

**CITY OF BLOOMINGTON
BOARD OF ZONING APPEALS (Hybrid Meeting)**

City Hall, 401 N. Morton Street
Common Council Chambers, Room #115 and via Zoom

October 19, 2023 at 5:30 p.m.

❖ **Virtual Meeting:**

<https://bloomington.zoom.us/j/82448983657?pwd=enJxcnArK1pLVdInWGROTU43dEpXdz09>

Meeting ID: 824 4898 3657 Passcode: 319455

Petition Map: <https://arcg.is/0TuLzm>

ROLL CALL

APPROVAL OF MINUTES: September 21, 2023 and September 26, 2023

PETITIONS CONTINUED TO: November 16, 2023

AA-17-22 **Joe Kemp Construction, LLC & Blackwell Construction, Inc.**
Summit Woods (Sudbury Farm Parcel O) W. Ezekiel Dr.
Parcel(s): 53-08-07-400-008.002-009, 53-08-07-400-008.004-009...
Request: Administrative Appeal of the Notice of Violation (NOV) issued
March 25, 2022. *Case Manager: Jackie Scanlan*

V-32-23 **Buckingham Properties, LLC**
503 N. Rogers Street
Parcel: 53-05-32-100-006.000-005
Request: Variance from front setback standards, use-specific standards for
multifamily dwellings, and building design standards to allow construction of four
buildings comprising a mixed-use development in the Mixed-Use Downtown
zoning district within the Showers Technology downtown character overlay
(MD-ST). *Case Manager: Gabriel Holbrow*

AA-36-23 **Indiana Army National Guard**
414 N. Morton Street
Parcel: 53-05-33-300-046.002-005
Request: Administrative Appeal of issuance of a Notice of Violation.
Case Manager: Jackie Scanlan

PETITIONS:

****Next Meeting: November 16, 2023**

The City is committed to providing equal access to information. However, despite our efforts, at times, portions of our board and commission packets are not accessible for some individuals. If you encounter difficulties accessing material in this packet, please contact Melissa Hirtzel at hirtzelm@bloomington.in.gov and provide your name, contact information, and a link to or description of the document or web page you are having problems with.

- V-28-23 **Hoosier Commons, LLC**
1450 North Willis Drive
Parcel: 53-05-29-400-094.000-005
Request: Variance from tree and forest preservation standards to allow clearing of a closed canopy wooded area in the Mixed-Used Medium Scale (MM) zoning district. Case Manager: Gabriel Holbrow
- CU-34-23 **Beacon Inc. / Gratus Development**
1201 W. 3rd Street
Parcel: 53-08-05-201-001.000-009
Request: Conditional use approval to allow a “supportive housing, large” use in the Mixed-Use Medium Scale (MM) zoning district.
Case Manager: Eric Greulich
- AA-37-23 **Keith and Karen Swedo**
1207 W. Cottage Grove Avenue
Parcel: 53-05-32-207-012.000-005
Request: Administrative Appeal of the assertion that the property is in violation of the UDO, as discussed in the June, 22. 2023 Notice of Violation.
Case Manager: Jackie Scanlan
- AA-38-23 **Joseph Davis**
530 S. Washington Street
Parcel: 53-08-04-214-018.000-009
Request: Administrative Appeal of a Notice of Violation that was issued on August 17, 2023. Case Manager: Jackie Scanlan

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call [812-349-3429](tel:812-349-3429) or E-mail human.rights@bloomington.in.gov.

****Next Meeting: November 16, 2023**

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BLOOMINGTON BOARD OF ZONING APPEALS CASE #: V-28-23 / VAR2023-08-0008
STAFF REPORT **DATE: October 19, 2023**
Location: 1450 North Willis Drive

PETITIONER: Hoosier Commons LLC
/OWNER: 470 North Indiana Avenue
 Sellersburg, IN

CONSULTANTS: Bunger & Robertson
 211 South College Avenue
 Bloomington, IN

Smith Design Group
 1467 West Arlington Road
 Bloomington, IN

REQUEST: Variance from tree and forest preservation standards to allow clearing of a closed-canopy wooded area in the Mixed-Use Medium Scale (MM) zoning district

UPDATE: This petition was originally scheduled to be heard at the Board of Zoning Appeals hearing on September 21, 2023, but at that hearing the petition was continued to a special hearing on September 26, 2023. Due to a scheduling conflict for the petition's representation, at the hearing on September 26 the petition was continued again to the next regular hearing on October 19, 2023. Nothing in the petition has changed since September. The hearing on October 19 will be the first hearing when this petition is taken up in substance.

REPORT: The property is located on the west side of North Willis Drive immediately north of the intersection with West Westfield Road, which is a private drive. The property is located in the Mixed-Use Medium Scale (MM) zoning district and contains a six-unit multifamily dwelling structure. The adjacent property to the south across Westfield Road as well as adjacent properties to the west and southwest across Willis Drive are also located in the MM district. Adjacent land uses in the MM district include warehouses and indoor recreation (bowling alley). Adjacent properties to the north and east are part of the Arlington Valley Manufactured Home Community and are located in the Manufactured/Mobile Home Park (RMH) zoning district.

The petitioner seeks a variance from tree and forest preservation standards to legitimize tree removal that the petitioner conducted in May 2023. Planning and Transportation Department staff first received an inquiry from the petitioner in February 2023, including asking whether tree removal on the property would be allowed. Staff responded to the initial inquiry by stating the answer would depend on plan research and a site visit to determine how tree and preservation standards in the Unified Development Ordinance (UDO) apply to the property. Staff conducted a site visit on February 13, 2023 and observed a closed-canopy wooded area in the northwest portion of the property as well as other large healthy individual trees in the northeast portion of the property, all of which are subject to protections in the UDO's tree and preservation standards. Staff did not receive any communication from the petition in the months directly after the site visit.

Planning and Transportation Department staff was contacted on May 8, 2023 with a concern that tree removal was occurring at the property. Staff inspected the site on May 9, May 11, May 12, and May 16, and found that trees had been cut down on the north side of the property. Staff issued a Notice of Violation (NOV) to the petitioner on May 26, 2023 for violations including failure to comply with the UDO's tree and forest preservation standards. The petitioner filed the current variance petition on August 24, 2023, seeking a resolution to the violation.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.06.080(b)(3)(E)(i)(1) Standards for Granting Variances from Development Standards: Pursuant to Indiana Code 36-7-4-918.5, the Board of Zoning Appeals or Hearing Officer may grant a variance from the development standards of this UDO if, after a public hearing, it makes findings of fact in writing, that:

(1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and*

PROPOSED FINDING: Removal of the small closed-canopy wooded area and other large healthy trees has been injurious to public health, ecology, and welfare by removing habitat for plants and animals, reducing shade and local cooling, and eliminating the natural carbon-sequestration effect of growing trees, beyond what would be allowed by the UDO.

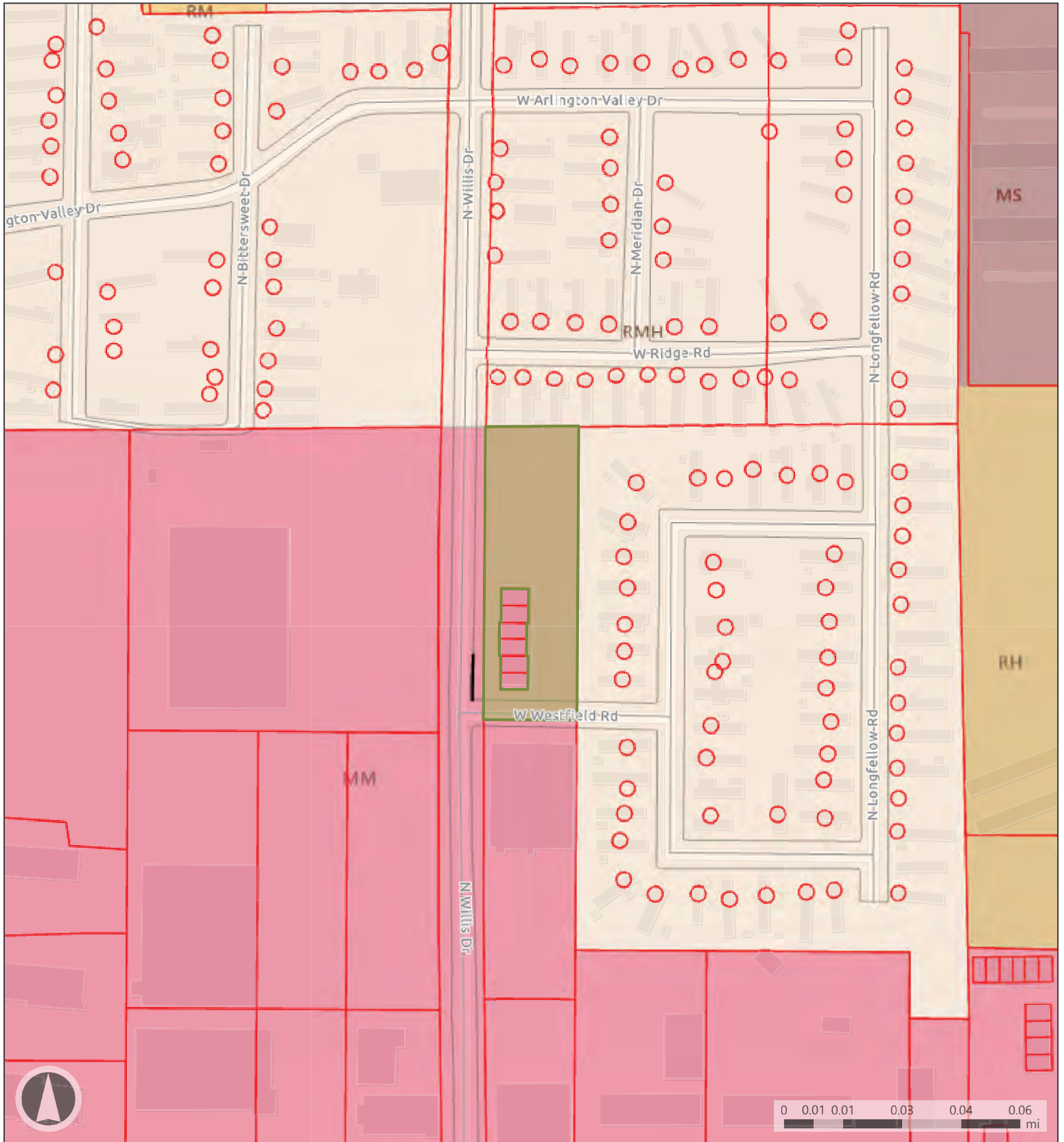
(2) *The use and value of the area adjacent to the property included in the development standards variance will not be affected in a substantially adverse manner; and*

PROPOSED FINDING: Removal of the small closed-canopy wooded area and other large healthy trees has resulted in substantial adverse impacts to the use and value of surrounding properties by reducing visual buffer, shade, cooling, natural drainage management and ground stabilization.

(3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in questions; that the development standards variance will relieve the practical difficulties.*

PROPOSED FINDING: There are no practical difficulties in the use of the property because there remains substantial developable area on the property outside the closed-canopy wood area, including the location of the existing multifamily dwelling structure and parking lot. There is nothing peculiar to the property in relation to tree and forest preservation that would require the relief offered by variance approval.

RECOMMENDATION: Based upon the report and written findings of fact above, the Department recommends that the Board of Zoning Appeals adopt the proposed findings for V-28-23 / VAR2023-08-0008 and deny the requested variance.



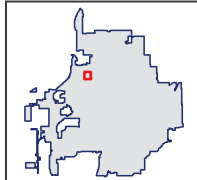
Map Legend

- 1450 North Willis Drive
- Parcels
- No Parking Anytime

- Edge of Pavement
- Street Typology**
- Neighborhood Residential



Code : Description

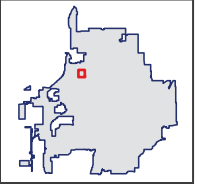
- RH : Residential High-Density Multifamily
- RM : Residential Multifamily





Map Legend

-  1450 North Willis Drive
-  Parcels





Todd M. Borgman, P.L.S.
Katherine E. Stein, P.E.
Don J. Kocarek, R.L.A.
Stephen L. Smith, Founder

August 24, 2023

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

RE: Hoosier Commons LLC
BZA Submittal for Tree Canopy Removal

Dear Gabriel and BZA Members,

On behalf of our client, Ryan Chanley, we respectfully request to be placed on the September Board of Zoning Appeals agenda for consideration of a variance from tree canopy requirements under UDO Section 20.04.030(i). The owner was unaware of the tree canopy requirements and removed the trees from the north side of the property. Per the tree canopy exhibit dated 2-13-23, the approximate area of tree canopy was 5,600 SF of canopy removal.

The site is 1.104 acres in size with seven 1 story condo units with basements. There is a 26-car parking lot on the north side of the building. The project was built in 2008–2010 time frame.

Location

The property is located at 1450 N. Willis Drive Bloomington Indiana 47404, at the northeast corner of North Willis Drive and West Westfield Drive.

Access

The site is accessed from W. Westfield Drive, which is along the south side of the site. There is a 26 car parking lot.

Environmental

The site has no environmental features. There was approximately 5,600 sf of canopy trees removed from the property.

Drainage

The building and parking lot drain to an existing drainage basin on the southeast corner of the property. The north portion of the site where the trees and brush were removed drain offsite to the east.



Todd M. Borgman, P.L.S.
Katherine E. Stein, P.E.
Don J. Kocarek, R.L.A.
Stephen L. Smith, Founder

Other existing features are shown on the attached plan. An application and filing fee are enclosed. Please let me know if you need any additional information from me or the owner. We appreciate your consideration for this variance.

Sincerely,

A handwritten signature in black ink that reads 'Don Kocarek'. The signature is written in a cursive style with a large initial 'D'.

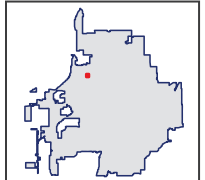
Don Kocarek
Smith Design Group, Inc.
dkocarek@smithdginc.com



Map Legend

- Parcels
- Approximate area of the closed-canopy wooded area observed on February 13, 2023
- 2021 Aerial Imagery

Note: Other large healthy individual trees were also observed outside the closed-canopy wooded area.





City of Bloomington
Planning and Transportation Department

May 26, 2023

Hoosier Commons LLC
470 N Indiana Avenue
Sellersburg, IN 47172

JSA Investments Willis LLC
1600 A Street NE – Ste. 18
Linton, IN 47441

Re: Notice of Violation

Siltation and Erosion Prevention
Failure to Obtain a Grading Permit
Tree and Forest Preservation
Failure to Comply with Grading Permit/CZC C08-309

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with CZC C08-309 (attached) at 1450 N Willis Drive. Specifically, UDO Section 20.04.030 (d) [Development Standards & Incentives; Environment; Siltation and Erosion Prevention]; UDO Section 20.06.050(e) [Administration & Procedures; Development Permits and Procedures; Grading Permit]; UDO Section 20.04.030(i) [Development Standards & Incentives; Environment; Tree and Forest Preservation]; UDO Section 20.06.100(b) [Administration & Procedure; Enforcement and Penalties; Penalties and Remedies for Violations]. Records show that you are the owner or other responsible party of this property.

The City of Bloomington Planning and Transportation Department was contacted with a concern that non-permitted work was occurring at 1450 N Willis Drive on 05/08/2023. Staff inspected the site on 05/09/2023, 05/11/2023, 05/12/2023, and 05/16/2023 (photographs enclosed) and found that trees had been cut down on the north side of the property and that disturbance of earth had occurred in an area greater than 2,500 square feet without a permit. Additionally, no erosion controls were observed on the site during any site visit. Staff found that the current state of the site is not compliant with the site plan on file for the previously approved grading permit, Certificate of Zoning Compliance (CZC) C08-309, at 1450 N Willis Drive (site plan enclosed).

Conditions of CZC C08-309 are as follows: “Approved per terms and conditions of Board of Zoning Appeals case #UV-22-07.”; “This Certificate of Zoning Compliance pertains only to the attached plans and the specific use proposed, exactly as submitted and reviewed. This Certificate does not constitute the issuance of any required permit nor exempt the property from compliance with any other requirements.”

Staff received previous communications from a representative of Hoosier Commons LLC in February 2023 regarding this site. At which time, staff conducted a site visit on 02/13/2023 and observed the previously wooded area to the north of the property (photographs enclosed). Staff confirmed on 05/19/2023 that some of this area was considered a closed canopy wooded area based on the 02/13/2023 site visit.

According to Unified Development Ordinance (UDO) **Section 20.04.030(d) [Development Standards & Incentives; Environment; Siltation and Erosion Prevention];**

- (3) Erosion and Pollutant Control Requirements
 - (A) Current Preferred Practices

All sites undergoing land disturbing activities, regardless of size, shall prevent the erosion of sediment or any other contaminant off site or conveyed into any bodies of water, either by wind or water. All land disturbing activities shall be protected by current preferred practices (CPP) including, but not limited to silt or erosion-control fences, filter socks, straw bales, sedimentation basins, articulated concrete blocks, mechanically stabilized earth, storm grate filters, or erosion control mats.

According to Unified Development Ordinance (UDO) **Section 20.06.050(e) [Administration & Procedures; Development Permits and Procedures; Grading Permit];**

- (1) Purpose

The grading permit procedure is intended to mitigate the environmental impact of site development and to protect the water quality of the City of Bloomington, Monroe County, and surrounding areas, and to provide a mechanism to ensure compliance with this UDO by providing a thorough permitting and inspection process for all grading activities.
- (2) Applicability

No land-disturbing activity shall occur on platted or unplatted lands in any zoning district, unless a grading permit for such activity has been issued.

 - (A) Exemptions
 - i. Land-disturbing activity covering an area less than 2,500 square feet;

According to Unified Development Ordinance (UDO) **Section 20.04.030(i) [Development Standards & Incentives; Environment; Tree and Forest Preservation];**

- (1) Applicability

This section shall apply to all land-disturbing activities on properties containing closed-canopy wooded areas.
- (2) Retention of Existing Canopy

The following table shall be used to determine the minimum amount of existing vegetation canopy that must be retained during land-disturbance activity.

Table 04-8: Minimum Required Vegetation Canopy

Baseline Canopy Cover	Retained Canopy Cover
80—100%	0.50 × Baseline canopy cover
60—79%	0.60 × Baseline canopy cover
40—59%	0.70 × Baseline canopy cover
20—39%	0.80 × Baseline canopy cover
0—19%	0.90 × Baseline canopy cover

Example:
For a property of 20 acres with 50 percent canopy cover (i.e., 10 acres), a development would be required to maintain at least seven acres (10 acres × 0.70) of canopy cover.

According to Unified Development Ordinance (UDO) **Section 20.06.100(b) [Administration & Procedure; Enforcement and Penalties; Penalties and Remedies for Violations];**

- (1) For the purposes of this UDO, a violation shall be defined as violation of or failure to comply with :
 - (B) Any condition, requirement or commitment established with the approval of a variance, conditional use, site plan, Planned Unit Development, subdivision, certificate of zoning compliance, or other development approval under this UDO

It is a violation of the UDO to perform land disturbing activities without installing erosion control measures to the standard of current preferred practices.

In accordance with UDO Section 20.06.100, a violation of Failure to comply with development standards may result in a one hundred dollar (\$100) fine. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

It is a violation of the grading permit (CZC C08-309) to fail to follow the plans approved specifically by that grading permit. In this case, that is the removal of trees that were to remain on site.

In accordance with UDO Section 20.06.100, a violation of Failure to Comply with a CZC may result in a two hundred and fifty-dollar (\$250) fine. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

It is a violation of the UDO to perform earth-disturbing activities covering an area of 2,500 square feet or more of land without first receiving a grading permit (certificate of zoning compliance).

In accordance with UDO Section 20.06.100, a violation of Failure to obtain CZC may result in a five hundred dollar (\$500) fine. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

It is a violation of the UDO to remove a closed canopy wooded area on a property outside of the limitations of 20.04.030(i).

In accordance with UDO Section 20.06.100, a violation of environmental standards may result in a two thousand five hundred dollar (\$2,500) fine. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

Your options for resolution of the violations listed above are below. If the violations remain unresolved, fines will begin to accrue daily on 06/12/2023 in accordance with above referenced UDO Section 20.06.100 [Enforcement and Penalties] until such a time as the violation is remedied. You have the following options to remedy the situation.

1. Submit a remediation plan, including specifications of number and species of trees to be replanted on or before 06/09/2023; **OR**
2. Make a phone appointment with a Planner to occur on or before 06/09/2023 to discuss filing a variance request for the closed canopy requirement if you are not planning to re-plant the trees and to discuss a new site plan filing for the property. You will also have to file for the variance on or before 06/22/2023 for the 07/20/2023 Board of Zoning Appeals hearing.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within ten (10) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.06.080(d).

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at planning@bloomington.in.gov or 812-349-3423 with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Burrell". The signature is written in a cursive, flowing style.

Jennifer Burrell
Senior Zoning Compliance Planner, Planning and Transportation Department

CC: Scott Robinson, AICP, Director, Planning and Transportation Department
Beth Rosenbarger, AICP, Assistant Director, Planning and Transportation Department
Jackie Scanlan, AICP, Development Services Manager, Planning and Transportation Department

Enclosure (11): (9) Photographs, (1) CZC, (1) Landscape Site Plan



Photo 1: Earth disturbance, absence of erosion control measures, and trees removed on the northern side of 1450 N Willis Drive on 05/16/2023.



Photo 2: Earth disturbance, absence of erosion control measures, and trees removed on the northern side of 1450 N Willis Drive on 05/16/2023.



Photo 3: Earth disturbance, absence of erosion control measures, and trees removed on the northern side of 1450 N Willis Drive on 05/12/2023.



Photo 4: Earth disturbance, absence of erosion control measures, and trees removed on the northern side of 1450 N Willis Drive on 05/11/2023.



Photo 5: Earth disturbance, absence of erosion control measures, and trees removed on the northern side of 1450 N Willis Drive on 05/09/2023.



Photo 6: Earth disturbance, absence of erosion control measures, and trees removed on the northern side of 1450 N Willis Drive on 05/09/2023.



Photo 7: Closed canopy wooded area and wooded area on the northern side of 1450 N Willis Drive on 02/13/2023.



Photo 8: Closed canopy wooded area on the northern side of 1450 N Willis Drive on 02/13/2023.



Photo 9: Wooded area on the northern side of 1450 N Willis Drive on 02/13/2023.



**City of Bloomington
Planning Department**

Certificate of Zoning Compliance

Application #: C08-309

Date: Friday, July 11, 2008

Property Address: 1450 N. Willis Drive Bloomington 29SE
Township Section #

Zoning: MH


Proposed Use: Multi-family Residential - grading - "Baugh Apartments"

The attached plans have been reviewed for compliance with applicable provisions of Title 20, Bloomington Unified Development Ordinance, and conformance with the terms of any approvals which have been granted under authority of the Ordinance. The Planning Department finds the plans to be in compliance:

- As submitted
- With modifications or conditions as follows:

1. Approved per terms and conditions of Board of Zoning Appeals case #UV-22-07.
2. Occupancy of units is limited to not more than five (5) unrelated adults. [BMC 20.02.032 (Family)]
3. Six (6) bicycle parking spaces are required to be placed prior to the issuance of an occupancy permit, per submitted site plan.
4. No signage is authorized with this permit. Any future signage must first receive a subsequent sign permit.
5. All landscaping must be installed prior to the issuance of an occupancy permit.
6. Outdoor trash receptacles, dumpsters, compactors and similar containers shall be placed on a paved slab and shall be effectively screened on all sides by a fence or wall that is constructed of wood, brick, stone, chain link with opaque slats, or exterior building materials similar to those used on the primary structure. At least one (1) side of such fence or wall shall incorporate a movable gate for access. Enclosure shall be a minimum of six (6) feet, and shall be high enough to ensure that the contents of the enclosure are not visible from adjacent parcels or public rights-of-way. [BMC 20.05.066]
7. The numerical street address shall be displayed on the front of the residence and mailbox in Arabic numerals no less than eight (8) inches in height [BMC 20.05.078(g)(11)]
8. No lighting is approved with this permit. Any future lighting plans must be submitted for review for compliance with the UDO.
9. Tree protection fencing shall be installed and inspected prior to start of grading and shall remain throughout construction.

This Certificate of Zoning Compliance pertains only to the attached plans and the specific use proposed, exactly as submitted and reviewed. This Certificate does not constitute the issuance of any required permit nor exempt the property from compliance with any other requirements.

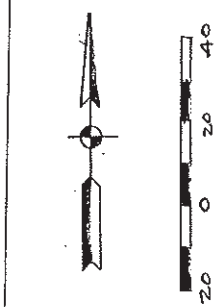

James Roach, AICP
Senior Zoning Planner
City of Bloomington
Planning Department



Kevin B. Potter
 Kevin B. Potter, P.E.
 369 East Cunningham Street
 Martinsville, Indiana 46151
 Phone (812) 331-7981

LANDSCAPE PLAN
Baugh Apartments
 NE Corner Willis and Westfield
 Bloomington, Indiana 47404

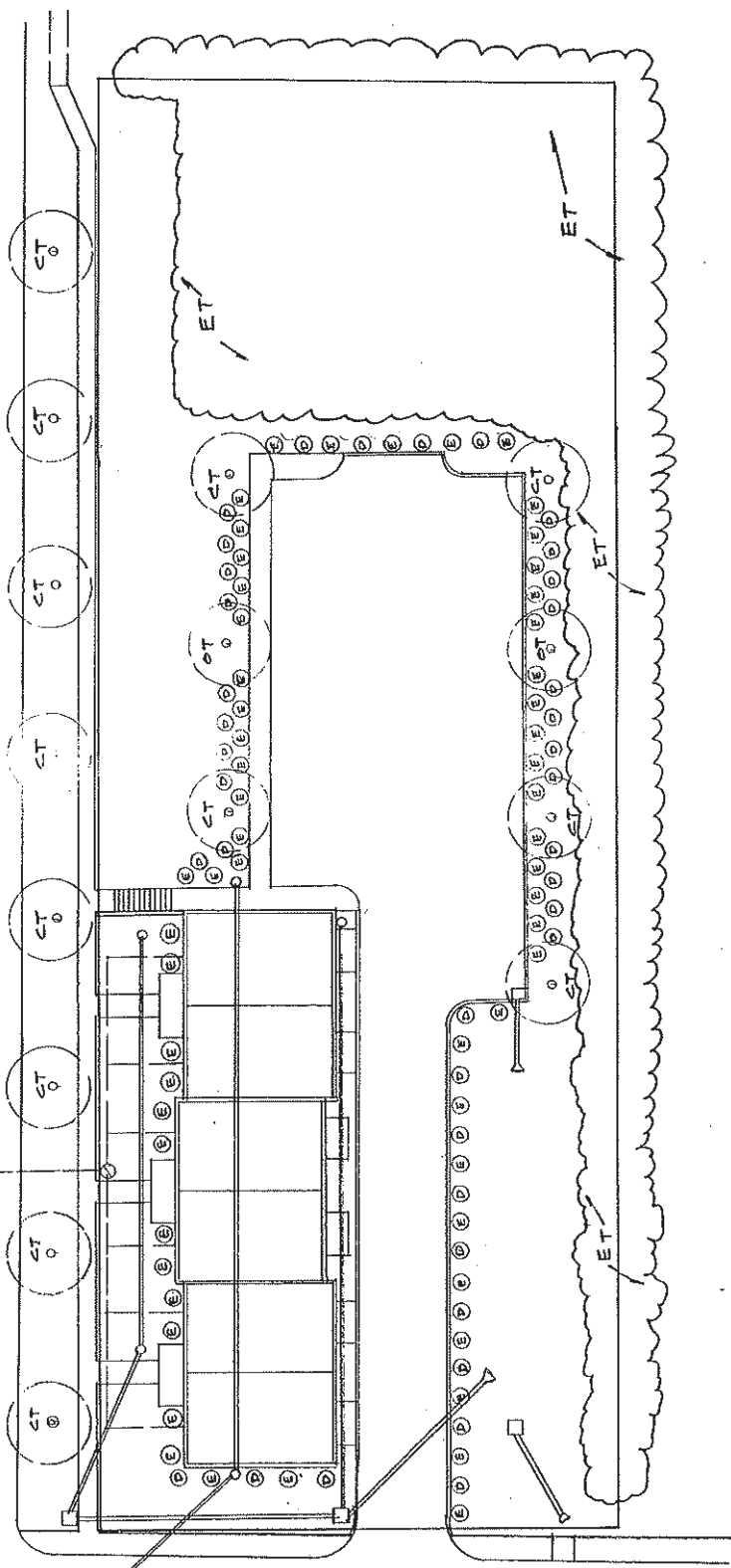
ALLOWABLE TREE & SHRUB SPECIES LISTED
 IN THE CITY OF BLOOMINGTON "UNIFIED
 DEVELOPMENT ORDINANCE" LANDSCAPE
 STANDARDS CHAPTER 20.05



- ST ○ - DECIDUOUS CANOPY TREE
- OT ○ - ORNAMENTAL TREE
- E ○ - EVERGREEN TYPE SHRUB
- D ○ - DECIDUOUS TYPE SHRUB

ET - EXISTING TREES & VEGETATION TO REMAIN

NOTES:
 - ALL TREES TO BE 2" MINIMUM CALIPER
 - ALL SHRUBS TO BE 3 GALLON W/ 18" MIN. HEIGHT
 AT PLANTING AND SHALL OBTAIN A 4' MIN. MATURE
 HEIGHT



**BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
LOCATION: 1201 W. 3rd Street**

**CASE#: CU-34-23
DATE: October 19, 2023**

PETITIONER: Beacon Inc./Gratus Development
PO Box 451/620 S. Walnut Street
Bloomington, IN

CONSULTANT: Springpoint Architects
522 W. 2nd Street, Bloomington

Smith Design Group
1467 W. Arlington Road, Bloomington

REQUEST: The petitioner is requesting Conditional Use approval to allow a “supportive housing, large” use in the Mixed-Use Medium Scale (MM) zoning district.

REPORT: The property is located at 1205 W. 3rd Street and is zoned Mixed-Use Medium Scale (MM). Surrounding uses include Rose Hill Cemetery to the north, offices to the east, and multi-family residences to the west. The property currently contains two commercial buildings and surface parking areas previously used by Weddle Brothers. The West Branch of Clear Creek and associated floodplain runs along the west property line. A portion of the west side of the property is encumbered by the 100-year floodplain. No disturbance within the floodplain is proposed or permitted with this project.

The petitioner is proposing to remove all of the existing buildings and parking areas to construct a two-story, 45,000 square foot facility that will include a day center, a 50-bed overnight shelter, 20 one-bed dwelling units, and 5 work-to-live units for on-site staff. Further information regarding the proposed services to be provided on-site are outlined in the Petitioner Statement. The construction of this facility would replace the current facility in the Downtown area and expand the range of services offered.

There will be one drivecut on 3rd Street to access the parking area with 43 parking spaces proposed. A new 5’ wide tree plot with street trees and 6’ wide sidewalk are required along the 3rd Street frontage and have been shown. A 6’ tall fence and access gate are proposed around the site to control access to the site and building. The fence will not be forward of the front building wall. Access to the building for residents will be controlled through keycard only. A subdivision plat and site plan approval will be forthcoming to insure compliance with all UDO standards and will be reviewed separately. No variances from any development standards have been requested.

The petitioner is requesting conditional use approval for “supportive housing, large” to allow for the construction of the proposed facility.

CRITERIA AND FINDINGS FOR CONDITIONAL USE PERMIT

20.06.040(d)(6)(B) General Compliance Criteria: All petitions shall be subject to review and

pursuant to the following criteria and shall only be approved if they comply with these criteria.

- i. *Compliance with this UDO*
- ii. *Compliance with Other Applicable Regulations*
- iii. *Compliance with Utility, Service, and Improvement Standards*
- iv. *Compliance with Prior Approvals*

PROPOSED FINDING: There are no use-specific standards that apply to the use “supportive housing, large” and there are no variances expected with the proposed site plan. The proposed architecture and site plan appear to meet UDO requirements, however that will be reviewed separately with the site plan approval. The site will comply with environmental protections, as required by the UDO related to the riparian feature and floodplain on the site. There are no other known regulations that apply to this use specifically. Compliance with utility service standards will be reviewed separately with the site plan approval and grading permit process. There are no other known prior approvals for this site.

20.06.040(d)(6)(C) ADDITIONAL CRITERIA APPLICABLE TO CONDITIONAL USES

- i. ***Consistency with Comprehensive Plan and Other Applicable Plans***
The proposed use and development shall be consistent with and shall not interfere with the achievement of the goals and objectives of the Comprehensive Plan and any other applicable adopted plans and policies.

PROPOSED FINDING: This proposal is in line with many of the goals and policies of the Comprehensive Plan. The Comprehensive Plan speaks directly toward providing services to members of the community experiencing homelessness and this use and new building will further those goals by providing housing and social services to the members of our Community in need. Specifically, the Comprehensive Plan states-

Goal 5.1 encourages ways to improve access to affordable housing for a continuum of needs in Bloomington, including people experiencing homelessness, low-income, and moderate income households. This use will provide housing for those specific low income households.

Policy 5.1.1 outlines the need to expand and sustain housing programs designed to serve the identified long-term housing affordability needs of moderate-income, low-income, and extremely low-income households, to achieve an income-diverse and inclusive city.

Policy 5.1.2 seeks to establish affordable housing in locations with close proximity to schools, employment centers, transit, recreational opportunities, and other community resources to increase access.

- ii. ***Provides Adequate Public Services and Facilities***
Adequate public service and facility capacity shall exist to accommodate uses permitted under the proposed development at the time the needs or demands arise, while maintaining adequate levels of service to existing development. Public services and facilities include, but are not limited to, streets, potable water, sewer, stormwater management structures, schools, public safety, fire protection, libraries, and

vehicle/pedestrian connections and access within the site and to adjacent properties.

PROPOSED FINDING: The site has direct access to W. 3rd Street, has an existing sidewalk system along this property frontage as well as a continuous sidewalk along the south side of W. 3rd Street that extends from Walker Street to Patterson Drive, is within close proximity to a Bloomington Transit bus stop at 3rd and Patterson, and is adequately served by existing public utilities. The petitioner will be installing a privacy fence with several controlled access points to control access to the site and building.

iii. *Minimizes or Mitigates Adverse Impacts*

1. *The proposed use and development will not result in the excessive destruction, loss or damage of any natural, scenic, or historic feature of significant importance.*
2. *The proposed development shall not cause significant adverse impacts on surrounding properties nor create a nuisance by reason of noise, smoke, odors, vibrations, or objectionable lights.*
3. *The hours of operation, outside lighting, and trash and waste collection must not pose a hazard, hardship, or nuisance to the neighborhood.*
4. *The petitioner shall make a good-faith effort to address concerns of the adjoining property owners in the immediate neighborhood as defined in the pre-submittal neighborhood meeting for the specific proposal, if such a meeting is required.*

PROPOSED FINDING: There is a creek with riparian buffer and floodplain along the west side of the property that will be protected by the required standards of the UDO and the proposed site plan appears to meet the UDO standards related to those environmental features. Full review of the site plan will occur with a forthcoming site plan approval. There are no other natural or scenic features that will be impacted. The existing buildings are not located within any historic districts and do not have any historic rating. No significant adverse impacts related to noise, smoke, odors, vibrations, or objectionable lights are expected. The hours of operation, outside lighting, and trash and waste collection are not expected to pose a hazard, hardship, or nuisance to the surrounding properties. The project is located a significant distance from the Greater Prospect Hill neighborhood to the east and there is a creek and riparian buffer separating this use from the multi-family residences to the west, which reduces impacts on adjacent residential uses. The petitioner held a neighborhood meeting on Tuesday, October 10 to hear concerns from any adjacent neighbors. There were several neighbors and residents in attendance who expressed support for the project and seemed satisfied with the design and controls that would be in place for access to the facility.

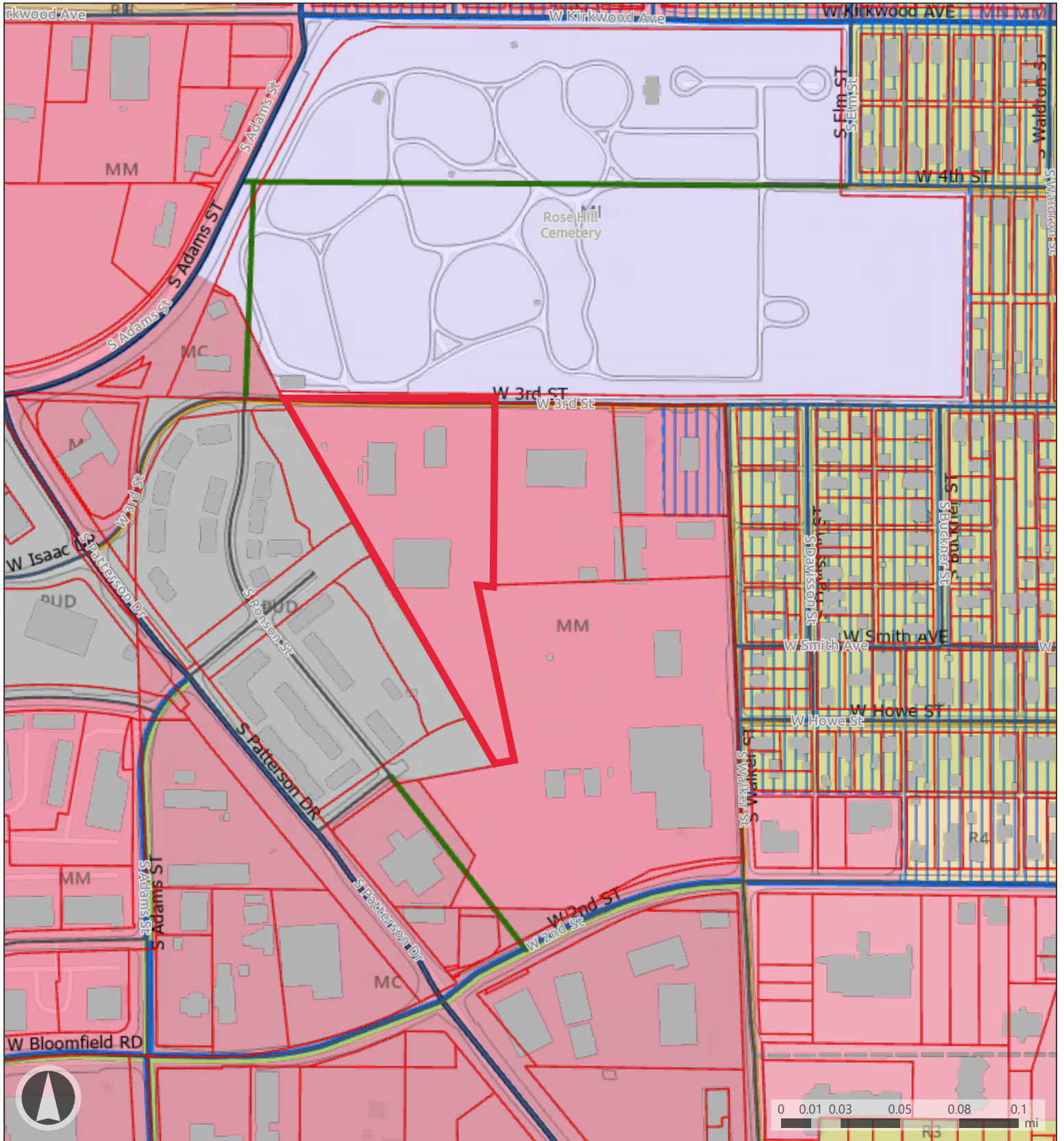
iv. *Rational Phasing Plan*

If the petition involves phases, each phase of the proposed development shall contain all of the required streets, utilities, landscaping, open space, and other improvements that are required to comply with the project's cumulative development to date and shall not depend upon subsequent phases for those improvements.

PROPOSED FINDING: No phasing is proposed with this plan.

RECOMMENDATION: The Department recommends that the Board of Zoning Appeals adopts the proposed findings and recommends approval of CU-34-23 with the following conditions:

1. This conditional use approval is limited to a facility with a 50-bed overnight shelter, 20 dwelling units, and 5 work-to-live units for on-site staff.
2. Overall design of the building shall be consistent with submitted elevations in regards to number of stories and size.



Map Legend

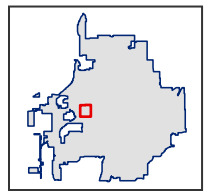
- Parcels
- Buildings
- Local Historic Districts

- Edge of Pavement
- Current
- City Maintained Streets

Street Typology

- General Urban
- Neighborhood Connector

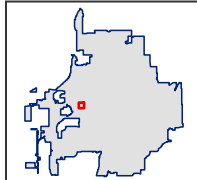
- Neig
- Functional**
- Prim





Map Legend

- | | | | |
|--------------------------|-------------------------|--------------------------|----------------------------------|
| Parcels | Edge of Pavement | Street Typology | Functional Classification |
| Buildings | Current | General Urban | Primary Arterial |
| Local Historic Districts | City Maintained Streets | Neighborhood Residential | Secondary Arterial |





October 5, 2023

Eric Greulich
Senior Zoning Planner
City of Bloomington
401 N. Morton Street
Bloomington, IN 47404

Re: Conditional Use Approval for Beacon Center

Dear Mr. Greulich & Board of Zoning Appeals Members,

Beacon Inc. seeks to build a new facility at 1201 W 3rd Street in Bloomington, formally the site of Weddle Brothers Construction Company. The new multi-use building will contain approximately 45,000 square feet and include a day center, a 50-bed overnight shelter, twenty (20) permanent, supportive living units and five (5) work-to-live units for staff who will work in lieu of rent to provide a constant, on-site presence. This project will offer Beacon the opportunity to better carry out its mission and permanently shelter twenty (20) people who now live on the streets, which in turn, will be of great benefit to neighbors and the larger Bloomington community.

The Unified Development Ordinance categorizes the proposed use as 'Supportive Housing' which is defined as *'A temporary or permanent shelter for persons experiencing homelessness. For persons experiencing homelessness, there is no requirement that the persons live in a single housekeeping unit or that shelter provide care exclusively to persons requiring medical, correctional, or other mandated supervision or a protective environment.'* Since this building will house more than eight (8) residents, it will be considered Supportive Living, Large. The property is zoned Mixed-Use Medium Scale (MM) and is one of the zoning categories that allows this use conditionally.

Beacon Inc.

Beacon is a local antipoverty organization, dedicated to aiding and empowering people experiencing extreme poverty in Monroe County, especially hunger and homelessness. Founded in 2000 in response to a growing community concern about the needs of people without homes, Beacon focuses on solutions, providing housing or preventing homelessness for more people than any nonprofit in Monroe County.

Beacon is a values-driven agency based on hospitality, dignity, empowerment, and hope. Beacon uses a low-barrier approach, a nationally recognized best practice for reaching those most in need. Beacon provides housing, day and overnight shelter, hunger relief, social services, financial support, life essentials (like laundry, showers, and mail) and other related health and human services to hundreds of people each day and thousands of people each year. Ninety-six percent of those served have incomes at or below 30% of the area median income (AMI), which is considered extreme poverty. By providing permanent supportive housing, Beacon has demonstrated an 88% reduction in arrest rates for those now housed, saving taxpayers over \$35,000 per year per person housed by preventing emergency room visits and jail time.



Beacon currently operates out of three main locations - the Shalom Center at 620 S. Walnut Street, Friends Place at 919 S. Rogers Street and Crawford Homes on S. Henderson Street. Beacon provides permanent housing for one hundred and ten (110) people through its housing first program and its Friends Place provides overnight shelter to forty (40) individuals. Friends Place currently provides the only emergency shelter serving homeless women in south central Indiana.

Beacon Center: Project Vision

The project is conceived as a purpose-built facility to serve all of the aspects of the Beacon mission. The building will become home to five of Beacon's six programs – Shalom Center, Rapid Re-housing, Phil's Kitchen, Street Outreach and Friends Place Overnight Shelter. Beacon Center will also provide an expansion of Beacon's housing first program, creating twenty (20) new units of permanent supportive housing that will occupy the second floor of the building.

Housing these programs under one roof will facilitate more highly integrated care for clients along with better staffing opportunities. Because of the integration of services at this site, Beacon will have staff available 24 hours a day, seven days a week. Beacon Center will also have up to five (5) 'live-to-work' units for employees to live on site in exchange for work, including security, maintenance, and custodial support.

Beacon Center: The Project

Beacon will be the recipient of \$7 million grant of American Rescue Plan (ARP) funds allocated through the Indiana Housing & Community Development Authority (IHCDA) to support the permanent supportive housing. Following confirmation of the grant award, the search for a suitable property began approximately one year ago. Limited options for available property led to the serious consideration of 1201 W 3rd Street property as the best project site. The IHCDA requires that the land be zoned appropriately, and the conditional use must be approved by the early December 2023 deadline for the grant to be finalized.

The property at 1201 W 3rd Street consists of 4.22 acres and contains three (3) existing buildings – an 8,112 square foot office building, a 6,841 square foot warehouse and a 3,720 square foot pole barn. The property is wooded at the south end which is encumbered by flood plain. To the west, there is an intermittent stream with a multi-family PUD development on the other side. The lots to the south and east also zoned MM and developed as office buildings. To the north is W 3rd Street and Rose Hill Cemetery which is categorized as Mixed Use Institutional (MI).

The existing buildings and paving currently on the site will be removed to allow for development of the project. The petitioner proposes to create two (2) additional lots on the property. One lot will contain the 75-foot riparian buffer along the west side and the second lot will be located at the south end of the property. The new 45,000 square foot Beacon Center building will sit along W 3rd Street and have a main, public entry oriented to the northwest. There will be two (2) ADA compliant parking spaces and a loading area along the street near the front entrance. A driveway roughly in the existing east location will access a parking lot with nineteen (19) parking spaces for guests. A drive will continue for access to the south lot and behind the building to a parking lot with twenty-four (24) spaces for staff and residents. Eight-foot fencing will run from the northwest corner of the building along the west and south property lines to the southeast corner of the building. There will be gated access to the rear parking lot. There will be four-foot fencing around the planting beds in front of the building.



The building will be two-stories on the west side and one-story on the east side with the lower level becoming buried as the slope rises to the east. The lower level will contain the day center with commercial kitchen, bathrooms, showers, laundry, mail room and service provider offices and the overnight shelter. There will be an enclosed courtyard at the rear of the building that will serve guests in the day center and overnight shelter. The overnight shelter will be able to serve individuals and couples without discrimination as the demographics of clients change. The upper level will contain administrative offices, twenty (20) 1-bedroom supportive living units and five (5) 'live-to-work' units for on-site staff. To serve the permanent supportive living units, this floor will have a community room with kitchenette, hygiene and food pantries, case manager offices, laundry, and storage.

Conditional Use Approval Criteria & Findings

20.06.040(d)(6)(B) General Compliance Criteria

This petition will comply with all aspects of the Unified Development Ordinance, and any other applicable regulations as well as utility, service, and improvement standards. There are no known prior approvals related to this site.

20.06.040(d)(6)(C) Additional Criteria Applicable to Conditional Uses

i. Consistency with Comprehensive Plan and Other Applicable Plan

The Comprehensive Plan Land Use Map reflects the former use of this property as an employment center since it was home to a construction company. The adjacent land use to the west is urban corridor. The UDO zoning characterizes this area as mixed-use medium scale (MM) which introduces the residential component to this property to promote vitality and provide neighborhood serving businesses.

The Comprehensive Plan recognizes the acute need for more housing options in Chapter 5 Housing & Neighborhoods, which cites Housing Affordability as the first goal: *"Improve access to affordable housing for a continuum of needs in Bloomington, including people experiencing homelessness, low-income, and moderate-income households. Strive for permanent affordability in rental and owner-occupied housing options..."*

To meet this need, the third goal is Housing Supply: *"Help meet current and projected regional housing needs of all economic and demographic groups by increasing Bloomington's housing supply with infill development, reuse of non-residential developed land, and developments on vacant land if it is at least partially surrounded by existing development."* This conditional use approval request involves an infill property which represents the re-use of non-residential developed land.

ii. Provide Adequate Public Services and Facilities

The property has existing, and ample utility connections and no issues have been identified.

iii. Minimizes or Mitigates Adverse Impacts



1. *The proposed use and development will not result in the excessive destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.*

The project will establish a 75-foot riparian buffer along the west side of the property to protect the intermittent stream. Within the riparian, a 15-foot buffer yard will be established.

2. *The proposed development shall not cause significant adverse impacts on surrounding properties nor create a nuisance by reason of noise, smoke odors, vibration, or objectionable lights.*

A significant, dedicated riparian buffer along the west property line combined with the existing 75-foot riparian buffer provided by the neighboring apartment complex will result in more than 150 feet of building separation between the two properties. The project will include extensive fencing to maintain control of the site. There will be a generous entry sequence at the front of the building to assist with clients entering and leaving. There will also be surveillance cameras around the building.

3. *The hours of operation, outside lighting, and trash and waste collection shall not pose a hazard, hardship, or nuisance to the neighborhood.*

The day center will have a set daily schedule providing breakfast and lunch, and eventually adding a dinner service. Those clients who will transition to the overnight shelter must be present by a specific time to be admitted for the night. Exterior lighting will comply with UDO standards.

Because of the integration of services at this site, Beacon will have staff available nearly 24 hours a day, seven days a week. Beacon Center will also have up to five (5) 'live-to-work' units for employees to live on site in exchange for work, including security, maintenance, and custodial support.

There will be a fully enclosed trash room. Indoor lockers will be provided for temporary storage of personal items and longer-term items.

4. *The petitioner shall make a good-faith effort to address concerns of the adjoining property owners in the immediate neighborhood as defined in the pre-submittal neighborhood meeting for the specific proposal, if such a meeting is required.*

To date, the petitioners have met individually with over two dozen residents from the Prospect Hill and Near Westside neighborhoods, nearby business owners, and city and county government representatives, and have attended a Prospect Hill Neighborhood Association meeting. Further, door hangers have been distributed to unavailable neighbors and businesses. While not a formal requirement, a public meeting is scheduled for October 10th to receive additional feedback on the project and more individual meetings are planned ahead of the hearing.

Many of the concerns that have come forward relate to the behavior of Beacon clients when they are not on Beacon property. In an effort to monitor and respond to potential problems,



Beacon plans to convene a standing Neighborhood Advisory Committee to meet on a monthly basis to share news, report issues and formulate responses. The committee would consist of Beacon staff, neighborhood and business representatives, city officials and emergency service personnel. Beacon has also had preliminary conversations with Police Chief Diekoff about placement of a Downtown Resource Office at Beacon Center.

The design of the project seeks to discourage loitering around the building. There will be fencing to minimize access to the larger property, and surveillance around the building. The entry is intended to serve as an effective point of control in monitoring the coming and going of clients. An entry court will allow a space for people to congregate off the street while waiting to enter. Importantly, the goal of the project is to provide a safe, inviting, and orderly place for clients to see to their needs and receive services. In response to neighbor input, the size of outdoor space to be used as part of the day center and overnight shelter has been increased while still ensuring staff can provide safety in the space.

iv. Rational Phasing Plan

Depending on fundraising efforts, the project may be phased but it is unknown at this time. Site development, housing units, and building shell will be completed in the first phase. The day center and overnight shelter may be white boxed until funding for those components can be secured.

We have hoped to demonstrate that the Beacon Center project meets the criteria as set forth above for Conditional Use Approval. The project aims to create a purpose-built facility to effectively serve homeless individuals and help them find a path to permanent housing.

We look forward to your questions and comments,

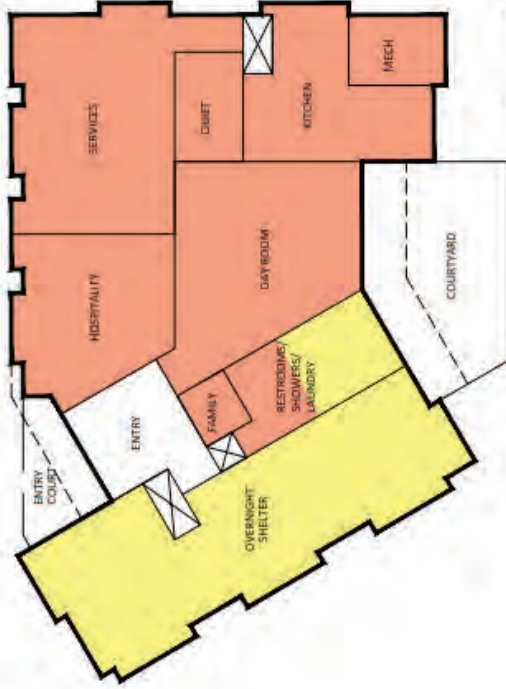
A handwritten signature in black ink that reads "Barre Klapper".

Barre Klapper, AIA
Springpoint Architects, pc

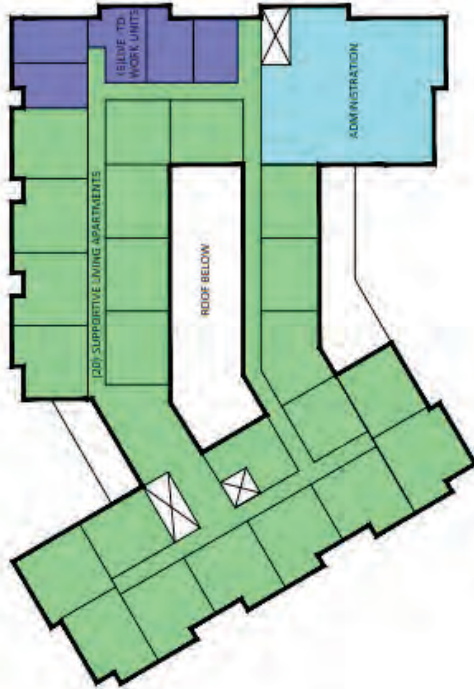
A handwritten signature in black ink that reads "Dawn Gray".

Dawn Gray, AIA
Springpoint Architects, pc

- DAY CENTER
- OVERNIGHT SHELTER
- ADMINISTRATION
- PERMANENT SUPPORTIVE HOUSING
- LIVE TO WORK HOUSING



FIRST FLOOR



SECOND FLOOR



NORTH ELEVATION

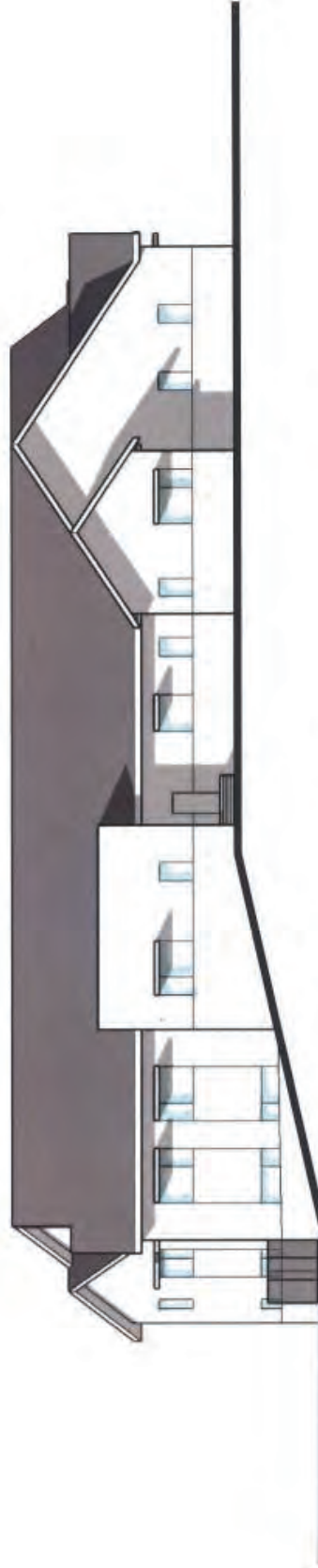


SMITH DESIGN GROUP
CIVIL ENGINEERING & LAND SURVEYING





WEST ELEVATION



EAST ELEVATION



SMITH DESIGN GROUP
CIVIL ENGINEERING & LAND SURVEYING





SOUTH ELEVATION



SMITH DESIGN GROUP
CIVIL ENGINEERING & LAND SURVEYING





**BEACON CENTER
 WEDDLE PARK LOT 1
 1201 W 3rd Street
 BLOOMINGTON, IN**

REVISIONS	BY	DATE

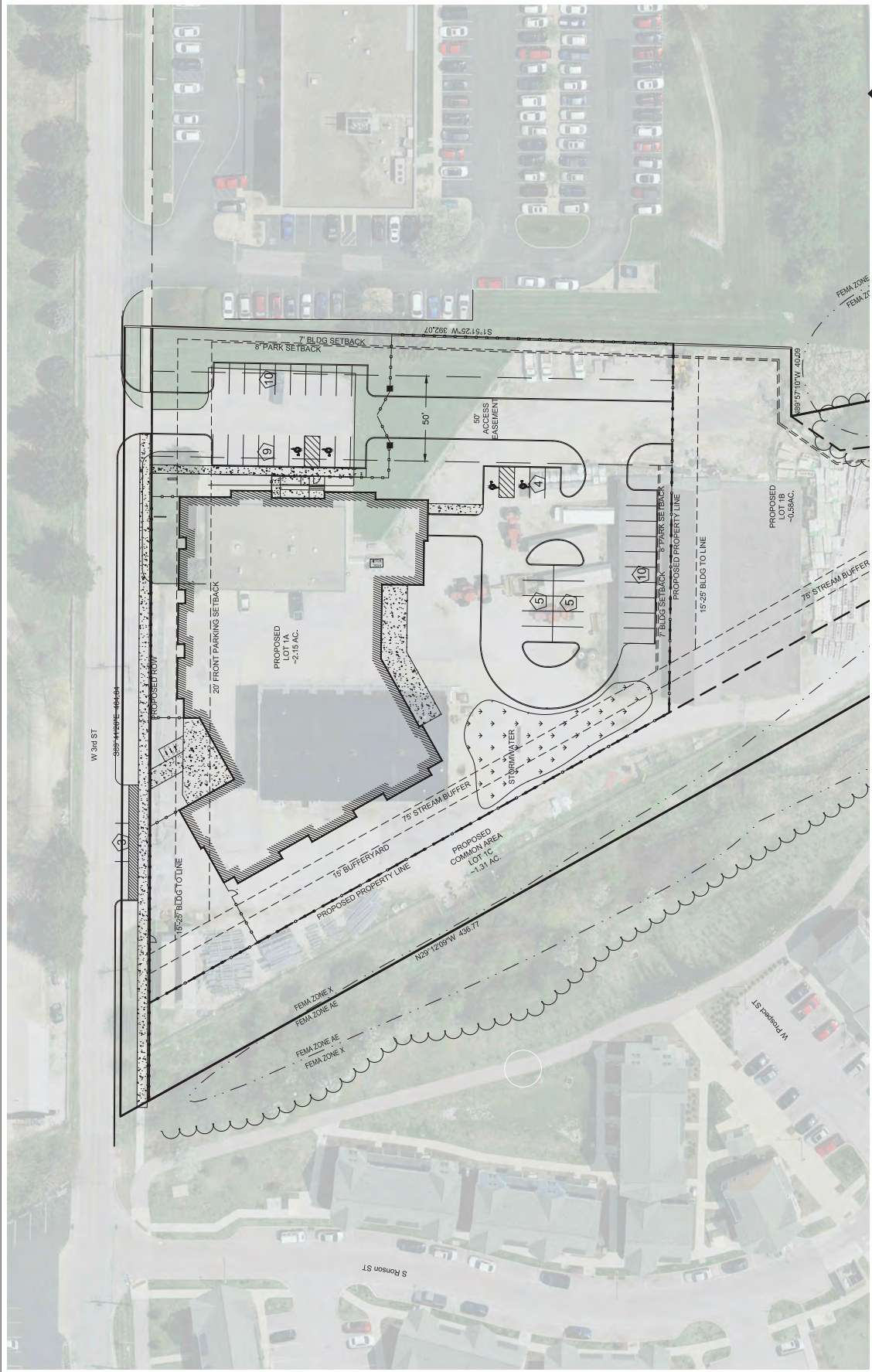
DESIGNED	
DRAFTED	
CHECKED	
DATE	

JOB NUMBER
6778

SHEET
1 OF 1

DATE
10/05/23

CONCEPT SITE PLAN



SCALE: 1" = 40'

NOTE:
 This plan is illustrative in nature. The plan indicates roadway access points and general layout. All easements, Right of Ways, exceptions or other conditions are shown as this time. Buildings and parking shown illustrate how the lots may be developed but are not intended to be a final development plan or commitment.



Eric Greulich <greulice@bloomington.in.gov>

Fwd: [Planning] Beacon building on 3rd Street

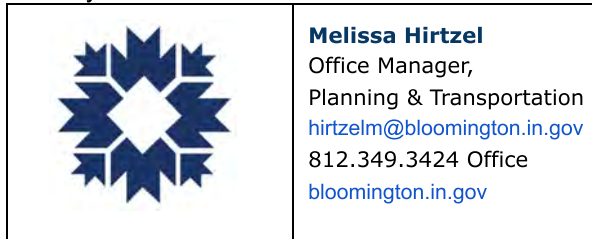
Melissa Hirtzel <hirtzelm@bloomington.in.gov>
 To: Eric Greulich <greulice@bloomington.in.gov>

Wed, Oct 11, 2023 at 11:17 AM

Hi Eric,

This came through for your petition.

Thank you!



----- Forwarded message -----

From: **Rocky Festa** <rockyfesta@gmail.com>
 Date: Wed, Oct 11, 2023 at 11:11 AM
 Subject: [Planning] Beacon building on 3rd Street
 To: <planning@bloomington.in.gov>

My name is Jennifer Festa and I live on the Near West Side at 7th and Maple. **I am writing the board in order to voice my support of the Beacon Inc project on West 3rd Street.**

Our community needs to take care of those who are living without housing, and who have mental health and/or substance issues. I have read about the Beacon project and have been in touch with people there regarding this project. I think this location, while not ideal, is certainly better than the current location on Walnut Street where Beacon has no room to grow and offer all of the services needed. It's close to the bus line, close to Wheeler Mission and will have someone from Centerstone at the location.

I will not be able to attend the BZA meeting on October 19th, and so I wanted to let the board know I fully support this plan.

Thank you,

Jennifer Festa
 720 W 7th St.
 Bloomington, IN 47404
 831-295-1928



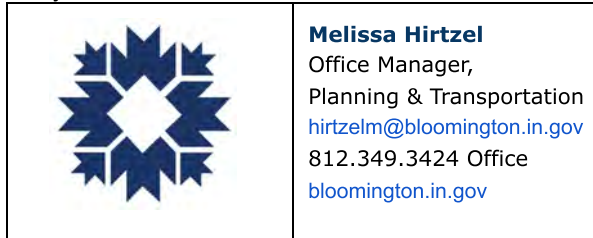
Eric Greulich <greulice@bloomington.in.gov>

Fwd: [Planning] Beacon's plan for W 3rd St

Melissa Hirtzel <hirtzelm@bloomington.in.gov>
 To: Eric Greulich <greulice@bloomington.in.gov>

Thu, Oct 12, 2023 at 4:24 PM

For you!



----- Forwarded message -----

From: **Jean Graham** <capitolajeans@gmail.com>
 Date: Thu, Oct 12, 2023 at 4:18 PM
 Subject: [Planning] Beacon's plan for W 3rd St
 To: <planning@bloomington.in.gov>

My name is Jean Graham and I live on the Near West Side at 7th and Maple. **I am writing the board in order to voice my support of the Beacon Inc project on West 3rd Street.**

The current Shalom space on S Walnut is inadequate: Beacon endeavors to provide a range of services and in their current location they are limited by inadequate space. In this bigger location they can provide more in-person services to support and improve mental health, physical health, and substance use issues for people at risk.

I will not be able to attend the BZA meeting on October 19th, and so I wanted to let the board know I fully support this plan.

Thank you,

Jean Graham
 720 W 7th Street Bloomington



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Board of Zoning Appeals- Beacon Proposal

Kyle Overway <koverway@alumni.iu.edu>

Thu, Oct 12, 2023 at 10:59 PM

To: planning@bloomington.in.gov, "scanlanj@bloomington.in.gov" <scanlanj@bloomington.in.gov>, tballard@leanong.com, flavia.burrell@homefinder.org, barre@springpointarchitects.com, jo@blueacemedia.com

Hi all,

As a resident of Prospect Hill, I feel compelled to share my sentiments regarding the proposed Beacon Shelter.

While I feel most Bloomington residents would agree expanded services to aid the unhoused community is of tremendous benefit to the community, considerations should be made around the location of these expanded services and its potential impact.

The proposed location is further from the Bloomington Transit hub, further from the B-Line trail for safe transportation, further from a grocery store/pharmacy, further from a public park/gathering space, further from a post office, and further from other necessary resources in the downtown area.

Therefore, not only is the increased distance from these services extremely detrimental to the potential residents of the new Beacon location, this is also almost certain to create increased traffic (whether on foot or bike) in an area that doesn't currently have the infrastructure to support safe travel as the users of Beacon's services traverse from the shelter to downtown for critical services.

As examples, Second Street currently has no bike lanes and, similarly, Howe St has no room for bike lanes and is already hazardous being a narrow two-way street with cars parked all along the north side of the street.

Another potential concern is cyclists riding against one-way traffic on W Third St given it is the shortest path to downtown from the proposed location (and the street that the shelter would reside on).

Secondarily, as mentioned above, the members of the unhoused community are likely to utilize a public park as a gathering space during the day.

Seminary Square is currently a popular choice among this community and, realistically, in its current state (no playground, no athletic courts, and overall lack of acreage), is unlikely to be heavily utilized by the larger community of Bloomington.

However, if Building Trades Park and/or the former hospital site become a new popular gathering space due to being closest in proximity to the new shelter, the larger community is likely to lose a "safe" community resource.

And, to clarify, "safe" is in no way referring to unhoused community members being present at the park, it's referring to the waste that tends to be left at the gathering places (Seminary Square has to be cleaned each morning by city/contracted employees and biohazardous waste is sometimes found).

The city has intentions to heavily invest in the development of Building Trades Park and the proposed Hopewell area and there seems to be quite a bit of excitement in the community around the potential of these two spaces. It would be a massive loss to the community at large if these two areas were unable to be safely utilized given the likelihood to become gathering spaces due to their proximity to the proposed shelter (it would almost assuredly require a massive increase of manpower to remove potentially hazardous waste from these expansive areas on a daily basis).

Unfortunately, I was unable to attend the "town hall" at Southern Knolls earlier this week so, perhaps, all of these concerns have already been taken into consideration with plans to help ensure the safety of all community members. If so, direction towards any resources/literature around the project and the concerns above would be greatly appreciated.

Many thanks,

Kyle Overway

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 1207 W. Cottage Grove Avenue

CASE #: AA-37-23
DATE: October 19, 2023

PETITIONER: Keith Swedo
1207 W Cottage Grove Ave Bloomington

REQUEST: The petitioner is requesting an administrative appeal of the assertion that the property is in violation of the UDO, as discussed in the June 22, 2023 Notice of Violation.

REPORT:

The petitioner was issued a Notice of Violation on June 22, 2023 for a fence exceeding 4 feet in height forward of the front building wall at 1207 W Cottage Grove Avenue. The Planning and Transportation Department visited the site on June 8, 2023 and observed the violation.

Section 20.04.080(n)(3)(A)(ii) of the Unified Development Ordinance (UDO) indicates that “Forward of the front building wall of the primary structure, fences and walls shall not exceed four feet in height.”

The building on the property is roughly 45 feet south of the front property line.

Per the petitioner’s statement and Department images, there is an existing 3 foot pick fence on the property. It can be seen just south of the front property line, roughly 43 feet north of the building on the property.

The petitioner added large posts to hold fabric above the existing fence to improve privacy.

“Fence” is not a defined term in the Unified Development Ordinance. Merriam Webster defines ‘fence’ as: a barrier intended to prevent escape or intrusion or to mark a boundary, especially: such a barrier made of posts and wires or boards.

This appeal request is the result of the issuance of a Notice of Violation issued on June 22, 2023 for a fence exceeding 4 feet in height forward of the front building wall. While the Department agrees that the cloth is not a typical or preferred fence material, it is clearly intended to function as a fence in this location and should be removed above 4 feet in height.

RECOMMENDATION: In accordance with UDO Section 20.06.080(d)(3)(B)(ii), because this petition is an administrative appeal, the staff report shall not make a formal recommendation.



City of Bloomington
Planning and Transportation Department

June 22, 2023

Keith Swedo
 1207 W Cottage Grove Ave.
 Bloomington, IN 47404

Re: Notice of Violation (warning)
 Landscaping, Buffering, and Fences

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) **Section 20.04.080 [Landscaping, Buffering, and Fences]** at 1207 W Cottage Grove Ave. Records show that you are the owner of this property.

The City of Bloomington Planning and Transportation Department received a complaint, forwarded from the Housing and Neighborhood Development (HAND) Department, of a fence exceeding 4 feet in height forward of the front building wall at 1207 W Cottage Grove Ave. On 06/08/2023, Planning staff observed a fence forward of the front wall of the primary structure exceeding 4 feet in height at 1207 W Cottage Grove Ave. This property is in the R3 Zoning District (Residential Small Lot).

According to Unified Development Ordinance (UDO) **Section 20.04.080(n) [Landscaping, Buffering, and Fences; Fences and Walls];**

- (3) Fence and Wall Height
- (A) Interior Lots
- i. Behind the front building wall of the primary structure, fences and walls shall not exceed a combined height of eight feet, except as provided in Subsection (1)(G) above.
 - ii. Forward of the front building wall of the primary structure, fences and walls shall not exceed four feet in height.

In accordance with UDO Section 20.06.100, a violation of this nature may result in a one-hundred dollar (\$100) fine. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

No fines have been issued at this time. You have the following options to remedy the situation.

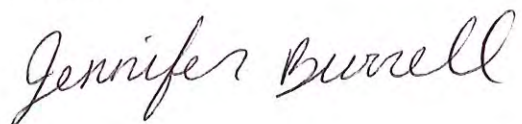
1. Remove the fencing in excess of 4 feet in height forward of the front building wall by 07/06/2023, **OR**;
2. Make a phone appointment with a Planner to occur on or before 07/06/2022 to discuss filing a variance request, **AND** file for a variance by 07/27/2022 for the 08/24/2023 Board of Zoning Appeals hearing.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.06.080(d).

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at planning@bloomington.in.gov or 812-349-3423 with any questions or concerns.

Sincerely,



Jennifer Burrell
Senior Zoning Compliance Planner, Planning and Transportation Department

Enclosures (3): 3 Photographs

CC: Scott Robinson, AICP, Director, Planning and Transportation Department
Beth Rosenbarger, AICP, Assistant Director, Planning and Transportation Department
Jackie Scanlan, AICP, Development Services Manager, Planning and Transportation Department



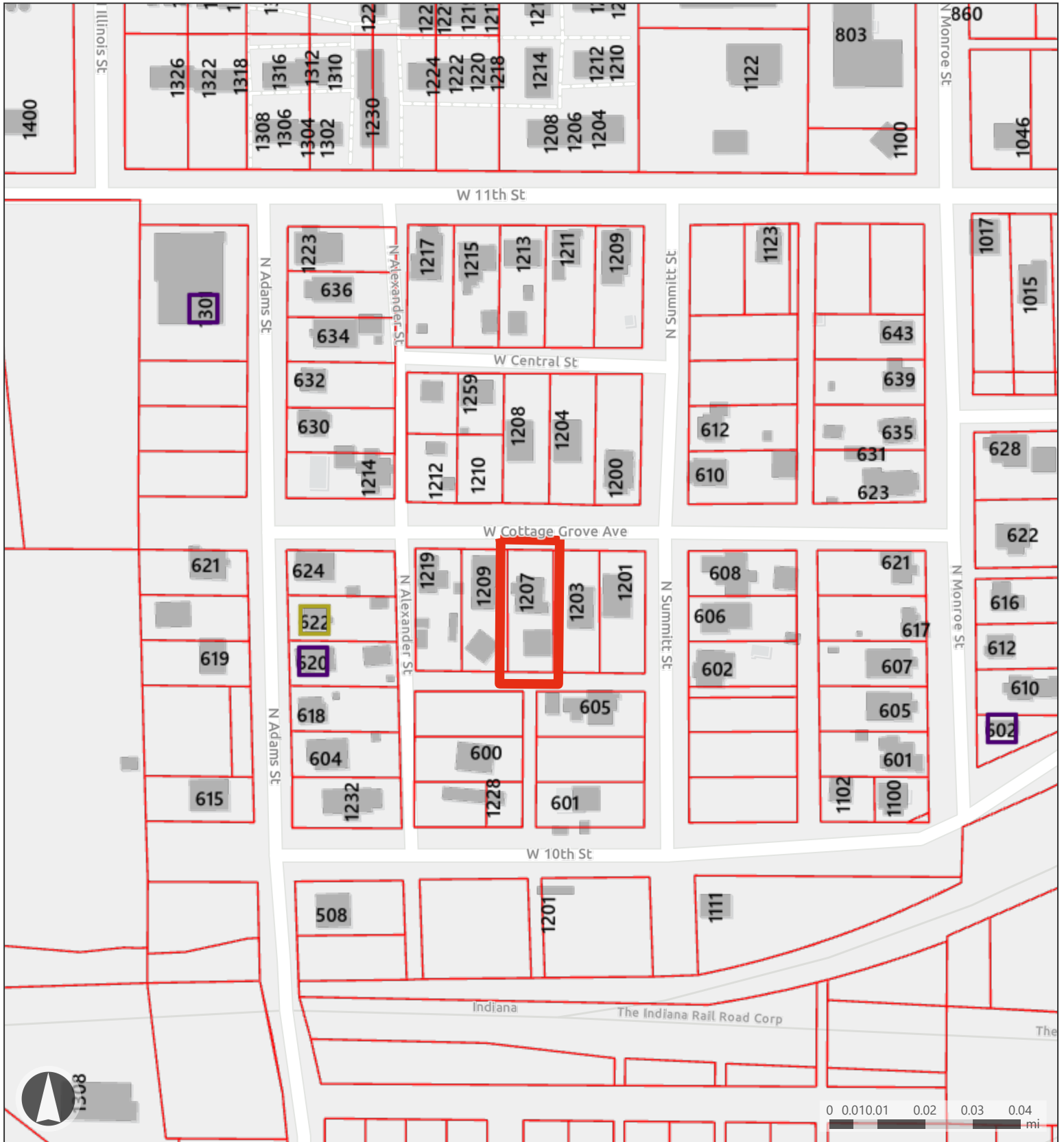
Photo 1: Fencing in excess of 4 feet in height forward of the front building wall at 1207 W Cottage Grove Ave on 06/08/2023.



Photo 2: Fencing in excess of 4 feet in height forward of the front building wall at 1207 W Cottage Grove Ave on 06/08/2023.

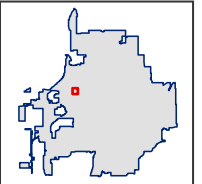


Photo 3: Fencing in excess of 4 feet in height forward of the front building wall at 1207 W Cottage Grove Ave (pictured to the left) on 06/08/2023.



Map Legend

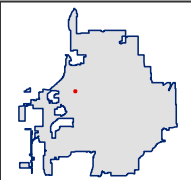
- Contributing
- Non-Contributing
- Parcels
- Buildings





Map Legend

- Addresses
- Parcels





Jacqueline Scanlan <scanlanj@bloomington.in.gov>

[Planning] Help with Notice of Violation (residential)

K S <krswedo@gmail.com>

Thu, Sep 7, 2023 at 2:18 PM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Hello again,

This is my submission for the **appeal** to the **September 21, 2023 Board of Zoning Appeals hearing**.

I received a letter in my mailbox from The City of Bloomington Planning and Transportation Department.

It says "Re: Notice of Violation (warning) Landscaping, Buffering, and Fences"

"The City of Bloomington Planning and Transportation Department received a complaint, forwarded from the Housing and Neighborhood Development (HAND) Department, of a fence exceeding 4 feet in height forward of the front building wall at 1207 W Cottage Grove Ave. On 06/08/2023, Planning staff observed a fence forward of the front wall of the primary structure exceeding 4 feet in height at 1207 W Cottage Grove Ave."

"If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals."

.....

I dispute the assertion that the property is in violation of the UDO because the "fence" in question "exceeding 4 feet in height forward of the front building wall" is not a "fence," it's a **cloth/fabric privacy/shade/windscreen**.

Currently, there is a *cloth/fabric privacy/shade/windscreen* (~5 feet in height) above a wooden picket fence (~3 feet in height), for a total of ~8 feet in height.

The wooden picket fence has been there since long-before I was the owner and it has remained unaltered.

The *cloth/fabric privacy/shade/windscreen* was added.

~8 feet in height is the minimum necessary to provide sufficient **privacy/buffer** between the **house/windows/yard** and the **neighbors/road/traffic/pedestrians/etc.** (of which there are considerable amounts).

Before that, it was **troublesome brush that was difficult to manage** (it was continually overgrown, unsightly, unruly, obstructing the road, growing into the utility/power lines, bothering the neighbors, etc.), and it provided practically **no privacy/security/buffer**.

Another reason for adding the privacy screen is that over my years of ownership, there have been issues of **theft, peeping, and trespassing - on the land and in the home**, with multiple reports to the Bloomington Police Department and with zero resolution (they patrolled to find the violators, but they couldn't find them, so they couldn't take any action).

The issues have been **ongoing and frequent for years** (at least ever since I took ownership in March 2016).

And **the neighbors that I talk to have all had similar issues** (including both those in the neighborhood and those within a wide radius of the surrounding area); consequently, many have since added a myriad of additional security measures (such as security cameras/systems, motion/flood lights, tall wooden fences, "Beware / No Trespassing" signs, leaving the dogs out to bark, etc.).

On a different note, there have been several neighbors who have gone out of their way to express that they are very happy with the privacy screen on my property: they appreciate the **added curb appeal** and **the change away from the troublesome brush and the lack of privacy**. No one has expressed any dissatisfaction to me.

Also, the privacy screen is completely within the boundaries of my property and it does not block any visibility, roadways, public utilities, etc.

Lastly, there are **multiple other "fences" on the same street, and in the neighborhood, and in the surrounding area that "exceed 4 feet in height forward of the front building wall;"** both wooden and wire/metal, both (relatively) old and (relatively)

new.

Including but not limited to:

622 N Adams St;

1214 W Cottage Grove Ave;

1212 W Cottage Grove Ave;

Between 1219 and 1209 W Cottage Grove Ave;

1207 W Cottage Grove Ave (the property in question);

Between 1207 & 1203 W Cottage Grove Ave;

608 N Summit St;

605 N Summit St;

602 N Summit St;

Between 622 and 616 N Monroe St.

.....

Attached is a Google Doc with the photos for this appeal.

 [Photos for the Appeal for 1207](#)

.....

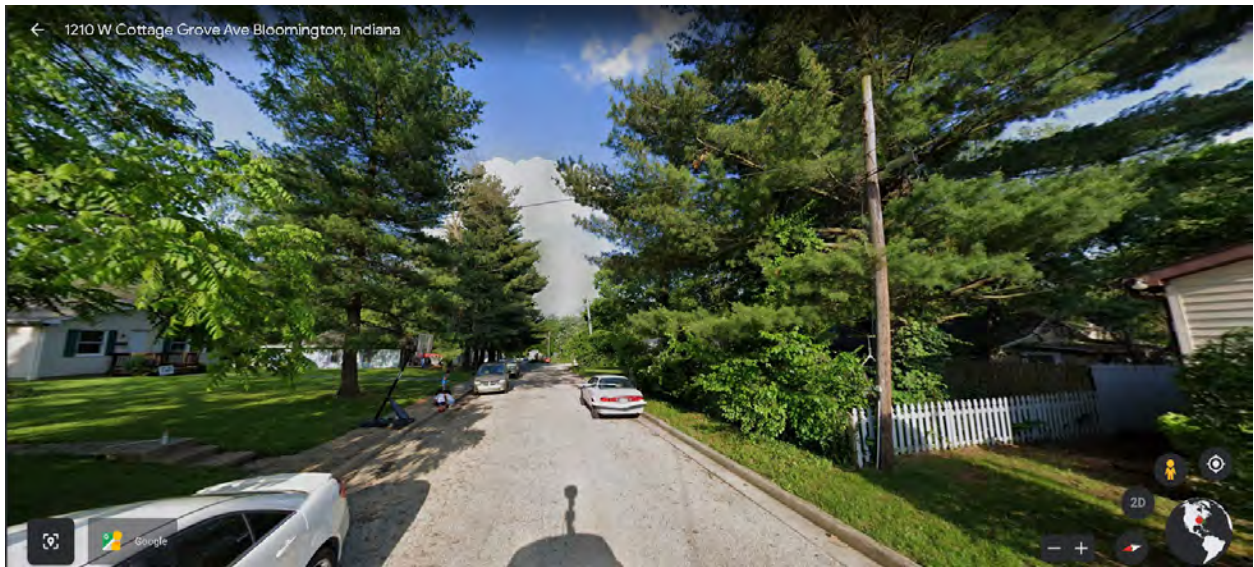
Please and thanks for your help + thanks for all that you do,
Karen Swedo & Keith Swedo (property owner)

~ The End ~

[Quoted text hidden]

BEFORE:















.....

AFTER:











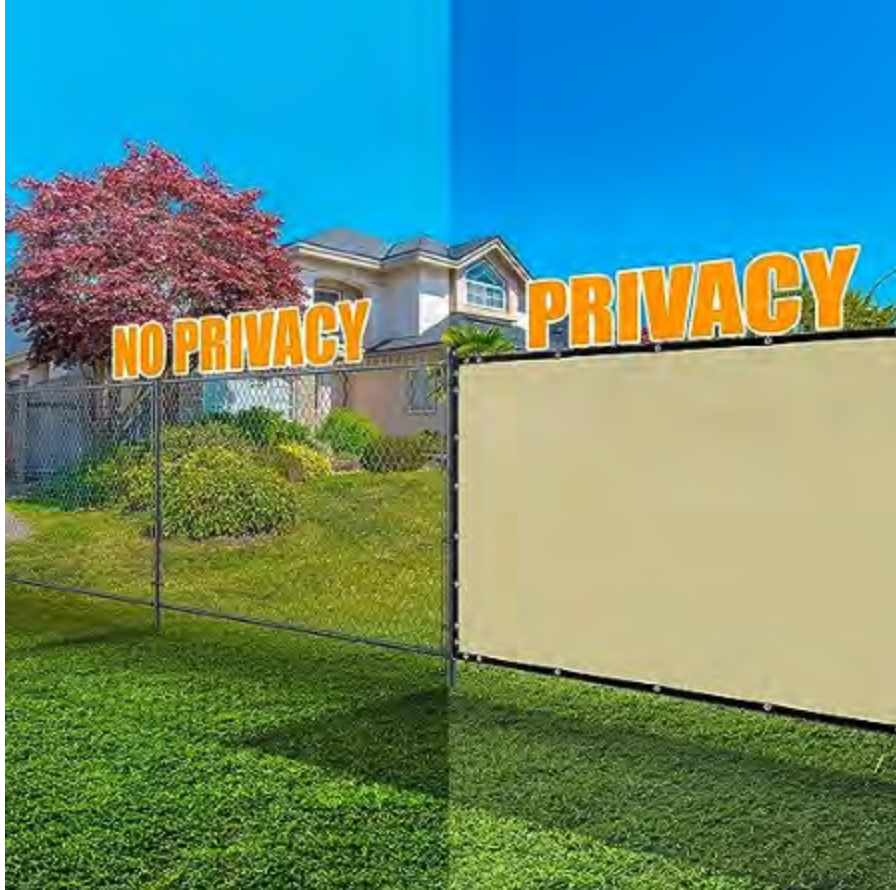












.....

**EXAMPLES OF THE MULTITUDINOUS EXTRA SECURITY MEASURES
THROUGHOUT THE NEIGHBORHOOD**



(This sign is one on the fence pictured above.)



**POSTED
NO TRESPASSING
KEEP OUT**

**BEWARE
OF THE DOG**

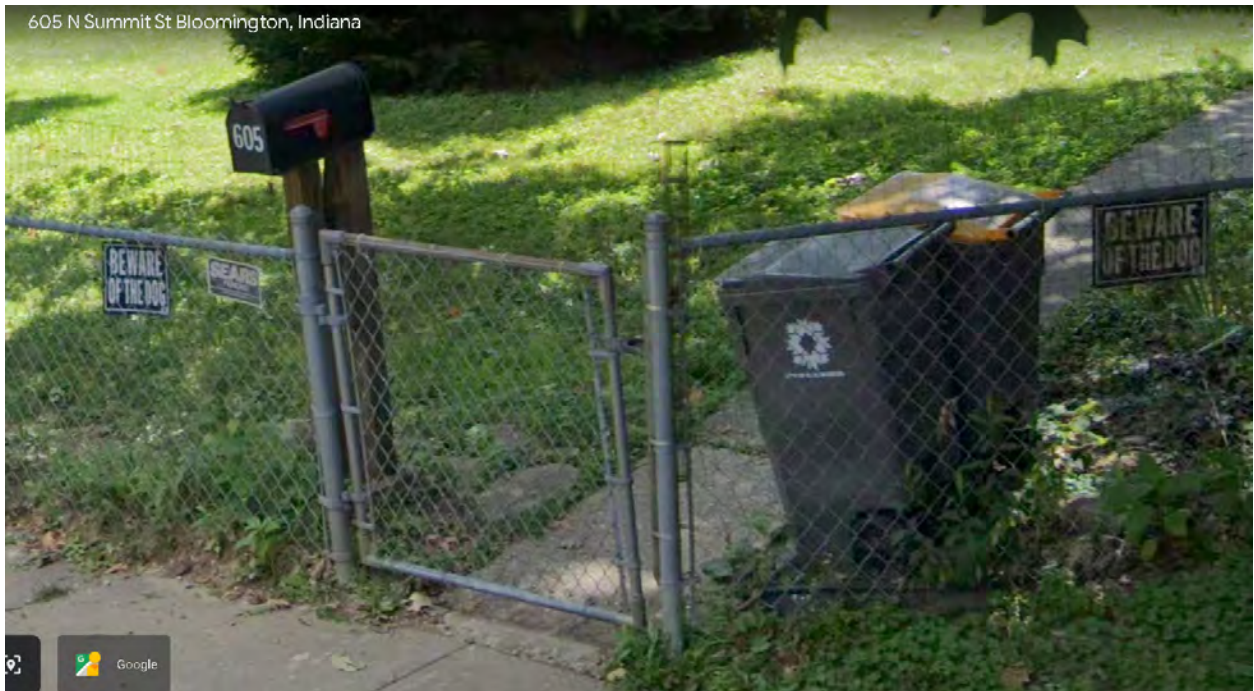








605 N Summit St Bloomington, Indiana







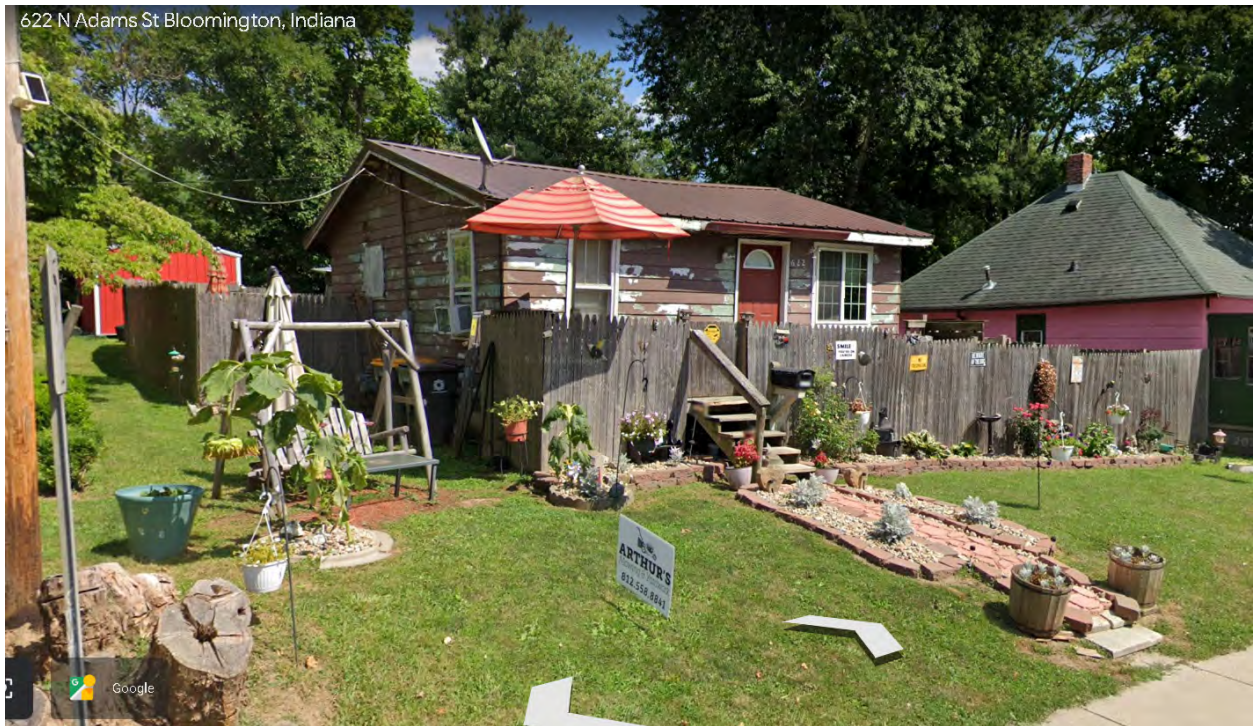
(This sign is one on the fence pictured above)

.....

Other “fences” on the same street, and in the neighborhood that “exceed 4 feet in height forward of the front building wall;” both wooden and wire/metal, both (relatively) old and (relatively) new. Including but not limited to:



622 N Adams St Bloomington, Indiana



622 N Adams St; wood ~5-6 feet in height.



1214 W Cottage Grove Ave; wood ~6 feet in height.





1212 W Cottage Grove Ave; wire/metal and wood ~4-6 feet in height.

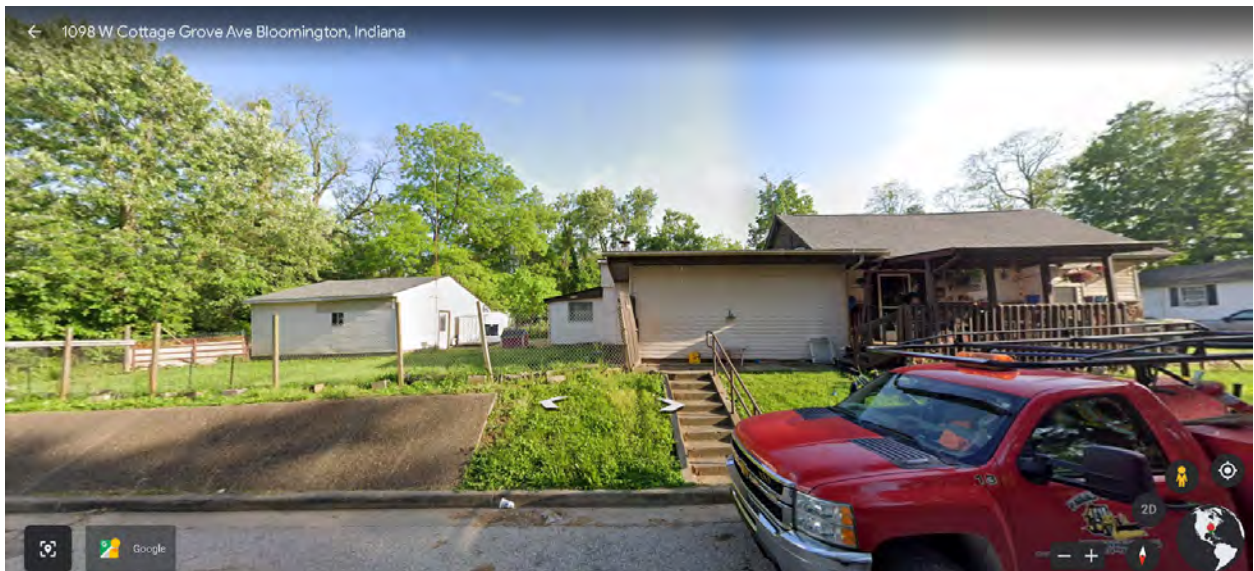


Between 1219 and 1209 W Cottage Grove Ave; wood ~6 feet in height.



Between 1207 and 1203 W Cottage Grove Ave; wood ~5.5 feet in height.





608 N Summit St; wire ~5 feet in height, wood posts ~6 feet in height.



605 N Summit St; metal chain-link fence ~4 feet in height + ~1 foot in height of additional wire panel added above, for a total of ~5 feet in height.





602 N Summit St; wire with wood posts ~5 feet in height.



Between 622 and 616 N Monroe St; wood ~6-7 feet in height.

.....

The original letter in the mailbox from The City of Bloomington Planning and Transportation Department.



City of Bloomington
Planning and Transportation Department

June 22, 2023

Keith Swedo
 1207 W Cottage Grove Ave.
 Bloomington, TN 47404

Re: **Notice of Violation (warning)**
 Landscaping, Buffering, and Fences

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) **Section 20.04.080 [Landscaping, Buffering, and Fences]** at 1207 W Cottage Grove Ave. Records show that you are the owner of this property.

The City of Bloomington Planning and Transportation Department received a complaint, forwarded from the Housing and Neighborhood Development (HAND) Department, of a fence exceeding 4 feet in height forward of the front building wall at 1207 W Cottage Grove Ave. On 06/08/2023, Planning staff observed a fence forward of the front wall of the primary structure exceeding 4 feet in height at 1207 W Cottage Grove Ave. This property is in the R3 Zoning District (Residential Small Lot).

According to Unified Development Ordinance (UDO) **Section 20.04.080(n) [Landscaping, Buffering, and Fences; Fences and Walls]:**

- (3) Fence and Wall Height
- (A) Interior Lots
- i. Behind the front building wall of the primary structure, fences and walls shall not exceed a combined height of eight feet, except as provided in Subsection (1)(G) above.
 - ii. Forward of the front building wall of the primary structure, fences and walls shall not exceed four feet in height.

In accordance with UDO Section 20.06.100, a violation of this nature may result in a one-hundred dollar (\$100) fine. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

No fines have been issued at this time. You have the following options to remedy the situation.

1. Remove the fencing in excess of 4 feet in height forward of the front building wall by 07/06/2023, **OR;**
2. Make a phone appointment with a Planner to occur on or before 07/06/2022 to discuss filing a variance request, **AND** file for a variance by 07/27/2022 for the 08/24/2023 Board of Zoning Appeals hearing.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.06.080(d).

401 N. Morton Street • Bloomington, IN 47404

City Hall

Phone: (812) 349-3423 • Fax: (812) 349-3570

www.bloomington.in.gov

e-mail: planning@bloomington.in.gov

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at planning@bloomington.in.gov or 812-349-3423 with any questions or concerns.

Sincerely,

Jennifer Burrell

Jennifer Burrell
Senior Zoning Compliance Planner, Planning and Transportation Department

Enclosures (3): 3 Photographs

CC: Scott Robinson, AICP, Director, Planning and Transportation Department
Beth Rosenbarger, AICP, Assistant Director, Planning and Transportation Department
Jackie Scanlan, AICP, Development Services Manager, Planning and Transportation Department



Photo 1: Fencing in excess of 4 feet in height forward of the front building wall at 1207 W Cottage Grove Ave on 06/08/2023.



Photo 2: Fencing in excess of 4 feet in height forward of the front building wall at 1207 W Cottage Grove Ave on 06/08/2023.



Photo 3: Fencing in excess of 4 feet in height forward of the front building wall at 1207 W Cottage Grove Ave (pictured to the left) on 08/08/2023.

.....

~ The End ~

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 530 S Washington Street

CASE #: AA-38-23
DATE: October 19, 2023

PETITIONER: Joseph B. Davis
530 S Washington Street Bloomington

REQUEST: The petitioner is requesting an administrative appeal of a Notice of Violation that was issued August 17, 2023.

REPORT:

The petitioner was issued a Notice of Violation and Fines (NOV) on August 17, 2023 for vehicles parked on an unimproved surface, and ‘outdoor storage’ in the R4 (Residential Urban) zoning district. The NOV contains several images from a site visit conducted by the Housing and Neighborhood Development Department on June 23, 2023.

The NOV references two previous NOVs sent to the petitioner, which are both included here. Those NOVs were dated August 24, 2021 and October 20, 2022. The August 24, 2021 NOV referenced violation of the use-specific standards for outdoor storage. The October 20, 2022 NOV also referenced violation of the use-specific standards for outdoor storage, in addition to parking on an unimproved surface. Both NOVs established compliance deadline dates for violations on the property. As of the date of the August 17, 2023 NOV, both violations remained unresolved. As of the date of this hearing, both violations remain unresolved.

An administrative appeal (AA-51-22) of the October 20, 2022 NOV was filed by the petitioner on November 2, 2022 and heard and denied by this Board of Zoning Appeals (BZA) on February 23, 2023.

Table 03-1 of the UDO lists ‘storage, outdoor’ as a use allowed in particular zoning districts and with use-specific standards. The use is not allowed in the R4 zoning district. The use-specific standards for the use ‘storage, outdoor’ are located in Section 20.03.030(e)(1) and two of its provisions were cited in the NOV. The first is (c), related to outdoor storage.

(C) Prohibited Storage Materials

In all zoning districts where this use is allowed, except for the MI zoning district, outdoor storage of equipment, materials, waste or scrap materials, and pallets is prohibited.

For reference, “Storage, outdoor” is a defined term in Section 20.07.010 of the UDO. It is defined, as follows:

The storage of any material outside of an enclosed building for a period greater than 24 hours, including but not limited to storage of items awaiting processing or repair. This use does not include “Vehicle Sales or Rental” or accessory “Outdoor Retail and Display” uses.

As can be seen in the images in the NOV, as well as those subsequently taken by the HAND Department, a number of items are being stored outdoors on the property including: construction materials such as cinder blocks, insulation, plywood boards, plank boards, beams, doors, windows,

metal frames, siding, pipes, bricks, and pavers; tires; bath tubs; electronics; tools; dismantled antenna towers; a cement mixer; buckets; and many tarped materials.

The petitioner received a Certificate of Zoning Compliance toward a building permit for an accessory structure on February 10, 2023. However, that building permit does not allow outdoor storage of materials.

The second provision cited in the NOV is (A)(i), related to parking on an unimproved surface.

All outdoor parking of vehicles in all zoning districts shall comply with the following standards:

- i. Vehicles and trailers shall not be stored or parked on an unimproved surface.

The three vehicles and trailer to the west of the house are not being stored or parked on improved surfaces.

This appeal request is the result of the issuance of a Notice of Violation and Fines issued on August 17, 2023 for vehicles parked on an unimproved surface, and 'outdoor storage' in the R4 (Residential Urban) zoning district. The petition site clearly contains numerous vehicles being stored on unimproved surfaces, and equipment and materials being stored outside.

RECOMMENDATION: In accordance with UDO Section 20.06.080(d)(3)(B)(ii), because this petition is an administrative appeal, the staff report shall not make a formal recommendation.



City of Bloomington
Planning and Transportation Department

August 17, 2023

Joe Davis
530 S. Washington Street
Bloomington, IN 47401

Re: Notice of Violation and Fines for Violations of Titles 20 of the Bloomington Municipal Code
Property located at 530 S. Washington Street, Bloomington, Indiana
Illegal Land Use
Parking on an Unimproved Surface

Dear Sir or Madam:

This letter serves as a Notice of Violation and Fines for a violation of 20.03.030(e) [Use-Specific Standards; Employment Uses] of the Bloomington Municipal Code (“BMC”) at 530 S. Washington Street (“Property”). Records show you are the owner of this property.

It has come to the attention of the City of Bloomington Planning and Transportation Department (“Department”) that vehicles have been parked on an unimproved surface (grass) and the prohibited outdoor storage of materials has been ongoing at the property located at 530 S. Washington Street. The City of Bloomington Housing and Neighborhood Development (HAND) Department contacted the City of Bloomington Planning and Transportation Department regarding the ongoing violations at 530 S. Washington Street. Enclosed are images from the HAND Department’s site visit to 530 S. Washington Street on 06/23/2023 depicting these violations. This property is located in the “R4 - Residential Urban” zoning district

Letters dated 08/24/2021 and 10/20/2022 were previously sent to the property owner, establishing compliance deadlines for the ongoing violations. As of the date of this letter, both violations remain unresolved.

According to the Allowed Use Table, attached, which is found in Unified Development Ordinance (UDO) **Section 20.03.020 [Use Regulations; Allowed Use Table]**, the use of “Outdoor Storage” is not permitted in the R4 district.

According to Unified Development Ordinance (UDO) **Section 20.03.030 [Use-Specific Standards];**

(C) Prohibited Storage Materials

In all zoning districts where this use is allowed, except for the MI zoning district, outdoor storage of equipment, materials, waste or scrap materials, and pallets is prohibited.

According to Unified Development Ordinance (UDO) **Section 20.07.010 [Definitions; Defined Words];**

Storage, Outdoor

The storage of any material outside of an enclosed building for a period greater than 24 hours, including but not limited to storage of items awaiting processing or repair. This use does not include “Vehicle Sales or Rental” or accessory “Outdoor Retail and Display” uses.

According to Unified Development Ordinance (UDO) **Section 20.03.030(e) [Use-Specific Standards; Employment Uses];**

(1) Storage, Outdoor

(A) Parking of Vehicles

All outdoor parking of vehicles in all zoning districts shall comply with the following standards:

- i. Vehicles and trailers shall not be stored or parked on an unimproved surface.
- ii. Stored or parked vehicles shall not block, impede, or otherwise encroach upon a sidewalk.
- iii. Stored or parked vehicles shall not be used for other purposes, including, but not limited to, living quarters, or storage of materials.

As a result of these violations, pursuant to BMC Section 20.06.100(d), Joe Davis, is hereby assessed a fine of \$7,650.00. This is reflective of a fifty dollar (\$50) fine per day for parking on an unimproved surface beginning on 08/16/2023 and a two-thousand five-hundred dollar (\$2,500) fine per day for Illegal Land Use for the prohibited outdoor storage of materials beginning on 08/16/2023. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500). Payment of the full amount of \$7,650.00 shall be made to City of Bloomington Planning and Transportation, 401 N. Morton St., Suite 130, Bloomington, IN 47404, no later than 08/31/2023.

You may appeal this Notice of Violation to the City of Bloomington Board of Zoning Appeals, provided that the appeal is in writing and is filed with the Board of Zoning Appeals no later than ten (10) days from the date of this NOV. Fines levied for violation of this title may be contested in the Monroe County Circuit Court.

If the assessed fine is not paid by 08/31/2023, the City of Bloomington ("City") reserves the right to initiate suit against you in the Monroe County Circuit Court in order to reduce the fines to a judgment.

Sincerely,



Jennifer Burrell
Senior Zoning Compliance Planner, Planning and Transportation Department

CC: Scott Robinson, AICP, Director, Planning and Transportation Department
Beth Rosenbarger, AICP, Assistant Director, Planning and Transportation Department
Jackie Scanlan, AICP, Development Services Manager, Planning and Transportation Department
Mike Rouker, City Attorney

Enclosure: (11) Photographs



Photo 1: Outdoor storage of materials at 530 S. Washington Street on 06/23/2023.

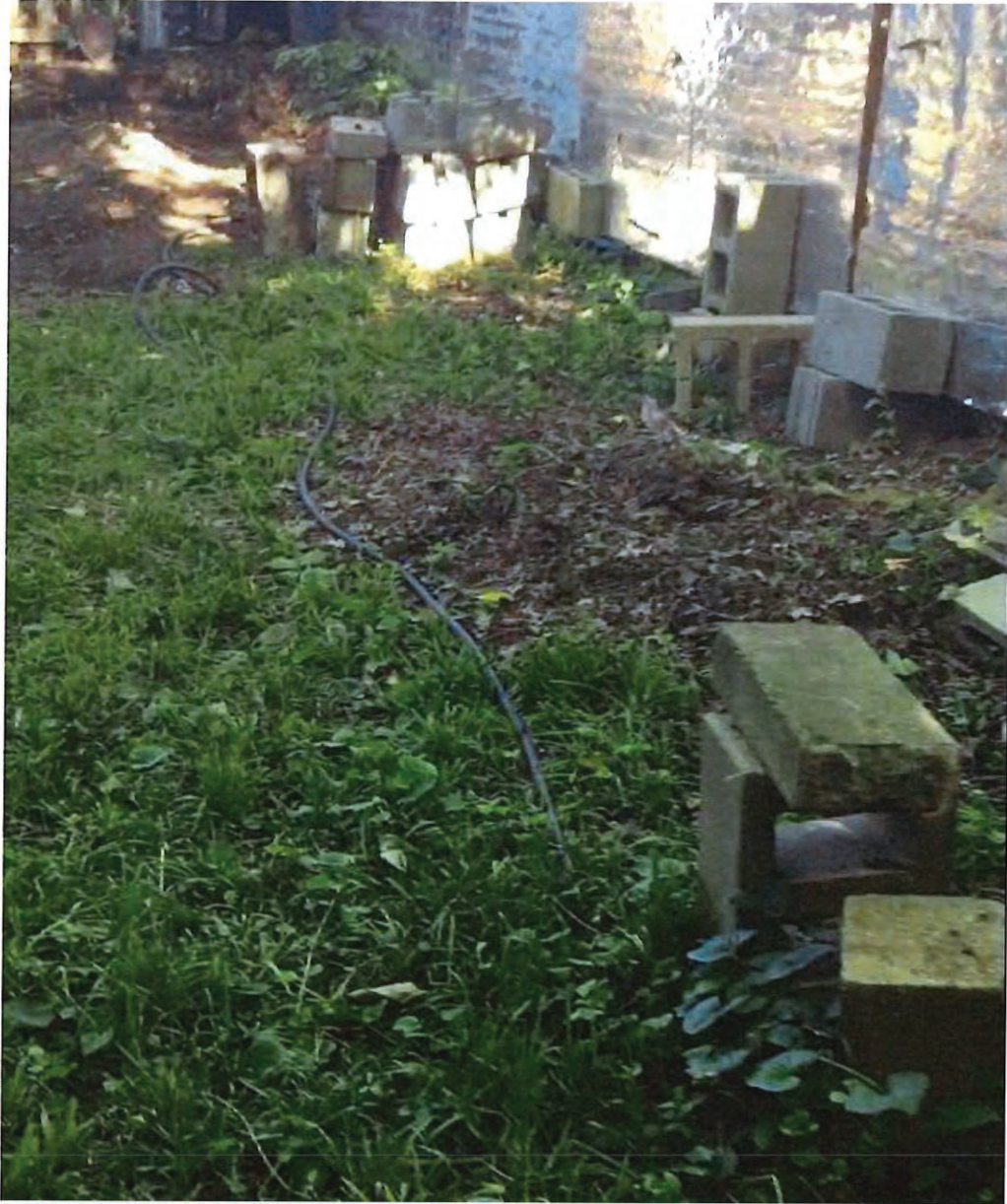


Photo 2: Outdoor storage of materials at 530 S. Washington Street on 06/23/2023.



Photo 3: Outdoor storage of materials, specifically equipment, at 530 S. Washington Street on 06/23/2023.



Photo 4: Outdoor storage of materials and parking on unimproved surface at 530 S. Washington Street on 06/23/2023.



Photo 5: Outdoor storage of materials and parking on unimproved surface at 530 S. Washington Street on 06/23/2023.



Photo 6: Outdoor storage of materials and parking on unimproved surface at 530 S. Washington Street on 06/23/2023.



Photo 7: Outdoor storage of materials at 530 S. Washington Street on 06/23/2023.



Photo 8: Outdoor storage of materials at 530 S. Washington Street on 06/23/2023.

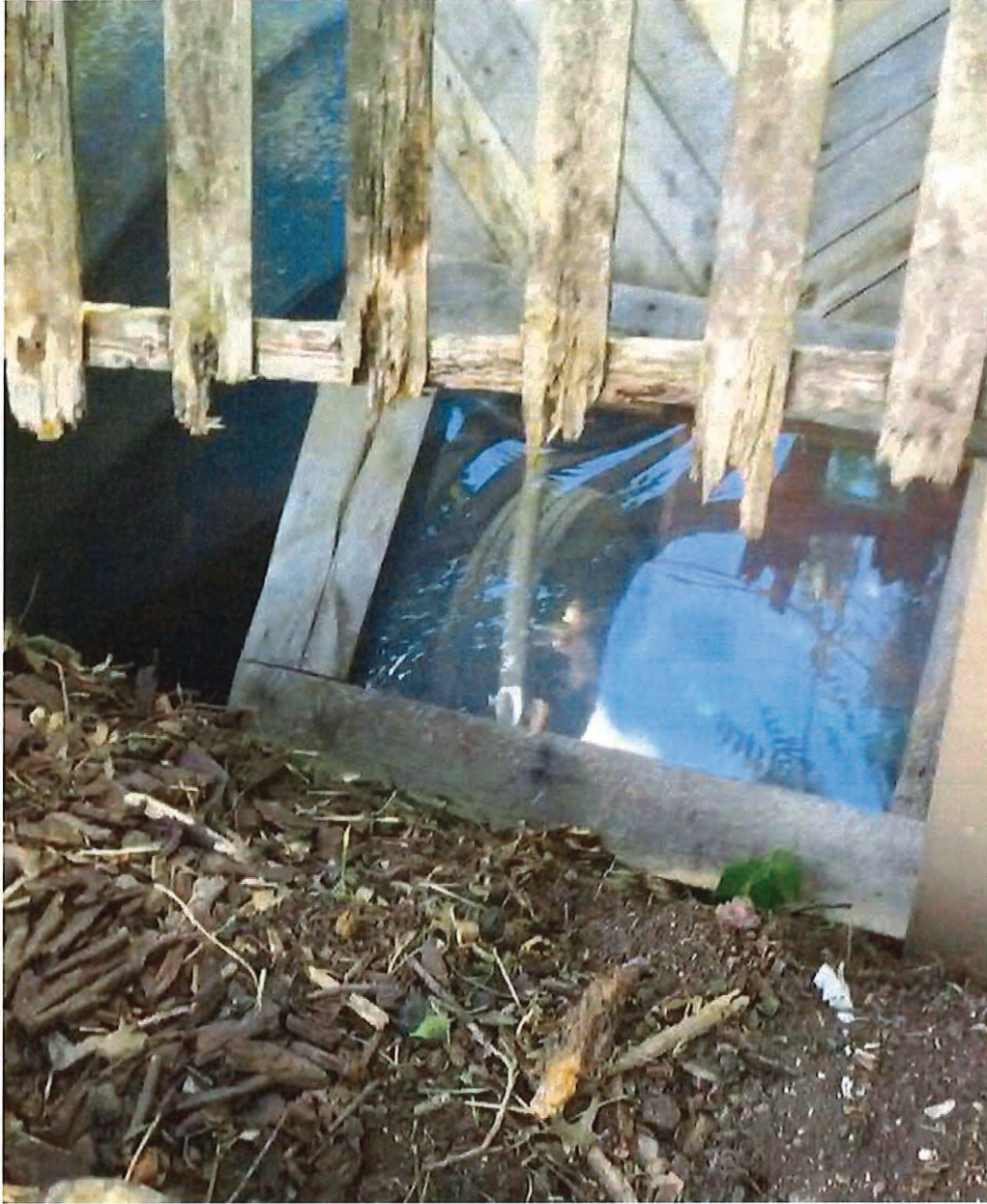


Photo 9: Outdoor storage of materials at 530 S. Washington Street on 06/23/2023.



Photo 10: Outdoor storage of materials and parking on unimproved surface at 530 S. Washington Street on 06/23/2023.



Photo 11: Outdoor storage of materials at 530 S. Washington Street on 06/23/2023.

October 20, 2022 Notice of Violation



**City of Bloomington
Planning and Transportation Department**

October 20, 2022

Joseph Davis
530 S. Washington St.
Bloomington, IN 47401

Re: Notice of Violation (warning)
Illegal Land Use, Parking on Unimproved Surface

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) **Section 20.03.020 [Use Regulations; Allowed Use Table]** and **Section 20.03.030 [Use-Specific Standards]** at 530 S. Washington Street. Records show that you are the owner of this property.

The City of Bloomington Housing and Neighborhood Development (HAND) Department contacted the City of Bloomington Planning and Transportation Department regarding outdoor storage and parking on unimproved surface violations at 530 S. Washington on 08/08/2022. Staff from HAND and Planning and Transportation met with Mr. Davis on 08/11/2022 to discuss options for bringing the property into compliance with several sections of the Bloomington Municipal Code. The Planning and Transportation Department staff have not observed substantive change in the violations staff discussed with Mr. Davis on 08/11/2022. On 08/11/2022, 09/08/2022, and 09/20/2022 staff observed outdoor storage of materials and parking on unimproved surface at 530 S. Washington Street. This property is located in the "R4 - Residential Urban" zoning district.

A NOV Warning had previously been issued to this property for Outdoor Storage violations on August 24, 2021. Mr. Davis contacted the Department and took some steps to come into compliance after receiving the 2021 NOV Warning.

According to the Allowed Use Table, attached, which is found in Unified Development Ordinance (UDO) **Section 20.03.020 [Use Regulations; Allowed Use Table]**, the use of "Outdoor Storage" is not permitted in the R4 district.

According to Unified Development Ordinance (UDO) **Section 20.03.030 [Use-Specific Standards];**
(C) Prohibited Storage Materials

In all zoning districts where this use is allowed, except for the MI zoning district, outdoor storage of equipment, materials, waste or scrap materials, and pallets is prohibited.

According to Unified Development Ordinance (UDO) **Section 20.07.010 [Definitions; Defined Words];**
Storage, Outdoor

The storage of any material outside of an enclosed building for a period greater than 24 hours, including but not limited to storage of items awaiting processing or repair. This use does not include "Vehicle Sales or Rental" or accessory "Outdoor Retail and Display" uses.

According to Unified Development Ordinance (UDO) **Section 20.03.030(e) [Use-Specific Standards; Employment Uses];**

(1) Storage, Outdoor

(A) Parking of Vehicles

All outdoor parking of vehicles in all zoning districts shall comply with the following standards:

- i. Vehicles and trailers shall not be stored or parked on an unimproved surface.
- ii. Stored or parked vehicles shall not block, impede, or otherwise encroach upon a sidewalk.
- iii. Stored or parked vehicles shall not be used for other purposes, including, but not limited to, living quarters, or storage of materials.

In accordance with UDO Section 20.06, a violation of this nature may result in a two-thousand five-hundred dollar (\$2,500) fine for Illegal Land Use and a fifty dollar (\$50) fine for Parking on Unimproved Surface. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

No fines have been issued at this time. You have the following options to remedy the situation.

1. Cease parking vehicles on unimproved surface (grass) on or before 11/03/2022 **AND**;
2. Remove materials being stored outdoors which are not contained within a structure on or before 11/03/2022 **OR**;
3. Make a phone appointment with a Planner to occur on or before 11/03/2022 to discuss filing a variance request, **AND** file for a variance by 11/17/2022 for the 12/15/2022 Board of Zoning Appeals hearing. **It is very unlikely that you would receive a variance approval for parking on an unimproved surface or outdoor storage.**

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.06.080(d).

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at planning@bloomington.in.gov or 812-349-3423 with any questions or concerns.

Sincerely,



Elizabeth Carter
Senior Zoning Compliance Planner, Planning and Transportation

CC: Scott Robinson, AICP, Director, Planning and Transportation
Beth Rosenbarger, AICP, Assistant Director, Planning and Transportation Department
Jackie Scanlan, AICP, Development Services Manager, Planning and Transportation

Enclosure: (5) 4 Photographs, 1 Use Table



Photo 1: Building materials stored outdoors at 530 S. Washington Street on 08/09/2022.



Photo 2: Storage of outdoor materials at 530 S. Washington Street on 08/09/2022.



Photo 3: Outdoor storage of materials and parking on unimproved surface at 530 S. Washington St on 08/08/2022.



Photo 4: Outdoor storage of materials and parking on unimproved surface at 530 S. Washington St. on 09/20/2022.

20.03.020 Allowed Use Table

Table 03-1: Allowed Use Table

P = permitted use, C = conditional use permit, A = accessory use, T = temporary use, Uses with an *= use-specific standards apply
Additional uses may be permitted, prohibited, or require conditional use approval in Downtown Character Overlays pursuant to Section 20.03.010(e).

Use	Residential							Mixed-Use							Non-Residential		Use-Specific Standards	
	R1	R2	R3	R4	RM	RH	RMH	MS	MN	MM	MC	ME	MI	MD	MH	EM		PO
RESIDENTIAL USES																		
Household Living																		
Dwelling, single-family (detached)	P	P	P	P	P*	P*	P	P	P	P*	P*	P*			P*			20.03.030(b)(1)
Dwelling, single-family (attached)		P*	P*	P*	P*	P*		P*	P*	P*				P*				20.03.030(b)(2)
Dwelling, duplex	C*	C*	C*	P*	P*	P*		P*	P*	P*	C*			P*				20.03.030(b)(3)
Dwelling, triplex				C*	P*	P*		P*	P*	P*	C*			P*				20.03.030(b)(4)
Dwelling, fourplex				C*	P*	P*		P*	P*	P*	P*			P*				20.03.030(b)(4)
Dwelling, multifamily				C*	P	P		P	P*	P*	P	P*	C	P*				20.03.030(b)(5)
Dwelling, live/work				C*	P*	P*			P*	P*	P*			P*				20.03.030(b)(6)
Dwelling, cottage development	C*	C*	C*	C*	C*	C*	C*		C*									20.03.030(b)(7)
Dwelling, mobile home								P*										20.03.030(b)(8)
Manufactured home park								P*										20.03.030(b)(9)
Group Living																		
Assisted living facility				C	P	P			C	P	P		P	P	P			
Continuing care retirement facility				C	P	P			C	P	P		P	P	P			
Fraternity or sorority house								P*					P*					20.03.030(b)(10)
Group care home, FHAA small	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*		P*		P*			20.03.030(b)(11)
Group care facility, FHAA large				P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*			20.03.030(b)(11)
Nursing or convalescent home				C	P	P			C	P	P	P	P	P	P			
Opioid rehabilitation home, small	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*		P*		P*			20.03.030(b)(11)
Opioid rehabilitation home, large				P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*			20.03.030(b)(11)
Residential rooming house					P*	P*		P	P*	P	P	C*						20.03.030(b)(12)
Student housing or dormitory					C*	P*		P*	C*	P*	P*		P*	C*				20.03.030(b)(13)
Supportive housing, small						C			C	C	C		C	C	C			
Supportive housing, large										C	C		C	C	C			
PUBLIC, INSTITUTIONAL, AND CIVIC USES																		
Community and Cultural Facilities																		
Art gallery, museum, or library				C*	C	C			P	P	P		P	P				20.03.030(c)(1)
Cemetery or mausoleum													P					

Table 03-1: Allowed Use Table

P = permitted use, C = conditional use permit, A = accessory use, T = temporary use, Uses with an *= use-specific standards apply
Additional uses may be permitted, prohibited, or require conditional use approval in Downtown Character Overlays pursuant to Section 20.03.010(e).

Use	Residential							Mixed-Use							Non-Residential		Use-Specific Standards	
	R1	R2	R3	R4	RM	RH	RMH	MS	MN	MM	MC	ME	MI	MD	MH	EM		PO
Club or lodge										P	P			P				
Community center		C	C	C	P*	P*			P	P	P		P	P			20.03.030(c)(2)	
Conference or convention center											P	P	P	P				
Crematory											C		C			C		
Day-care center, adult or child	A*	A*	A*	A*	C*	C*	C*	P*	P*	P*	P*	C*	C*	P*	P*	A*	20.03.030(c)(3)	
Government service facility										P	P	P	P	P		P		
Jail or detention facility													C*			C*	20.03.030(c)(4)	
Meeting, banquet, or event facility										P	P	P	P	P				
Mortuary										P	P		P					
Park	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Place of worship	C	C	C	C	C	C	C	C	C	P	P	C	P	P	C			
Police, fire, or rescue station	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P		
Urban agriculture, noncommercial	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*		20.03.030(c)(5)
Educational Facilities																		
School, college or university											C	C	P					
School, public or private	C*	C*	C*	C*	C*	C*	C*	C*	C*	P*	P*	C*	P*	P*			20.03.030(c)(6)	
School, trade or business										P	P	P	P	P		P		
Healthcare Facilities																		
Hospital													C		C			
Medical clinic									P	P	P	P	P	P	P			
Methodone treatment facility											P*		C*		C*		20.03.030(c)(7)	
Opioid rehabilitation facility											C*	C*	C*		C*	C*	20.03.030(c)(7)	
COMMERCIAL USES																		
Agricultural and Animal Uses																		
Crops and pasturage	P*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*			20.03.030(d)(1)
Kennel												C*				C*	20.03.030(d)(2)	
Orchard or tree farm, commercial	P	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	P		20.03.030(d)(3)
Pet grooming									P*	P*	P*			P*		P*	20.03.030(d)(4)	
Plant nursery or greenhouse, commercial	C									P	P	P						
Veterinarian clinic									C*	P*	P*			P*			20.03.030(d)(4)	
Entertainment and Recreation																		

Table 03-1: Allowed Use Table

P = permitted use, C = conditional use permit, A = accessory use, T = temporary use, Uses with an *= use-specific standards apply
Additional uses may be permitted, prohibited, or require conditional use approval in Downtown Character Overlays pursuant to Section 20.03.010(e).

Use	Residential							Mixed-Use							Non-Residential		Use-Specific Standards	
	R1	R2	R3	R4	RM	RH	RMH	MS	MN	MM	MC	ME	MI	MD	MH	EM		PO
Amenity center	P*	P*	P*	P*	P	P	P	A	P	P	P	P	P	P				20.03.030(d)(5)
Country club	C										P							
Recreation, indoor			P*	P*	P*	P*		A	C	P	P			P				20.03.030(d)(6)
Recreation, outdoor	C										C	P	P			C		
Sexually oriented business										C*	P*					P*		20.03.030(d)(7)
Stadium													C					
Food, Beverage, and Lodging																		
Bar or dance club								P		P	P			P				
Bed and breakfast	C*	C*	C*	C*	C*	P			P	P	P			P				20.03.030(d)(8)
Brewpub, distillery, or winery								p*	p*	p*	p*	p*		p*		p*		20.03.030(d)(9)
Hotel or motel								P			P	C		P				
Restaurant					C*	C*		P	P	P	P	P*	A	P	A	A		20.03.030(d)(10)
Office, Business, and Professional Services																		
Artist studio or workshop	A*	A*	A*	A*	P	P			P	P	P	C	C	P				20.03.030(d)(11)
Check cashing										C	C							
Financial institution								P		P	P	C		P		A		
Fitness center, small					A	A		P	P	P	P	A	A	P	A	A		
Fitness center, large								P	P	P	P			P	A			
Office									P	P	P	P	P	P	P*	P		20.03.030(d)(12)
Personal service, small					A	A		P	P	P	P	P	C	P				
Personal service, large								C	C	P	P	P		P				
Tattoo or piercing parlor										P	P			P				
Retail Sales																		
Building supply store										P	P					P		
Firearm Sales										P	P	P						
Grocery or supermarket					A	A		P	P	P	P	P		P				
Liquor or tobacco sales										P	P			P				
Pawn shop										P	P			P				
Retail sales, small					C	C		P	P	P	P	P		P				
Retail sales, medium								P		P	P	P		P				
Retail sales, large											P			P				
Retail sales, big box											P					P		
Vehicles and Equipment																		
Equipment sales or rental									p*	p*	p*			p*		p*		20.03.030(d)(13)
Transportation terminal										P	P		P	P		P		
Vehicle fleet operations, small										P	P					P		

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Additional uses may be permitted, prohibited, or require conditional use approval in Downtown Character Overlays pursuant to Section 20.03.010(e).

Use	Residential							Mixed-Use							Non-Residential		Use-Specific Standards	
	R1	R2	R3	R4	RM	RH	RMH	MS	MN	MM	MC	ME	MI	MD	MH	EM		PO
Vehicle fleet operations, large											P					P		
Vehicle fuel station										P*	P*	P*		P*		P*		20.03.030(d)(14)
Vehicle impound storage																P*		20.03.030(d)(15)
Vehicle parking garage					A	A		A		P	P	P	A	P*	C			20.03.030(d)(16)
Vehicle repair, major											P*					P*		20.03.030(d)(17)
Vehicle repair, minor									C*	P*	P*			P*				20.03.030(d)(17)
Vehicle sales or rental										P	P	P						
Vehicle wash										P*	P*					P*		20.03.030(d)(18)
EMPLOYMENT USES																		
Manufacturing and Processing																		
Commercial laundry										P	P					P		
Food production or processing										C	C	C				C		
Manufacturing, artisan									P	P	P	C		P		P		
Manufacturing, light												P		C		P		
Manufacturing, heavy																C		
Salvage or scrap yard																C		
Storage, Distribution, or Warehousing																		
Bottled gas storage or distribution																P		
Contractor's yard											P	C				P		
Distribution, warehouse, or wholesale facility											C	C				P		
Storage, outdoor													P*			P*	A*	20.03.030(e)(1)
Storage, self-service								A*	C*	P*	P*	P*	A*	P*		P*		20.03.030(e)(2)
Resource and Extraction																		
Gravel, cement, or sand production																C*		20.03.030(e)(3)
Quarry																C*		20.03.030(e)(3)
Stone processing																P		
UTILITIES AND COMMUNICATION																		
Communication facility	C*										C*	C*	P	C*	C*	P		20.03.030(f)(1)
Solar collector, ground- or building-mounted	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	P		20.03.030(f)(2)
Utility substation and transmission facility	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*		20.03.030(f)(3)
Wind energy system, large												P*				P*		20.03.030(f)(4)

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Additional uses may be permitted, prohibited, or require conditional use approval in Downtown Character Overlays pursuant to Section 20.03.010(e).

Use	Residential							Mixed-Use								Non-Residential		Use-Specific Standards
	R1	R2	R3	R4	RM	RH	RMH	MS	MN	MM	MC	ME	MI	MD	MH	EM	PO	
Wind energy system, small	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	P*	P*	20.03.030(f)(5)
ACCESSORY USES																	20.03.030(g)(1)	
Chicken flock	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*		P*	20.03.030(g)(2)
Detached garage	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*								20.03.030(g)(3)
Drive-through										A*	A							20.03.030(g)(4)
Dwelling, accessory unit	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*		A*	A*			20.03.030(g)(5)
Electric vehicle charging facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Greenhouse, noncommercial	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Home occupation	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*			20.03.030(g)(6)
Outdoor retail and display									T*	T*	T*			T*		A*	20.03.030(g)(7)	
Outdoor trash and recyclables receptacles					A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*		20.03.030(g)(8)
Recycling drop-off, self-serve					A	A		A	A	A	A	A	A	A	A	A		
Swimming pool	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	20.03.030(g)(9)
TEMPORARY USES																	20.03.030(h)(1)	
Book buyback								T*	T*	T*	T*		T*	T*				20.03.030(h)(2)
Construction support activities	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	20.03.030(h)(3)
Farm produce sales	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*			20.03.030(h)(4)
Real estate sales or model home	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*		20.03.030(h)(5)
Seasonal sales								T*	T*	T*	T*	T*	T*	T*	T*			20.03.030(h)(6)
Special event	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*	T*		T*	23.03.030(h)(7)

**August 24, 2021 Notice
of Violation**



**City of Bloomington
Planning and Transportation Department**

August 24, 2021

Joseph Davis
530 S. Washington St.
Bloomington, IN 47401

Re: Notice of Violation (warning)
Use-Specific Standards

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) **Section 20.03.030 [Use-Specific Standards]** at 530 S. Washington Street. Records show that you are the owner of this property.

The City of Bloomington Housing and Neighborhood Development Department received a complaint of a potential unregistered rental and clutter in the yard at 530 S. Washington on 07/26/2021. On 08/10/2021 staff observed outdoor storage of materials at 530 S. Washington Street. Specifically, staff observed outdoor storage of building materials on the porch and potential storage on the south side of the house. This property is located in the "R4 - Residential Urban" zoning district.

According to Unified Development Ordinance (UDO) **Section 20.03.030 [Use-Specific Standards];**

(C) Prohibited Storage Materials

In all zoning districts where this use is allowed, except for the MI zoning district, outdoor storage of equipment, materials, waste or scrap materials, and pallets is prohibited.

According to Unified Development Ordinance (UDO) **Section 20.07.010 [Definitions; Defined Words];**

Storage, Outdoor

The storage of any material outside of an enclosed building for a period greater than 24 hours, including but not limited to storage of items awaiting processing or repair. This use does not include "Vehicle Sales or Rental" or accessory "Outdoor Retail and Display" uses.

In accordance with UDO Section 20.06, a violation of this nature may result in a one-hundred dollar (\$100) fine for Failure to Comply with Development Standards. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

No fines have been issued at this time. You have the following options to remedy the situation.

1. Contact a planner to discuss whether or not the home is a rental and any permits that may be needed on or before 09/07/2021 **AND;**
2. Remove materials from the porch and yard on or before 09/07/2021 **OR;**

3. Make a phone appointment with a Planner to discuss filing a variance request. The appointment must be on or before 09/07/2021 for the 10/21/2021 Board of Zoning Appeals hearing.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.06.080(d).

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at planning@bloomington.in.gov or 812-349-3423 with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Carter", written in a cursive style.

Elizabeth Carter
Senior Zoning Compliance Planner, Planning and Transportation

Enclosure: (2)

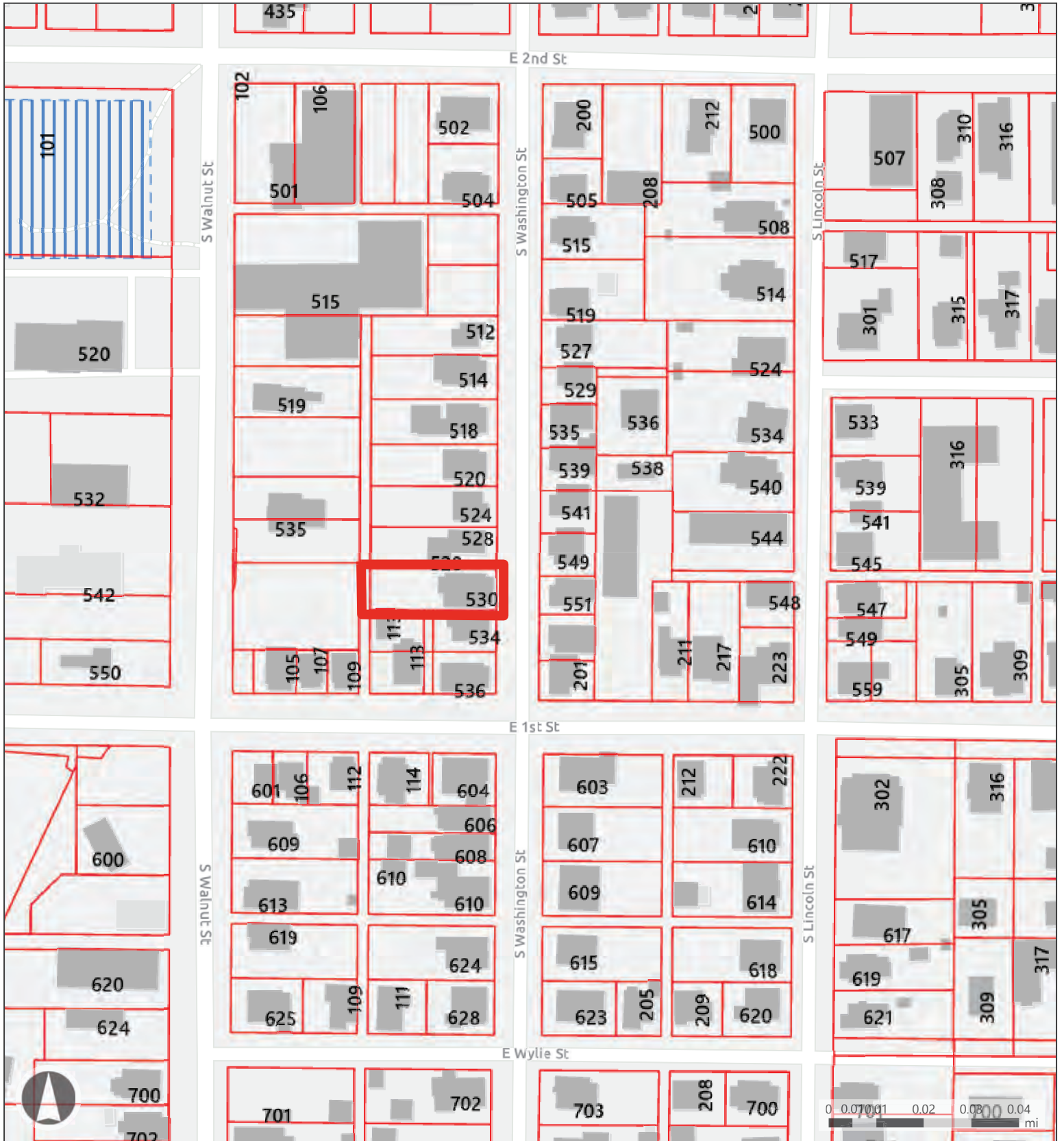
CC: Scott Robinson, AICP
Jackie Scanlan, AICP



Photo 1: Building materials stored on the porch at 530 S. Washington Street.

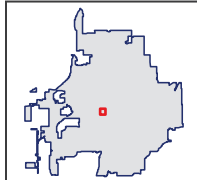


Photo 2: Storage of materials on the south side of 530 S. Washington Street.



Map Legend

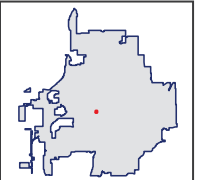
- Parcels
- Buildings
- Local Historic Districts





Map Legend

 Parcels



Jacqueline Scanlan <scanlanj@bloomington.in.gov>



Fwd: Appeal of Notice of Violations of Titles 20 of BMC

Jennifer Burrell <jennifer.burrell@bloomington.in.gov>

Fri, Aug 25, 2023 at 11:26 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Mike Rouker <roukerm@bloomington.in.gov>

Please see below.

Best,

Jennifer Burrell (She/Her)*Senior Zoning Compliance Planner*

Planning and Transportation Dept.

City of Bloomington, IN

jennifer.burrell@bloomington.in.gov812-349-3531 | bloomington.in.gov

----- Forwarded message -----

From: **Joe Davis** <balebuilder@gmail.com>

Date: Fri, Aug 25, 2023 at 11:08 AM

Subject: Appeal of Notice of Violations of Titles 20 of BMC

To: Jennifer Burrell <jennifer.burrell@bloomington.in.gov>Cc: Dave Askins <dave@bsquarebulletin.com>, William Morris <william@morrislawofc.com>, guaguero <nedpow@peoplepc.com>

Dear Ms. Burrell,

My name is Joe Davis. I send this written Notice of Appeal of Violation and Fines for Violations of Titles 20 of the Bloomington Municipal Code, that have been written against my property at 530 S. Washington St.

Please present this appeal notice to the Board of Zoning Appeals.

Also, I request that the entire Board Packet be presented to me at least seven days before any scheduled hearing, such that I, and my advocates, may prepare.

If you have any questions, please do not hesitate to contact me further.

Thank you,

-Joe

Joseph B. Davis

530 S. Washington St.

Bloomington, IN 47401

812-525-9706

balebuilder@gmail.com



134
**First Email from Petitioner
with Two Attachments**

Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Letters of Support Needed by Noon Today, 10-13-23 RE: Appeal Before BZA

joe davis <balebuilder@gmail.com>
To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fri, Oct 13, 2023 at 11:18 AM

Ms Scanlan,

Please include this email in the BZA Packet for the 19th.

Also, please include all subsequent emails that I forward to you today, up to the Noon deadline.

Thank you,

Joe Davis
Smile House Museum of Found & Contemporary Art
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>

Date: Fri, Oct 13, 2023 at 11:11 AM

Subject: Letters of Support Needed by Noon Today, 10-13-23 RE: Appeal Before BZA

To: Paul Colbert <prcolbert@gmail.com>, Nagle, Betty Rose <nagle@indiana.edu>, Cathy Meyer <cathygotm@gmail.com>, <telillis@aol.com>, <JamiScholl@gmail.com>, Jung, Diane L <jung@iu.edu>, Jeremiah Headdy <jeremiahheaddy@gmail.com>, <Nickhill23910@gmail.com>, William Morris <william@morrislawofc.com>, The Venue Fine Art & Gifts <Venue.Colman@gmail.com>, <rustyapete@yahoo.com>, <chrisbanul@hotmail.com>, <Donnoha@iu.edu>, guaguero <nedpow@peoplepc.com>, rox flower <roxflower@gmail.com>, <DonnovanDuffy@gmail.com>, Keith Romaine <jromaine@indiana.edu>, Jeanne Leimkuhler <jeanneleim@gmail.com>, Amy Briar <abrier1@gmail.com>, Gail Hale <gailgayerhale@gmail.com>, Mark Stoops <markstoops@gmail.com>, m b <mbiggsat@gmail.com>, Heeter, Ricky <rheeter@indiana.edu>, Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>, Gonzalez, Lucas Emanuel <luagonz@iu.edu>, Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Mike Rouker <roukerm@bloomington.in.gov>, April Rosenberger <april.rosenberger@bloomington.in.gov>

Dear Friends,

I was notified only yesterday afternoon, -right before I had to leave for my participation in the City of Bloomington's Resident Academy program-, that I, and any person that wished to sponsor Letters of Support, on my behalf, for my upcoming appeal before the Board of Zoning Appeals on the 19th, that the deadline to submit such supportive documentation is Noon, today, 10-13-23.

This BZA appeal that I mention is in response to a Notice of Violations & Fines that I received, from the Department of Planning & Transportation, on 8-17-23, under BMO Title 20, for alleged parking on the grass, and alleged illegal outdoor storage of materials. The said illegally stored materials are my Smile House Museum of Found & Contemporary Art installations, and my building materials, and tools, that I am actively incorporating into the improvements on my property.

These building materials, and tools are permitted and sanctioned by the Monroe Co. Building Department, through a permit first obtained on 4-1-22, that is valid through 4-1-24. I also have a Certificate of Zoning Compliance, that was received on 2-10-23, for my proposed two story carport/ storage structure, from the Department of Planning & Transportation, itself. My submitted building plan documents show the exact materials that are alleged to be illegally stored on my property.

Under these false allegations of parking on the grass, and illegal storage of materials, I am being fined up to \$15,000 each day.

This prosecution from Planning & Transportation does not stand alone. I am also being prosecuted simultaneously by the City Department of Housing and Neighborhood Development, or HAND, for the same offending possession of personal materials on my property. Similarly, HAND alleges that my Smile House Museum of Found & Contemporary Art installations, and my permitted and sanctioned building materials, and tools, are all 'scattered garbage' under the auspices of Sanitation Title VI, of the BMO. In ten days, just after my BZA appeal, on the 19th, I will be appealing a Notice of Violation & Fine, and a Request for Abatement, or forced removal of my personal property, on Tuesday, the 24th, of this month. All HAND, and P&T violations were issued on the same day, 8-17-23, without prior warning.

Further, these unwarranted prosecutions began only a mere two days after my lawsuit against the City was tossed out of Circuit Court VI for a technical defect in my original filed Complaint against the City for harassment for these very same alleged infractions that I am about to appeal. I was never able to get my day in Court to present my case based on the merits of my evidence.

As evidence of this multi-departmental prosecution against me is in reference to the same material possessions, I present this excerpt of email correspondence sent to me by assistant City Legal attorney, Christopher Wheeler on, 9-29-23:

Mr. Davis,

Thank you for your email. The September 12, 2023 Board of Public Works agenda items regarding your property were continued to bring the Public Works actions and the Board of Zoning Appeals action closer together in time. All of these proceedings involve the same parties and the same general evidence. I would also note that the continuance also afforded you additional time to review the materials contained in the BPW packet that was released on September 8, 2023, as you had requested.

Sincerely,

Chris Wheeler

Furthermore, friends, I was guaranteed, this past Tuesday evening, at the conclusion of the Board of Public Works meeting, in which my appeal was postponed to the 24th of the month, that City Legal Corporate Counselor, Beth Cate, would facilitate an on-site visit to my property with representatives from HAND, Planning & Transportation, and City Legal would hash out with me which personal materials were in, or not in compliance. And that we together would set some hard deadlines in which I would be able to achieve any such compliance. This meeting of the minds was guaranteed to take place next week before my BZA appeal, on the 19th.

Friends, obviously, neither you, nor I, will be able to submit all of our documentation before Noon today. So, I strongly encourage you to reach out to Ms. Scanlan, and the other BZA Board members to insist that the window of submittals for inclusion in the BZA information Packet be extended in the name of Justice and the Civil Rights for Due Process guaranteed under both the Indiana and Federal Constitutions.

Thank you.

Joe Davis
Smile House Museum of Found & Contemporary Art
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

2 attachments



C23-053, CZC-2023-0019, 530 S Washington St, CZC.pdf
213K



Residential Solar Permit.pdf
619K



City of Bloomington
Planning and Transportation Department
Certificate of Zoning Compliance

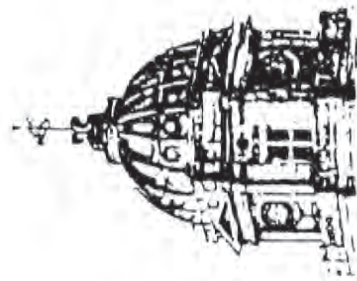
Application #:	C23-053 / CZC-2023-0099	Property Address:	530 South Washington Street
Date Received:	2/3/2023	Date Issued:	2/10/2023
Zoning District:	R4	Proposed Use:	Dwelling, single-family (Detached) Accessory structure

The attached plans have been reviewed for compliance with applicable provisions of Title 20, Bloomington Unified Development Ordinance, and conformance with the terms of any approvals which have been granted under authority of the Ordinance. The Planning and Transportation Department finds the plans to be in compliance. The following terms and conditions apply:

- This permit authorizes the proposed Accessory Structure New Construction as shown on the Certificate of Zoning Compliance application only; no other construction is permitted.
- Occupancy of each dwelling unit is limited to not more than 3 unrelated adults, or as defined by the definition of "Family." [BMC 20.07.10 (Family)]
- This permit does not allow for work in a city right-of-way. An excavation permit is required for any work done within a public right-of-way. No structures or site features may encroach on drainage easement without prior permission from CBU
- Gutters and downspouts are required. [BMC 20.04.070(d)(3)(F)]
- Siding material must extend from roofline to within six (6) inches of finished grade. [BMC 20.04.070(d)(3)(C)]
- The exterior finish and façade of the detached garage must conform to "Development Standards & Incentives; Residential" in the Bloomington Unified Development Ordinance. [BMC 20.04.070(d)(3)]
- The accessory structure can be no taller than 20' as measured from the average finished grade surface of the structure exposed above the ground surface to the highest point of the roof. [BMC 20.02.020 (d)(2)(F) & 20.04.020(f)(1)(B)]
- The cumulative area of the footprints of all enclosed accessory structures in the R4 district shall not exceed: 400 square feet. [BMC 20.03.030(g)(1)(E)]
- No more than 2 accessory structures are permitted on a parcel. [BMC 20.03.030(g)(1)(E)]
- Any future construction activities must first receive a subsequent building permit.

This Certificate of Zoning Compliance pertains only to the attached plans and the specific use proposed, exactly as submitted and reviewed. This Certificate does not constitute the issuance of any additional required permits nor exempt the property from compliance with any requirements of other governmental entities.

Gabriel Holbrow, AICP
 Zoning Planner
 City of Bloomington
 Planning and Transportation Department



Monroe County Building Department
(812) 349-2580

First Email Attachment
Two

Public Notice of
Electrical Permit
Permit #: R-22-342

Owner: DAVIS, JOSEPH BRADLEY

Applicant: Joe Davis

Location: 530 S Washington ST

Contractor:

Type of Work: Residential Electrical Permit

ISSUED ON: April 1, 2022

Permits expire 1 year from the date of issue.

Issued by Bobby LaRue, CBO
Monroe County / City of Bloomington
Building Commissioner

NOTICE:

This card is to be posted in a conspicuous place, visible from the public street and shall remain in place during the entire period of construction. Not having this Permit Notice posted is a violation of the Monroe County Building Ordinance and could result in a fine or assessment of re-inspection fees. Any changes in the scope of the work as submitted in the construction application and specifications must be approved by the Monroe County Building Department prior to the work being performed.



This is an e-permit. To learn more, scan this barcode or visit monroecountyin.viewpointcloud.com/#/records/9663.



Monroe County, IN

\$50.00 Paid

via Check #1364

Thanks for using the Online Service Center

joe davis
Residential Electrical Permit #R-22-342
April 1, 2022

Solar Electric Installation Fee	\$50.00
Total Paid	\$50.00



Powered by the ViewPoint Cloud platform

Receipt number #3080



Second Email From ¹³⁹
Petitioner Thread One
Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fwd: Repercussions of HAND NOV Fine Payment?

joe davis <balebuilder@gmail.com>
To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fri, Oct 13, 2023 at 11:33 AM

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>
Date: Tue, Oct 10, 2023 at 1:55 PM
Subject: Fwd: Repercussions of HAND NOV Fine Payment?
To: April Rosenberger <april.rosenberger@bloomington.in.gov>
Cc: Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>

Dear April,

Please include this email thread between Beth Cate, and myself, in the BPW Packet for tonight. It is especially important that the Board members know that Ms. Cate tendered an offer that I accepted, and then she withdrew it the following day. Can you make sure that each Board member is aware of this? Thank you.

I would appreciate it if you could confirm with me, that you explained this 'Bad Faith' behavior on Ms. Cates' part to each member of the Board.

Thank you, again,
-Joe

812-525-9706

----- Forwarded message -----

From: **Beth Cate** <beth.cate@bloomington.in.gov>
Date: Thu, Oct 5, 2023 at 9:04 AM
Subject: Re: Repercussions of HAND NOV Fine Payment?
To: joe davis <balebuilder@gmail.com>
Cc: Adam Wason <wasona@bloomington.in.gov>, Angela Van Rooy <angela.vanrooy@bloomington.in.gov>

Hello Joe, and thank you for this message, which I was surprised by since I thought I had successfully recalled the message I sent you right after I sent it. I wanted to further develop it after touching base with HAND and Planning on some questions I had, and I have been talking with them over the last few days. I also wanted to clarify in my message that I think it's important to go forward with the scheduled BPW and BZA hearings on your NOV appeals, since while I think we may disagree about the level of guidance on the code you have already received from staff, those hearings should provide valuable guidance to you and staff from third parties involved with code enforcement, regarding the materials you are currently storing and your storage methods. Given the disagreements between you and staff to date on the status of those things, I don't think we should lose the opportunities for clarification that these hearings present.

I do encourage you to reach out to John Hewett, Jo Stong, Jennifer Burrell, Colleen Newbill in Legal, and County Building Department personnel with questions you have in future about items and storage methods on your property. Hopefully between the upcoming proceedings and any future consultations with staff, we will reach a good faith, shared understanding of what items and storage methods are code compliant and avoid the need for future enforcement activity.

What I said about fine payments in that earlier message, in response to your original question, is unchanged, other than to add that the same is true regarding the August 17, 2023 NOV sent by Planning and Transportation; paying the fines assessed in that NOV would not resolve issues with continued outdoor storage that isn't allowed under the zoning code. Please understand that the City's interest here is in achieving compliance with the code; fines are used to motivate

compliance, and to some extent to compensate when extraordinary staff time is needed to achieve compliance -- we have no interest in fining *per se*.

Again, I appreciate your reaching out and your desire to move forward productively on these issues. We share that desire and look forward to moving ahead in that spirit. On that note, as I suggested when we spoke a few weeks ago, I would also encourage you to talk with folks at HAND and CFRD about other resources that may be available and helpful to you. I'm happy to connect you with folks if you would like, just let me know.

Wishing you all the best,

Beth

On Wed, Oct 4, 2023 at 1:10 PM joe davis <balebuilder@gmail.com> wrote:

Dear Counselor Cate,

In good faith, I would welcome such a clarifying meeting, as you propose. Having you, John Hewett, Jo Stong, and Ms. Burrell from Planning & Transportation, could only advance the current situation of non-communication that has been my receipt from HAND, P&T, and even the executive branch. I might suggest that Angela Van Rooy, as communications director, could even facilitate our meeting on my property.

As I am already time committed through next Tuesday, it would seem in our collective best interests to postpone, or continue, the upcoming appeals before the Board of Public Works until its next scheduled meeting in the latter part of the month. This should give us adequate time to arrange schedules for a site visit to my property. This site visit, and any potential agreement, or resolution should be considered with enough haste to prevent the unnecessary publication of any Notice that might be required by P&T for their Board of Zoning Appeals meeting, taking place on October 19th. If we as a meeting group are unable to achieve a resolution before this said publication date, then it might be best to continue the date of my appeal hearing before the BZA until it's November time slot.

I am grateful to you, for looking into the arrangement of all the various moving parts necessary for our continued progress. I believe that we are heading in the right direction. Thank you.

Also, I appreciate your support of my Resident's Academy participation. Angela, has done an awesome job of facilitating our cohort's knowledge of the inner workings of the City.

Until next, enjoy this transitioning fall. There is much beauty around us.

Keeping the faith,
-Joe

Joseph B. Davis
[530 S. Washington St.](mailto:joe.davis@bloomington.in.gov)
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

On Mon, Oct 2, 2023 at 11:05 AM Beth Cate <beth.cate@bloomington.in.gov> wrote:

Hello Joe, and thank you for reaching out (and for participating in the Resident's Academy, that's great). I'll try to address your questions here.

I'm afraid paying the \$50 fine included with the August 17 Notice of Violation won't eliminate the need for abatement; that is a separate remedy HAND is seeking under our local code. If you were to pay the fine but not perform the abatement, then I expect either that you will be fined again (and as you note, per the code the fine doubles to \$100 for a second violation in the same year; it increases further to \$150 per violation for each subsequent violation in that same year), or the City would perform the abatement and charge you the costs.

I share your sense that we are all wasting a lot of resources here, and like you, we'd like to find a productive path forward. If you would like further guidance on what types of items and storage methods violate Title 6 and Title 20, why don't we schedule a meeting with you on your property to discuss the

relevant code provisions and how they relate to the items you are storing, and to agree on firm deadlines for addressing noncompliant items. In addition to having HAND, Planning, and Legal there, it could be helpful to include someone from the County Building Department to weigh in on which materials would or would not be usable for building purposes under applicable building code provisions. Hopefully, this meeting would allow everyone to come in good faith to a shared understanding of what types of materials and storage arrangements are code compliant, and avoid the need for further enforcement activity.

If you would like to schedule this type of meeting, let me know and I'll coordinate with folks on this end and send you back some date and time options.

All best,

Beth

On Fri, Sep 29, 2023 at 3:46 PM joe davis <balebuilder@gmail.com> wrote:
Dear Counselor Cate,

Last evening, as a participant in the current cohort of the Resident's Academy, we were hosted by Adam Wason, Director of Public Works, on a bus tour of the various subdivisions, within the City, that are overseen by the Public Works department. Toward the end of the tour, we passed by the offices of Parking Enforcement (PE), and Adam spoke about the history of PE bouncing between PW, BPD, and now back to PW. One of our cohort participants joked that he had heard that every Bloomington citizen was entitled to one warning each year in lieu of an actual parking ticket?

Adam jokingly responded back that he didn't know about that. But, a person could inquire where the parking tickets are paid. Then, in a light hearted way, he said that everyone should pay their tickets, with a smile.

That got me thinking? So, at the end of the tour, when we returned to the Showers Complex and folks departed, I asked Adam what might be the repercussions if I just went ahead and paid the \$50 fine that I was issued from HAND on 8-17-23? He responded, in a very serious manner, that he certainly was not going to get into the middle of this situation, but suggested that I make contact with you, in this regard.

So, my question to you is, what would it mean if I paid this \$50 fine? Would the HAND request for abatement go away? Would I receive a doubled fine within one week, just like what happened last fall?

Of course, I admit no guilt in the alleged HAND violation. But, given that no one in HAND will respond to my requests for non-compliance clarification, I wonder if simply paying this fine might resolve the continuing efforts, and resources, that are being wasted by all parties involved?

Could you please look into this possibility for me? Certainly, that which is currently going on, is not of benefit to anyone.

Thank you for your consideration of my query. I am hopeful for a middle understanding.

Always my best,
-Joe

Joseph B. Davis
[530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com](mailto:balebuilder@gmail.com)

--
Beth Cate

Corporation Counsel
City of Bloomington
401 N. Morton St. Suite 200
Bloomington, IN 47402
p: 812.349.3547

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--

Beth Cate
Corporation Counsel
City of Bloomington
401 N. Morton St. Suite 200
Bloomington, IN 47402
p: 812.349.3547

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Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fwd: Repercussions of HAND NOV Fine Payment?**Second Email From
Petitioner Thread Two**

joe davis <balebuilder@gmail.com>
To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fri, Oct 13, 2023 at 11:34 AM

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>
Date: Tue, Oct 10, 2023 at 2:10 PM
Subject: Fwd: Repercussions of HAND NOV Fine Payment?
To: April Rosenberger <april.rosenberger@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>

Dear April,

Please include this first tendered offer from Beth Cate sent to me at 11:03 am, on 10-2-23, which offer, I later accepted on 10-4-23, in the Board Packet for tonight's BPW meeting.

It is important that the Board members know that this tendered offer was sent twice to me. First, it was sent at 11:03 am, and later sent at 11:05 am, on the same day.

I will forward the 11:05 am email next.

Thank you,
-Joe

812-525-9706

----- Forwarded message -----

From: **Beth Cate** <beth.cate@bloomington.in.gov>
Date: Mon, Oct 2, 2023 at 11:03 AM
Subject: Re: Repercussions of HAND NOV Fine Payment?
To: joe davis <balebuilder@gmail.com>
Cc: Adam Wason <wasona@bloomington.in.gov>

Hello Joe, and thank you for reaching out (and for participating in the Resident's Academy, that's great). I'll try to address your questions here.

I'm afraid paying the \$50 fine included with the August 17 Notice of Violation won't eliminate the need for abatement; that is a separate remedy HAND is seeking under our local code. If you were to pay the fine but not perform the abatement, then I expect either that you will be fined again (and as you note, per the code the fine doubles to \$100 for a second violation in the same year; it increases further to \$150 per violation for each subsequent violation in that same year), or the City would perform the abatement and charge you the costs.

I share your sense that we are all wasting a lot of resources here, and like you, we'd like to find a productive path forward. If you would like further guidance on what types of items and storage methods violate Title 6 and Title 20, why don't we schedule a meeting with you on your property to discuss the relevant code provisions and how they relate to the items you are storing, and to agree on firm deadlines for addressing noncompliant items. In addition to having HAND, Planning, and Legal there, it could be helpful to include someone from the County Building Department to weigh in on which materials would or would not be usable for building purposes under applicable building code provisions. Hopefully, this meeting would allow everyone to come in good faith to a shared understanding of what types of materials and storage arrangements are code compliant, and avoid the need for further enforcement activity.

If you would like to schedule this type of meeting, let me know and I'll coordinate with folks on this end and send you back some date and time options.

All best,

Beth

On Fri, Sep 29, 2023 at 3:46 PM joe davis <balebuilder@gmail.com> wrote:

Dear Counselor Cate,

Last evening, as a participant in the current cohort of the Resident's Academy, we were hosted by Adam Wason, Director of Public Works, on a bus tour of the various subdivisions, within the City, that are overseen by the Public Works department. Toward the end of the tour, we passed by the offices of Parking Enforcement (PE), and Adam spoke about the history of PE bouncing between PW, BPD, and now back to PW. One of our cohort participants joked that he had heard that every Bloomington citizen was entitled to one warning each year in lieu of an actual parking ticket?

Adam jokingly responded back that he didn't know about that. But, a person could inquire where the parking tickets are paid. Then, in a light hearted way, he said that everyone should pay their tickets, with a smile.

That got me thinking? So, at the end of the tour, when we returned to the Showers Complex and folks departed, I asked Adam what might be the repercussions if I just went ahead and paid the \$50 fine that I was issued from HAND on 8-17-23? He responded, in a very serious manner, that he certainly was not going to get into the middle of this situation, but suggested that I make contact with you, in this regard.

So, my question to you is, what would it mean if I paid this \$50 fine? Would the HAND request for abatement go away? Would I receive a doubled fine within one week, just like what happened last fall?

Of course, I admit no guilt in the alleged HAND violation. But, given that no one in HAND will respond to my requests for non-compliance clarification, I wonder if simply paying this fine might resolve the continuing efforts, and resources, that are being wasted by all parties involved?

Could you please look into this possibility for me? Certainly, that which is currently going on, is not of benefit to anyone.

Thank you for your consideration of my query. I am hopeful for a middle understanding.

Always my best,
-Joe

Joseph B. Davis
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

--

Beth Cate
Corporation Counsel
City of Bloomington
401 N. Morton St. Suite 200
Bloomington, IN 47402
p: 812.349.3547

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10/13/23, 12:21 PM

City of Bloomington, Indiana Mail - Fwd: Repercussions of HAND NOV Fine Payment?

please immediately call us at (812) 349-3426, delete the transmission from all forms of electronic or other storage, and destroy all hard copies. Do NOT forward this transmission. Thank you. ¹⁴⁵



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fwd: Repercussions of HAND NOV Fine Payment?**Second Email From Petitioner
Thread Three**

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:36 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lucagonz@iu.edu>

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>

Date: Tue, Oct 10, 2023 at 2:28 PM

Subject: Fwd: Repercussions of HAND NOV Fine Payment?

To: April Rosenberger <april.rosenberger@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>

Dear April,

Please include this tendered offer that was again sent to me at 11:05 am, on 10-2-23, which I accepted on 10-4-23, in the BPW packet for tonight's meeting.

It is especially important that each Board member, and the public in general, know that Ms Cate was so willing to help in bringing all the parties together in search of a resolution, that she tendered her offer twice.

Finally, I thought, my requests for clarification, of which specific items on my property are either in, or not in compliance will be addressed. I have been sending unanswered voicemails, emails, and Certified Letters to both HAND, and Planning & Transportation since August of 2022. It has been over one year of non-communication to my pleaded requests for almost 14 months now.

It was so disappointing that Ms. Cate reneged on her tender just one day after I had accepted it.

Please make sure that this is clear to all Board members, and the general public, at tonight's meeting.

[Quoted text hidden]



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Board of Zoning Appeals Hearing: October 19, 2023
**Third Email From Petitioner
Thread One**

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:42 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lucagonz@iu.edu>

Ms. Scanlan,

Please make sure that this entire email chain is included in the BZA Packet for the 19th.

Again, please include any documents that I send or forward to you before the Noon deadline, in the packet, as well.

My apologies for any duplications.

Thank you,
-Joe

----- Forwarded message -----

From: **Jacqueline Scanlan** <scanlanj@bloomington.in.gov>

Date: Fri, Oct 13, 2023 at 10:04 AM

Subject: Re: Board of Zoning Appeals Hearing: October 19, 2023

To: joe davis <balebuilder@gmail.com>

Cc: Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>, Gonzalez, Lucas Emanuel <lucagonz@iu.edu>, April Rosenberger <april.rosenberger@bloomington.in.gov>, Mike Rouker <roukerm@bloomington.in.gov>

Mr. Davis,

I have just received an auto-reply that Ms. Rosenberger is out of the office. So, I will reiterate that, for the Board of Zoning Appeals hearing, you need to submit to me any items that you would like included in the packet. The deadline is noon today.

Thank you,
Jackie Scanlan, AICP
Development Services Manager

On Fri, Oct 13, 2023 at 10:02 AM Jacqueline Scanlan <scanlanj@bloomington.in.gov> wrote:

Mr. Davis,

As I mentioned yesterday, you have until today at noon to submit any documents that you want included. While I am happy to get with Ms. Rosenberger, it is in your best interest to submit items directly, to make sure that everything you want included is submitted.

I look forward to receiving your documents.
Thank you,
Jackie Scanlan, AICP
Development Services Manager

On Thu, Oct 12, 2023 at 5:22 PM joe davis <balebuilder@gmail.com> wrote:

Dear Ms. Scanlan,

Please obtain every submitted item that has been sent to April Rosenberger, as submitted for my defense before the BPW in the alleged Notice of Violation with Fine, and the appeal for the Request for Abatement, both being issued by HAND.

Please make sure to obtain any supportive documentation that was sent to April for the packet, from me, as well, those documents that might have been sent from friends and advocates that wish to see my exoneration.

The reason that I insist that these items be included is that despite two forums of adjudication -BPW and BZA-, they both are referring to my same material possessions. HAND calls these items 'scattered garbage', and Planning & Transportation refers to them as illegally stored outdoor items (garbage). This fact that both departments are referring to my exact same possessions is only made more evident by the date of issuance for the corresponding Notices of Violation from said parties was made on the exact same day, of 8-17-23.

These issued NOVs, and Request for Abatement, were alleged, just a mere two days after my last hearing in Circuit Court VI, in my lawsuit against the City of Bloomington -for the harassment received from the HAND, and Planning & Transportation, departments, in seek of relief. This previous harassment by said parties is also based on the same alleged violations that I am now facing.

My previous lawsuit against the City was eventually dismissed on a technicality in the filing of my original complaint. I never did get to have my day in court, and present the merits of my case. However, I do plan on re-filing my Civil Tort again. I sure hope that I don't have to include a civil rights violation against the denial of due process for Planning and Transportation not entering every single document from the BPW packet into the BZA packet for the 19th appeal. That would not serve myself, the Board of Zoning Appeals members, nor the general public, at large.

Thank you, for confirming that each and every item from the BPW packet will be introduced into the packet prepared for the benefit of the BZA membership, and the public general, for my appeal on the 19th.

Appreciatively,
-Joe

Joseph B. Davis
Smile House Museum of Found & Contemporary Art
[530 S. Washington St.](#)
[Bloomington, IN 47401](#)
812-525-9706
balebuilder@gmail.com

On Thu, Oct 12, 2023 at 1:00 PM Jacqueline Scanlan <scanlanj@bloomington.in.gov> wrote:
Mr. Davis,

You can send them to me. Tomorrow by noon.

While you have attended before, I wanted to share some information about our process. We cannot and will not send any information to the Board after the packet goes out. Anything that you would like to present to them that is not in the packet will need to be presented at the hearing. If you have digital images that you would like to share at the hearing, you will need to send them to me before 4pm on the day of the hearing. A petitioner has 20 minutes to present.

Feel free to let me know if you have additional process questions.

Thank you,
Jackie Scanlan, AICP
Development Services Manager

On Thu, Oct 12, 2023 at 12:27 PM joe davis <balebuilder@gmail.com> wrote:
Dear Ms. Scanlan,

To whom would I send my appeal exhibits for the BZA packet? And, when would be the deadline for those submissions?

Thank you,

Joseph B. Davis
Smile House Museum of Found & Contemporary Art
[530 S. Washington St.](#)
[Bloomington, IN 47401](#)

812-525-9706
balebuilder@gmail.com

On Mon, Sep 18, 2023 at 2:36 PM Jacqueline Scanlan <scanlanj@bloomington.in.gov> wrote:

Good afternoon,

Mr. Davis, I am in receipt of your Administrative Appeal and it will be heard at the **October 19, 2023 Board of Zoning Appeals** hearing.

Please let me know if you have any questions.

Thanks,
Jackie Scanlan, AICP
Development Services Manager

--



Jackie Scanlan, AICP

Development Services Manager
Planning and Transportation
Direct: 812-349-3524
Office: 812-349-3423



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Board of Zoning Appeals Hearing: October 19, 2023**Third Email From
Petitioner Thread Two**

joe davis <balebuilder@gmail.com>

Wed, Sep 20, 2023 at 12:15 PM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Cc: Mike Rouker <roukerm@bloomington.in.gov>, William Morris <william@morrislawofc.com>, The Venue Fine Art & Gifts <Venue.Colman@gmail.com>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, guaguero <nepow@peoplepc.com>, JamiScholl@gmail.com

Ms. Scanlan,

Thank you for answering my questions.

I could be available to join your understaffed department, following my October Appeal before the BZA. If your fines are assessed, I will definitely need some gainful employment to help with the relief of my indebtedness.

Always my best,
-Joe

Joseph Bradley Davis
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

On Tue, Sep 19, 2023 at 10:38 AM Jacqueline Scanlan <scanlanj@bloomington.in.gov> wrote:

Mr. Davis,

We are understaffed and I, personally, neglected to make sure the paperwork was ready in time. We do not accrue fines while a petitioner is actively pursuing an appeal.

Thanks,
Jackie Scanlan, AICP
Development Services Manager

On Mon, Sep 18, 2023 at 9:33 PM joe davis <balebuilder@gmail.com> wrote:

Ms. Scanlan,

Why was the City unable to place the required notice in the Herald Times for me to appear on the 9/21/23 agenda? Your department's prosecution was initiated on 8-17-23?

Is there anyone accountable in your department? Why do I get the feeling that your P&T efforts are grasping at straws?

By this future date, my accumulated fines will be in the range of \$150,000 dollars. Is this a guaranteed attempt to relieve me of my property, and voice?

Doubled down,
-Joe

Joseph B. Davis
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

On Mon, Sep 18, 2023 at 4:25 PM Jacqueline Scanlan <scanlanj@bloomington.in.gov> wrote:

Mr. Davis,

Staff was unable to place the required notice in the Herald Times in time for you to appear on the 9/21/23 agenda. The packet for the 9/21/23 hearing is on the BZA website. The packet for the 10/19/23 hearing will be placed on the website the week before the hearing. I will also email it to you.

Thanks,
Jackie Scanlan, AICP
Development Services Manager

On Mon, Sep 18, 2023 at 4:16 PM joe davis <balebuilder@gmail.com> wrote:
Ms. Scanlan,

Thank you for the notice of my delayed Appeal before the BZA. May I ask why this matter is being continued? Was a Board packet already issued for the original hearing, on 9-21-23? When may I expect a new Board packet to be available, for the Hearing, on the 19th, of October. Thank you.

Appreciatively,
-Joe

Joseph Bradley Davis
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

On Mon, Sep 18, 2023 at 2:36 PM Jacqueline Scanlan <scanlanj@bloomington.in.gov> wrote:
Good afternoon,

Mr. Davis, I am in receipt of your Administrative Appeal and it will be heard at the **October 19, 2023 Board of Zoning Appeals** hearing.

Please let me know if you have any questions.
Thanks,
Jackie Scanlan, AICP
Development Services Manager

--



Jackie Scanlan, AICP

Development Services Manager
Planning and Transportation
Direct: 812-349-3524
Office: 812-349-3423



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fwd: Appeal

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:46 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lucaigonz@iu.edu>

**Fourth Email From Petitioner
Thread One**

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>

Date: Tue, Oct 10, 2023 at 8:06 AM

Subject: Fwd: Appeal

To: Nickhill23910@gmail.com <Nickhill23910@gmail.com>, Jeremiah Headdy <jeremiahheaddy@gmail.com>

Nick, and Jeremiah,

The forwarded message below contains the email address for April Rosenberger. She is the person to whom you will send your letter of support describing how neither of you or your household gave permission to anyone from the City to snoop around your property, just to spy on what's going on in my backyard.

I would emphasize that you value your privacy given all the theft that happens in our neighborhood will the extreme concentration of the homeless, or unhoused.

I would also state that you, personally, are not bothered by my construction activities.

The images that I showed you were exhibits 5-13. These were the images that were taken from your backyard without your household's consent.

With the letter that you write, be sure to include your address next door to me, at 530 S. Wash. Attach the letter to an email that you send to April. Put in the subject line, 'Letter of Support for Joe Davis.' In the body of the email say, "Ms. Rosenberger please include this attached letter of support for Joe Davis in tonight's Board Packet for the Board of Public Works Meeting."

Thanks guys. I really appreciate your efforts on my behalf!

Oh, by the way, I was told that the City is coming to take more pictures of my place today. Look for another City person, or people, to be in your backyard, once again.

Enjoy your day,

-Joe

Joe Davis

530 S. Washington St.

Bloomington, IN 47401

812-525-9706

balebuilder@gmail.com

----- Forwarded message -----

From: **April Rosenberger** <april.rosenberger@bloomington.in.gov>

Date: Mon, Oct 9, 2023 at 9:53 AM

Subject: Appeal

To: joe davis <balebuilder@gmail.com>

Good Morning Joe,

As you are aware, your Notice of Violation appeal and the request for Abatement on your property from the HAND department is on the Agenda for tomorrow's Board Meeting at 5:30 p.m. I am attaching the Zoom information in case you cannot attend in person.

Meeting Agenda and Packet can be found here:

https://bloomington.in.gov/onboard/committees/info?committee_id=27

Topic: Board of Public Works Meeting

Time: Oct 10, 2023 05:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://bloomington.zoom.us/j/88340218081?pwd=xmjBdJc7CPaQhnnroQV0SF60pIldLr.1>

Meeting ID: 883 4021 8081

Passcode: 625553

Thank you,

	<p>April Rosenberger Office Manager Department of Public Works City of Bloomington april.rosenberger@bloomington.in.gov (812) 349-3411 bloomington.in.gov</p>
--	--



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fwd: Appeal

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:47 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lcagonz@iu.edu>

**Fourth Email From Petitioner
Thread Two**

----- Forwarded message -----

From: **Jung, Diane L** <jung@iu.edu>

Date: Tue, Oct 10, 2023 at 5:12 PM

Subject: Re: Fwd: Appeal

To: joe davis <balebuilder@gmail.com>

Hi Joe, It took me a while to find my comment and while I was looking I read quite a few others. I ended up writing something new - provided below. I just sent it to April so It might be too late to include for this evening. Best wishes - diane

Hi April,

I'm writing in response to the charges and actions taken against Joe Davis by the City of Bloomington.

I found it a bit shocking and disheartening what is happening to Joe in reponse to the condition of his home on S Washington Street. I walked to town today and back from my Bryan Park neighborhood home and passed by Joe's home on my way back.

Admittedly, I had noticed his house as a rather eccentric over-the-top residence. It was certainly not a rental nor BNB from the looks of it. It's a residence that has been accumulating materials for quite some time. At a first glance one could easily imagine that it might feel a bit uncomfortable to live so close by. My personal reaction is that it needs a bit of a clearing as too much has been accumulated for what the space can accommodate and still be a pleasing or acceptable expectation of a home. This does not make a person a criminal to be charged and fined exorbitantly by the city.

It's not the usual acceptable aesthetic to be sure but how does one define such things? As I made my way to/from downtown via Lincoln and then Washington streets, I felt uneasy by the unkempt houses that exuded the look of rental far more than someone who has been carefully accumulating things that others might find useless. Trash on the streets left and not a stitch of any sort of cared for lawns and landscaping - just houses with people crammed into them make money from their rent. This should be much more a concern for Bloomington and its future than what's happening at Joe's home.

Joe is at least making an attempt to make his place a real home and it's messy to be sure but as I toured his backyard I didn't see anything toxic just many started-and-not-finished projects.

That his wood chips and firewood would be considered garbage and taken away was absurd. Did anyone notice that Joe probably has the oldest and largest (at the base) Sycamore tree in Bloomington, possibly in the county? I could not help but stop to marvel at for quite a few minutes.

Please include the comments I have shared here in the report ou are preparing for today's meeting. Thank you - diane jung

Sent from my iPad

On Oct 10, 2023, at 1:10 PM, joe davis <balebuilder@gmail.com> wrote:

This message was sent from a non-IU address. Please exercise caution when clicking links or opening attachments from external sources.

Dear,

Please see the forwarded email below. If you have a letter of support for me, you may send it to April Rosenberger. She is an administrator at Public Works, and she will include it in the Board packet for tonight's meeting where I will be appealing HAND's Notice of Violation & Fine, And also appealing Hand's Request to Abate my property, or forcibly remove all of my outdoor Smile House Museum of Art installations, and my building materials & tools.

Thank you, for stopping by today. Please say 'hello' to Michael for me.

Appreciatively,

[Quoted text hidden]



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fwd: Appeal

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:47 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lcagonz@iu.edu>

**Fourth Email From
Petitioner Thread Three**

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>

Date: Tue, Oct 10, 2023 at 7:20 PM

Subject: Fwd: Appeal

To: **DonnovanDuffy@gmail.com** <DonnovanDuffy@gmail.com>

Donnovan,

The forwarded message below contains a zoom link to the Board of Public Works meeting at which I will be presenting my appeals tonight against the HAND Notice of Violation & Fine, and a later this same night appeal against HAND's request for Abatement, or the forced removal of my building materials, tools, washing machine, art installation in the front, etc.

If you zoom in you could speak up for me, and speak about your household did not give permission for the City to trespass on your property to spy on me, and invade both your, and my privacy.

Please zoom in if you are able.

Thank you,

-Joe

[Quoted text hidden]



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fwd: Appeal**Fourth Email From
Petitioner Thread Four**

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:49 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lucagonz@iu.edu>

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>

Date: Wed, Oct 11, 2023 at 4:41 PM

Subject: Re: [External] Fwd: Appeal

To: Nagle, Betty Rose <nagle@indiana.edu>

Dear Betty Rose,

The likely reason that the link didn't work last night was because the meeting had already concluded.

The Board tabled/ postponed my appeals until the meeting in two weeks, on the 24th.

Evidently, I wore them down with my stand-off earlier in the evening. The City, Adam Wason, Corporate Counselor Beth Cate, and Assistant Attorney Christopher Wheeler all agreed to organize the 'meeting of the minds', that Ms. Cate had tendered, would happen on my property before the upcoming appeal before the BZA, on the 19th, and before the appeals before the BPW on the 24th. I will forward to you the email chain of my correspondence with Ms. Cate. You can watch the recording of the entire evening's proceedings on CATSTV. At the CATS website, just search for the Board of Public Works meeting 10-10-23.

I consider the continuance of the appeal, and the agreement to meet at my property, before the upcoming scheduled appeals, a victory against the ongoing tyranny, and harassment, that I have been experiencing from the City, over the last 14 months. Upon returning home, I celebrated this success with several glasses of wine, and a 'sleeping-in' to 9 am, this morning. Thank you, for fueling my convictions to demand my civil rights for due process, and property rights, with just your mere presence to me only a few seats away, last night. I was very comforted.

In response to your question, yes, those images were taken by HAND compliance officer, Rob Council, around 3-4 weeks ago. These, and the images that Christopher Wheeler presented to me, just 10 minutes before I took the podium, were 90% obtained through unauthorized trespass, on my, and my proximate neighbors property. I will forward to you an affidavit that I submitted yesterday afternoon.

As all of the forwarded images, and emails, that you have, or will see, are now submitted public documents, your may feel free to share them liberally.

Thanks, for being my Betty Rose,
-Joe

Joseph B. Davis
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

On Tue, Oct 10, 2023 at 8:39 PM Nagle, Betty Rose <nagle@indiana.edu> wrote:

I tried and the link doesn't work. Happened last night but then it did.

Anyhiw, good luck. I hope they are letting you make your case. The photo you sent Dave Askins? The city took those, right? Seems they could access and project thdm.

Cheers!
Betty Rose

From: joe davis <balebuilder@gmail.com>

Sent: Monday, October 9, 2023 2:33 PM

To: Nickhill23910@gmail.com <Nickhill23910@gmail.com>; jeremiahheaddy@gmail.com <jeremiahheaddy@gmail.com>; telillis@aol.com <telillis@aol.com>; chrisbanul@hotmail.com <chrisbanul@hotmail.com>; jeremy@bloomingtonian.com <jeremy@bloomingtonian.com>; Dave Askins <dave@bsquarebulletin.com>; The Venue Fine Art & Gifts <Venue.Colman@gmail.com>; Nagle, Betty Rose <nagle@indiana.edu>; Cathy Meyer <cathygotm@gmail.com>; JamiScholl@gmail.com <JamiScholl@gmail.com>; pwdorfman@gmail.com <pwdorfman@gmail.com>; Stephen Volan <volans@bloomington.in.gov>; William Morris <william@morrislawofc.com>; Paul Colbert <prcolbert@gmail.com>; simsji@bloomington.in.gov <simsji@bloomington.in.gov>; sandbers@bloomington.in.gov <sandbers@bloomington.in.gov>

Subject: [External] Fwd: Appeal

This message was sent from a non-IU address. Please exercise caution when clicking links or opening attachments from external sources.

Dear Ladies & Gentlemen,

Please, see the information below, for my appeals before the Board of Public Works meeting at 5:30 pm. Please attend, if you are able. You may do so in person, or virtually through zoom.

There is a link provided for the Agenda, and the Board Packet. The Packet will have the City's evidence toward my prosecution.

Thank you,
-Joe

Joe Davis
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

[Quoted text hidden]



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fwd: BPD Trespass Investigation Case # B23-58815_HAND Compliance Officers 10-10-23

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:50 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lucagonz@iu.edu>

Fifth Email From Petitioner

----- Forwarded message -----

From: joe davis <balebuilder@gmail.com>

Date: Tue, Oct 10, 2023 at 4:06 PM

Subject: BPD Trespass Investigation Case # B23-58815_HAND Compliance Officers 10-10-23

To: April Rosenberger <april.rosenberger@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>

Dear April,

Please include this Notice of Trespass by HAND Compliance Officers' John Hewett, and Rob Council, that took place today 10-10-23, be included in the BPW Packet of this evening's meeting.

As I was working in my backyard today, somewhere around the noon hour, I observed John Hewett, and Rob Council mounting my neighbor's porch at 528 1/2 S. Washington St. I live at 530 S. Washington St., right next door.

Mr. Hewett, and Mr. Council, then proceeded to descend the back steps of my neighbor's porch with their cameras pointing at me, and my property. As I approached them, taking my own camera phone out, John Hewett said, "Joe, we are here to take more pictures of your property for tonight's meeting."

I responded, "What good is that gonna do, given the fact that I will have no access to those images before the appeal hearing."

Then I engaged in taking their images with my camera phone, as they proceeded to continue taking images of me, and my property in a wild, and erratic manner.

After exiting my neighbor's property to the alley way behind where the Arby's, and Arby's parking lot is located, they continued to pry their eyes between my privacy fencing, held their cameras high to get glimpses over my parked truck.

I passed through my back gate, and continued to record their presence with my camera, as they carried on invading my privacy. Following this, they walked along the alley toward First St. and walked east toward Washington st., where they had illegally parked their work truck in the yellow, obscuring the Stop Sign to those motorists who would be traveling on S. Washington where it intersects with First.

While I followed them, I called 911 to report to the dispatcher their unauthorized trespass, both of my neighbor's properties to the north, as well as the south, at 534 S. Washington. While I was speaking with the dispatcher, who was sending BPD officers, I stood in the tree plot area, next to their illegally parked truck in front of the Hoagy Carmichael House at 536 S. Washington. As I provided details of both their trespass, and illegal parking to the dispatcher, John Hewett recorded my conversation with his phone, and Rob Council videoed me with his tablet device. They then left in their truck before the BPD arrived, which was seconds later.

BPD officer T. Keen was the first to arrive. I explained the situation of trespass, and invasion of privacy, sharing with him that I had already spoken with the tenants at, 528, 528 1/2, and 534 S. Washington St. about the exhibit images, and general item inventory, that I had received from assistant City attorney, Christopher Wheeler, this past Thursday afternoon, just two business days before I was to go before the Public Works Board, on appeal. All tenants could see that images 5-15 has been previously taken through unauthorized trespass. The tenants at 528 even reviewed their lease agreement, and found that there was no inclusion for the wanton access for the City to come spy on me, at will, and invade both their, and my own rights to privacy.

Investigating officer T. Keen said that the body cam information, and documentation, under Case # B23-58815, would be available at the end of the evening tonight. ¹⁶⁰

April, please make sure that this affidavit, from me, and the ability to access the BPD materials is included in the BPW Packet for the meeting tonight, for the benefit of the Board members and the general public.

Thank you,
-Joe

812-525-9706



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fwd: More BPW Packet Materials

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:51 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lcagonz@iu.edu>

Sixth Email From Petitioner

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>

Date: Tue, Oct 10, 2023 at 4:12 PM

Subject: More BPW Packet Materials

To: April Rosenberger <april.rosenberger@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>

Dear April,

Please include these attachments, and media links to tonight's BPW Packet for the benefit of the Board members, and the general public. Thank you.

2 attachments**De Novo Narrative.docx**

29K

**John Hewitt Letter Clarification Title VI.docx**

14K

STATE OF INDIANA)

IN THE MONROE CIRCUIT COURT

)SS:

COUNTY OF MONROE)

CAUSE NO. 53C06-2303-CT-000633

JOSEPH BRADLEY DAVIS,

Plaintiff,

v.

CITY OF BLOOMINGTON,

Defendant,

MOTION FOR DE NOVO ADMINISTRATIVE REVIEW OF NOTICES OF VIOLATION & ORDER FOR ABATEMENT

Plaintiff, Pro Se, moves the Court to hear a De Novo Administrative Review of the City of Bloomington’s Notices of Violation & Order for Abatement in regard to Plaintiff’s property at 530 S. Washington Street, Bloomington, IN 47401. In support, plaintiff, states as follows:

1. Plaintiff filed an original first cause of action (claim for relief) Complaint on March 24, 2023.
2. Plaintiff demands rescission of the March 14, 2023, order for abatement issued by the City of Bloomington Board of Public Works.
3. Plaintiff demands reimbursement for unjust fines from notices of violations issued in 2022.
4. Plaintiff demands to be made whole from damages suffered, at the hands of the City of Bloomington in the form of punitive relief for pain and suffering and lost economic income opportunity.
5. Plaintiff seeks a declaratory judgement that Indiana Code 36-7-8-3(d) is pertinent and relevant to the incorporated municipality of Bloomington.
6. Plaintiff received on 4-1-22 a building permit from the Monroe County Building Department (MCBD), for installation of a photovoltaic solar array to be installed on his property. This permit is valid through 4-1-24. Plaintiff began removing trees and preparing the construction site in the immediate months following the issuance of the building permit.
7. In early August, plaintiff was approached by compliance officer, Rob Council to address a neighbor’s complaint of ‘trash’ on plaintiff’s property. Mr. Council stated that the plaintiff needed to remove all poison ivy and Japanese knotweed on said property as a starting point toward achieving ‘compliance’ with the City. Furthermore, Mr. Council organized a meeting on plaintiff’s property on 8-11-22 with several employees from the departments of Housing and Neighborhood development (HAND), as well as Planning and Transportation. These two departments looked at the entirety of my possessions, and landscape outside of my house and deemed that it needed to be ‘cleaned-up’ without distinguishment of vegetation, nor material possession. Plaintiff clearly expressed to all parties at the time that he was a willing partner to work with the City in bringing his property into compliance, and that he would just need clear communication from the City to understand which issues to address first and then proceed from there. Shortly thereafter, Mr. Council stopped by with the first Notice of Violation (NOV) for scattering garbage and excessive growth. This NOV for these separate issues was a ‘warning only’ and had the same date for when both City departments visited just days

before. In the comments section of the dual notice of violation, Mr. Council directs plaintiff to, “Properly dispose of all garbage and putrescent materials on property. Eradicate all Japanese knotweed and poison ivy from property.

8. Plaintiff proceeded to remove the poison ivy and what he thought might be the Japanese knotweed from his property over the next two weeks. As the plaintiff has never kept or scattered ‘garbage’ on or around his property, his only assumption could be that the City was referring to his compost pile at the back of his property, as to the ‘garbage’ complaint. This, well managed, working compost pile is not putrescent, or ‘stinky’ despite daily additions to its contents. The plaintiff eagerly awaited a site check-in/visit from Mr. Council around 8-24-22 to receive feedback toward compliance progress. On said site visit from Mr. Council, the plaintiff asked for help in identifying Japanese knotweed. Mr. Council glossed over this request and proceeded to direct his focus on getting materials off of plaintiff’s front porch, further cementing in the plaintiff’s mind that the City was considering all of the contents of his property to be garbage, or trash in the eyes of the City. None-the-less, the plaintiff launched into a 60 hour week of sorting, organizing, and storing away the contents of said porch. Mr. Council stated that he would be back on Thursday, 9-1-22, at 4pm to provide more feedback and direction as to the next steps toward compliance. With much disappointment, on the part of the plaintiff, Mr. Council was a ‘no-show’ for that scheduled 9-1-22 appointment. The plaintiff called and left a voicemail with Mr. Council in the next two business days to seek out that desired input/feedback. Mr. Council never returned the plaintiff’s phone call. Indeed, this marked the last time that Mr. Council ever gave or provided constructive feedback on 8-24-22 up until and including the present day. As far as other feedback from HAND, it was only one-half business day before a scheduled abatement by the City, on the 26th and 27th of June that John Hewett came onto my property and began to explain which items were and were not allowed under BMC Title VI. Incidentally, even on that afternoon, Mr. Hewett described both non-living vegetative matter and construction materials as ‘putrescent trash’ bookending the City’s idea that any element outside of plaintiff’s home is “garbage” to them without regard to its service to plaintiff’s homestead or its improvements therein.

9. Chronologically speaking, following Mr. Council’s ‘no-show’ of 9-1-22, the next communication that came from the City/HAND was a NOV with fines for the two aforementioned warnings for excessive growth, and the scattering of garbage. These NOV allegations were written on 9-7-22 for \$50 for each, for a total of \$100. I made a timely request for appeal. And, proceeded to put in 60 hour weeks of compliance activity up until the hearing date before the Board of Public Works (BPW) on 9-27-22. Again, plaintiff was ‘flying blind’ in his compliance efforts up until that hearing date. In this quasi-judicial setting plaintiff’s rights to due process were denied. No prosecutorial information was presented to the plaintiff in advance. Images were used in the prosecution without date. There was no indication who might have taken such images. The plaintiff was only allowed two minutes to state his case with no opportunity to question the City’s witnesses. And, there was no official transcript generated from the hearing, as well. Needless to say, the Plaintiff was unsuccessful in his appeal, and told that the matter could be appealed in Circuit Court. The plaintiff paid the fines the next day, not as an admission of guilt, but to prevent an immediate escalation of the fine amount if not paid in a timely manner.

10. No sooner than one week from the failed appeal before the BPW on 9-27-22, the plaintiff received another NOV from HAND on 10-7-22 for the same offense of scattering garbage on his said property. This time, there was no fine for excessive growth. Apparently, the plaintiff had achieved compliance with this issue. Again, plaintiff made a timely request for appeal before the BPW. A hearing date was set for 11-22-22. Up until that date, the plaintiff ‘flew blindly’ in 50-60 hour weeks of effort to achieve this nebulous compliance. Needless to say, the outcome and the process in this hearing was the same. Denial of due process. No advance sharing of prosecutorial information. Only two minutes were allowed for the stating of one’s case. No cross examination of City witnesses. No sharing of images in advance. No specifics as to violation of Title VI. And

there was no official transcript generated. This time the fine amount for the scattering of garbage was doubled for \$100. This fine was paid the following day of the failed appeal, not as an admission of guilt, but to limit the escalating fine amount for non-timely payment.

11. During this interim period of the second NOV fine from HAND on 10-7-22 to the failed appeal before the BPW on 11-22-22, the plaintiff also received a NOV (warning), on 10-20-22, from the department of Planning and Transportation for parking on unimproved surfaces, and illegal land use under the Uniform Development Ordinance (UDO) Section 20. Specifically, the city stated that plaintiff could not store items outside. This violation of plaintiff's property rights runs directly against plaintiff's ability to follow through with his intended property improvements, as evident by the MCBD permit that he obtained on 4-1-22. It is impractical for the plaintiff to not have his building materials and tools at hand for these said improvements. Indiana Code 36-7-8-3(d), the Indiana Log Cabin Rule further corroborates this property right. This NOV from Planning and Transportation was sent by Elizabeth Carter. I filed an appeal to this NOV warning. A hearing was set for the Board of Zoning Appeals (BZA) on 2-23-23.

12. Additionally in this interim period of the second NOV, with doubled fine, from HAND, and its subsequent lost appeal before the BPW on 11-22-22, the plaintiff also received a Notices of Violation letter from Christopher Wheeler in the City of Bloomington Legal Department dated 10-27-22. Amongst the alleged accusations from Mr. Wheeler was a statement that, "All of the items on your property constitute either impermissibly thrown, placed, or scattered garbage, recyclable materials, and yard waste, or impermissible outdoor storage of equipment, materials, waste and scrap materials. In other words, each and every item of personal property that you have allowed to remain out-doors on the Property is either a violation of Title VI or Title 20 of the BMC and must therefore be removed." Mr. Wheeler further states that the plaintiff is liable for a daily fine of up to \$7,500 for such infractions.

13. On 2-10-23, plaintiff received a Certificate of Zoning Compliance for his proposed carport/solar structure from the Department of Planning and Transportation.

14. On 2-23-23, the plaintiff went before the Board of Zoning Appeals (BZA) to appeal the NOV warning that was issued by Elizabeth Carter on 10-20-22 from the department of Planning and Transportation. As per usual, personal rights of due process were denied. No prosecutorial information was shared in advance with the plaintiff. No cross examination of witnesses was allowed. No images were shared in advance, nor who might have taken such images. And, no official transcript was generated from the hearing. Though the forum was different, the outcome was the same, a lost appeal.

15. One week later, on 3-1-23, the plaintiff received by mail a Notice for Request for Abatement from HAND to forcibly remove elements from my property under the guise of Title VI. A hearing was set for 3-14-23 before the BPW. The plaintiff filed a timely Tort Claim with the Indiana Attorney General against the City of Bloomington on 3-6-23. Upon the hearing date the plaintiff went before the BPW to appeal the proposed abatement. Again, personal rights to due process were denied. No expert testimony was allowed. No cross examination of witnesses was allowed. No prosecutorial information was shared in advance. The plaintiff was prosecuted with evidence from only two images. One image was of my front porch. The second image showed some hats on the same prompting on of the few questions from the Board about the hats? No official transcript was made of the hearing. The appeal was lost. An Order of continuous abatement was issued. Plaintiff was told that any relief from the outcome must be sought in Circuit Court. Thus, plaintiff filed his timely Complaint against the City on 3-24-23 in the Monroe County Circuit Court.

16. On 6-15-23 plaintiff received a letter from HAND notifying a proposed abatement by 3rd party contractor on 6-26 and 6-27- 23. Plaintiff filed a Motion for Emergency Preliminary Injunction which the Court granted until, at least the 8-3-23 hearing on the City's Motion to Dismiss.

17. Plaintiff asks the court to accept the original complaint filed on 3-24-23 to be recognized as Count # 1 in the totality of said Complaint. The plaintiff now pleas for the Court to accept the above amendments to the Complaint as Count #2 in the Complaint and states the following in support of Count #2:

18. Overall, plaintiff has suffered much from the hands of the City. Not only have plaintiff's property rights been denied, but also his personal rights through a denial of Due Process; inappropriate fines, and Orders, including the Order for Abatement.

19. This denial of Civil Rights, discrimination, and continued harassment from the City does not only target him selectively and personally. But is also appears to be a case of malicious prosecution by the City attorney Christopher Wheeler. He has been at the heart of every quasi-judicial forum in which the plaintiff has unsuccessfully made appeal, and continues to harass with his activities as Counsel for the defendant.

Wherefore, the Plaintiff, Pro Se, comes now to pray the Court to continue to stay the Preliminary Injunction until the Court has an opportunity to hear the disputed facts on merit. And, to allow for a De Novo Review of the administrative decisions of BPW and the BZA for both Notices of Violation and Orders in fine, and abatement. The plaintiff also requests punitive relief. As well as a declaratory judgement that IC 36-7-8-3(d) is pertinent and relevant to the incorporated municipality of Bloomington.

Respectfully submitted,

Joseph Bradley Davis

Joseph Bradley Davis, Pro Se
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on August 1st, 2023 that I personally delivered the Plaintiff's Motion for De Novo Administrative Review of Notices of Violation & Order for Abatement to City Legal at 401 N. Morton St., Bloomington, IN 47404.

Joseph Bradley Davis

Joseph Bradley Davis, Pro Se
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

John Hewett
Housing and Neighborhood Development,
City of Bloomington

**Sixth Email From Petitioner
Second Attachment**

Dear John,

7-14-23

Greetings. As you know, I am still seeking some clarification on which of my personal items specifically are disallowed on my property under the auspices of Title VI. I am very happy to work with you personally or any of your compliance officers outside of Rob Council. Mr. Council has been dishonest with me on numerous occasions. His aggressive behavior toward me, and his inability to respond to voicemail and email is a hindrance to my efforts at becoming compliant with HAND's Title VI requirements. I would like to remind you that this is the second time that I have contacted you with a request for a different compliance officer to handle my alleged property issues. The first occasion was through an email, which I have printed out and included along with this letter.

As far as Compliance Officers outside of yourself, I would suggest Jo Stong. She and I have always communicated well in the past. And, she has always struck me as a fair, and personable, officer for the City of Bloomington.

Thank you in advance for your assistance in this matter.

Sincerely,

Joseph B. Davis
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

Enclosure:



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Seventh Email from Petitioner**Fwd: More Packet Information**

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:52 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lucagonz@iu.edu>

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>

Date: Tue, Oct 10, 2023 at 4:40 PM

Subject: More Packet Information

To: April Rosenberger <april.rosenberger@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>

Dear April,

My apologies. I accidentally hit send, when I intended to hit the attach button.

Here are more attachments, and media links. Thank you.

Media links:

<https://bsquarebulletin.com/2023/08/11/bloomington-starts-abatement-of-washington-street-property-owned-by-would-be-mayoral-candidate/><https://www.youtube.com/watch?v=5qZ151xb9pc><https://bloomingtonian.com/2023/09/16/private-home-owner-fined-7500-dollar-per-day-over-zoning-violations-in-bloomington-indiana/><https://bsquarebulletin.com/2023/09/22/skirmishing-over-garbage-between-homeowner-city-of-bloomington-set-for-next-week/><https://bloomingtonian.com/2023/10/03/cathy-meyer-submits-letter-regarding-joe-davis-to-bloomington-board-of-public-works/>

April, please make sure that all these attachments, and media links, are added to tonight's BPW packet, for the benefit of the Board members, and the general public.

Thank you,
-Joe

812-525-9706

4 attachments**Letter to Judge Krothe 2-23-23.docx**
17K**Letter to John Hewett 8-22-23.docx**
14K**Exhibit A Abatement Affidavit (J.pdf)**
680K

 **Krothe Order on Motion for Preliminary Injunction.pdf**
484K

**Seventh Email from Petitioner
First Attachment**

Honorable Judge Krothe,

6-23-23

I just received a phone call from your Clerk, Dana. She told me that you have set a hearing for Monday at 8:00 am, the 26th, of June 2023, for Cause No. 53C06-2303-CT-000633.

I will be at my home at this time documenting the destruction that the third-party abatement contractor will be conducting at my property.

Also, this sudden Hearing date will not give me time to adequately prepare my case for the Emergency Preliminary Injunction. I will need time to gather letters of support from various official allies from both City, and County agencies. Some but not all of these supporters are:

- Tom McGlasson -Director of the Monroe County Solid Waste District;
- Linda Thompson -Senior Environmental Planner with the Department of Planning & Transportation;
- Kriste Lindberg – Storm & Gray Water Specialist with the City of Bloomington;
- Members of the Habitat Stewards Group, a part of the Center for Sustainable Living;
- Devta Kidd – Innovation Specialist with the Office of the Mayor;
- And, potentially others.

I will also need time to subpoena adverse party witnesses to be present for questioning at the Hearing.

Just today, John Hewitt, of HAND came by to share with me what items were going to be abated on Monday and Tuesday. They are going to essentially scrape my property clean of any organic matter that can decompose: leaves; wood-chips; my constructed raised garden beds that are framed with wood; any tools that they think are old, have a damaged handle, or similar. They are going to remove any mounded garden beds that are mulched with leaves; any ‘tree-of-heaven’ that is on my property; any construction material that is not new; and so many other things that I don’t have time to mention.

I would also like to add that this last-minute visit to my property is too little notice in regard to what is allowable, and what is not. A one-half business day before abatement is an inadequate amount of time. Especially since I have been asking for this input/feedback since the beginning of August 2022.

Therefore, I humbly ask the Court to allow for a reasonable amount of time for me to gather my supporters, subpoena my adverse witness for examination, and to prepare my documentation and evidence. Thank you.

Respectfully submitted,

Joseph Bradley Davis

Joseph Bradley Davis, Pro S

530 S. Washington St.

Bloomington, IN 47401

812-525-9706

balebuilder@gmail.com

Enclosure:

-Exhibit 11.

CERTIFICATE OF SERVICE

I hereby certify that on June 23rd, 2023, that I personally delivered the Plaintiff's Emergency Motion for Preliminary Injunction, Order for Preliminary Injunction, Affidavit, and exhibits, to City Legal at 401 N. Morton St., Bloomington, IN 47404.

Joseph Bradley Davis

Joseph Bradley Davis, Pro Se

530 S. Washington St.

Bloomington, IN 47401

812-525-9706

balebuilder@gmail.com

**Seventh Email from Petitioner
Second Attachment**

John Hewett
Housing and Neighborhood Development
City of Bloomington
401 North Morton St.
Bloomington IN 47408

8-22-23

Dear John,

This is Joe Davis. As you might recall, I sent you a certified letter on 7-14-23, requesting two things from your department. The first item was for a compliance officer to make an appointment with me to come onto my property and specifically point out to which items of my personal property, and other landscape elements are not allowable to be on my property under the guidance of Title VI of the Bloomington Municipal Code.

The second item was that a different compliance officer, other than Rob Council, be assigned to any compliance issue that I might be a party to. Mr. Council is not welcome on my property, nor to address me in any way due to his aggressiveness toward me and his complete inability to be responsive to communications. I again suggest that Jo Stong would be someone who I would feel comfortable working with.

My letter of 7-14-23 received no response whatsoever from you, or anyone else in your department. Therefore, I, again please, request that an appointment be made with me to point out specifically which elements of my landscape, and personal property are not in compliance with Title VI. And, again, I please request a different compliance officer be assigned to my alleged non-compliance case. Thank you.

I have included the letter of 7-14-23 for your convenience.

Sincerely,

Joseph B. Davis
530 S. Washington St.
Bloomington, IN 47401
balebuilder@gmail.com
812-525-9706

Enclosures:

**Seventh Email from Petitioner
Third Attachment**

STATE OF INDIANA)	IN THE MONROE CIRCUIT COURT
) SS:	
COUNTY OF MONROE)	CAUSE NO. 53C06-2303-CT-000633
JOSEPH BRADLEY DAVIS,)	
Plaintiff,)	
v.)	
)	
CITY OF BLOOMINGTON,)	
Defendants.)	

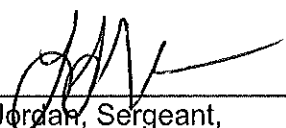
AFFIDAVIT

I, Elliott Jordan, Sergeant with the Police Department of the City of Bloomington, State of Indiana, ("BPD") swear or affirm that:

1. I am a Sergeant in the Bloomington Police Department.
2. On Wednesday, August 9, 2023, I responded to officer request for assistance to the common street address of 530 S. Washington Street, Bloomington, Indiana, (the "Property") to assist in the abatement of the Property.
3. City of Bloomington Housing and Neighborhood Compliance Officers and the contractors employed by the City of Bloomington to abate the Property were present at the Property to enforce an abatement order from the Bloomington Board of Public Works.
4. The owner of the Property, Mr. Joe Davis, actively interfered with City of Bloomington's efforts to abate the property by:
 - a. Angrily removing items of garbage, recyclable materials and yard waste out of the hands of the contractors employed by the City of Bloomington to abate the property;
 - b. Aggressively arguing with the contractors employed by the City of Bloomington to abate the property regarding most every item of garbage,

- recyclable materials and yard waste that the contractors attempted to remove from the Property;
- c. Placing items of garbage, recyclable materials and yard waste under tarps on the Property; and
 - d. Removing items of garbage, recyclable materials and yard waste from the Property and placing these items on neighboring properties.
5. BPD contacted the owners of the neighboring properties who denied giving Mr. Davis permission to be on their property or to place anything on their property.
6. Mr. Davis was advised by BPD that he could not go back on neighboring property or he could be arrested for trespass.
7. Mr. Davis was advised that he was being disorderly.

I affirm under the pains and penalties of perjury that the above representations are true, to the best of my knowledge and belief.



Elliott Jordan, Sergeant,
Bloomington Police Department

STATE OF INDIANA)	IN THE MONROE CIRCUIT COURT
) SS:	
COUNTY OF MONROE)	CAUSE NO. 53C06-2303-CT-000633
JOSEPH BRADLEY DAVIS,)	
Plaintiff,)	
v.)	
)	
CITY OF BLOOMINGTON,)	
Defendants.)	

AFFIDAVIT


I, Jo Stong, Neighborhood Compliance Officer for the Housing and Neighborhood Development Department of the City of Bloomington, State of Indiana, (“HAND”) swear or affirm that:

1. I have been a Neighborhood Compliance Officer for HAND for 18 years.
2. In my capacity as a HAND Neighborhood Compliance Officer, I am responsible for enforcement of Bloomington Municipal Code Section 6.06 which addresses prohibition from throwing, placing or scattering garbage, recyclable materials and yard waste on real property located within the incorporated areas of the City of Bloomington; said enforcement including the abatement of properties in violations of the above referenced section of the Bloomington Municipal Code.
3. In my capacity as a HAND Neighborhood Compliance Officer, I am familiar with the condition of the real estate located at the common street address of 530 S. Washington Street, Bloomington, Indiana, (the “Property”) and I was present at the Property on Wednesday, August 9, 2023, to assist contractors for the City of Bloomington with the abatement of the Property.

4. City employees and the City's contractors waited until City of Bloomington Police Officers were on site because Joseph Bradley Davis, the owner of the Property, advised that he would not be peaceful if abatement took place on the Property.
5. Mr. Davis actively interfered with City of Bloomington efforts to abate the property by:
 - a. Angrily removing items of garbage, recyclable materials and yard waste out of the hands of the contractors employed by the City of Bloomington to abate the property;
 - b. Aggressively arguing with the contractors employed by the City of Bloomington to abate the property regarding most every item of garbage, recyclable materials and yard waste that the contractors attempted to remove from the Property;
 - c. Placing items of garbage, recyclable materials and yard waste under tarps on the Property; and
 - d. Removing items of garbage, recyclable materials and yard waste from the Property and placing these items on neighboring properties.
6. HAND, through its contractor, was able to fill most of one trailer with items of garbage, recyclable materials and yard waste from the Property in spite of Mr. Davis' hostile and obstructive behavior.
7. Even though the abatement was not completed, but due to the hostile and obstructive behavior of Mr. Davis, HAND and its contractor eventually elected to leave the Property with intentions to return later to complete the abatement.
8. The Property still has numerous items of garbage, recyclable materials and yard waste that need to be removed from the Property in order to bring the

Property into compliance with Bloomington Municipal Code Section 6.06: this additional abatement effort will take approximately four hours to complete.

I affirm under the pains and penalties of perjury that the above representations are true, to the best of my knowledge and belief.



Jo Stong, Neighborhood Compliance Officer,
Housing and Neighborhood Development
City of Bloomington

**Seventh Email from Petitioner
Fourth Attachment**

STATE OF INDIANA)	IN THE MONROE CIRCUIT COURT VI
)SS:	
COUNTY OF MONROE)	CAUSE NO. 53C06-2303-CT-000633

JOSEPH BRADLEY DAVIS,
Plaintiff,

And

CITY OF BLOOMINGTON,
Defendant.

ORDER ON MOTION FOR PRELIMINARY INJUNCTION

On June 26, 2023, the Court held hearing on *Plaintiff's Affidavit for Emergency Preliminary Injunction*. Plaintiff, Joseph Bradley Davis, appeared in person and self-represented. Defendant, City of Bloomington, appeared by counsel, Christopher Wheeler. Argument was heard and evidence presented.

The Court, considering the same and being duly advised, now finds and orders as follows:

1. Procedural Posture

On March 24, 2023, the Plaintiff filed his Complaint asking the Court to rescind the Order of Abatement from the Board of Public Works, and grant judgment against defendant in order to be made whole from damages in the form of reimbursement for unjust fines, filing fees, lost income opportunity and punitive relief.

On April 10, 2023, the Defendant, City of Bloomington, filed Defendant's Motion to Dismiss. This motion was set for hearing on May 3, 2023, but was continued on Defendant's Motion to June 6, 2023. The June 6, 2023, hearing was continued on Plaintiff's motion to August 22, 2023. Plaintiff asked for the continuance to give him time to hire legal counsel.

On June 22, 2023, Plaintiff filed *Plaintiff's Affidavit For Emergency Preliminary Injunction* because he had received a letter from the City of Bloomington that stated they were going to abate his property on June 26th and June 27th. The Court set a hearing at its earliest setting, which was June 26, 2023, at 8:00 a.m. and advised the Defendant to take no action on the abatement until the Court could rule on the request for preliminary injunction.

2. Findings of Fact

The Plaintiff requests this Court grant the emergency injunction to keep the status quo until the August 3, 2023, court date. He alleged he would suffer irreparable harm because the City had told him they were coming to his property with heavy equipment, several dumpsters

and a big crew. Plaintiff believes that means that they are going to scrape everything outside of his home, off of his lot. Plaintiff alleged that a HAND representative Mr. Hewitt, came to his property for the first-time last Friday June 23, 2023, to point out items that were not allowed by Title VI of the Bloomington Municipal Code.

Mr. Hewitt told Plaintiff that mulch garden beds, leaves, wood chips etc. are not allowable under Bloomington Municipal Code, Title VI. Mr. Hewitt told Plaintiff that everything on his property was trash.

Plaintiff testified that he is an organic farmer and master gardener, he has a degree in sustainable systems from Indiana University. Plaintiff testified that Mr. Hewitt described the things on his property as “putrescible” and in violation of Title VI of the Bloomington Municipal code. The definition of putrescible in the code is “waste that is subject to organic decomposition.” Plaintiff submitted the dictionary definition of putrescible which states “liable to become putrid” *Plaintiff's Exhibit A*. He also discussed the dictionary definition of putrid which included “being in a state of putrefaction: rotten and foul, malodorous. *Id.* Plaintiff stated that nothing on his property is rotten or stinks.

Plaintiff has a certificate of zoning compliance and a building permit. He characterized the things on his property as building supplies. He has a one hundred (100) year old, tongue and groove, garage door that he intends to use for walls for his proposed structure. He conceded that there was a tiny amount of rot on the bottom where the door had been in the ground but stated that the rest of the door was solid and could be repurposed.

Plaintiff stated that he was told “everything has to go”. Mr. Hewitt told him the mulch around trees in front was putrescible. The video shows leaves placed around the trees on the ground. Plaintiff told Mr. Hewitt that the City of Bloomington is encouraging people to mulch their leaves and leave them on their property. *Defendant's Exhibit 1*. Plaintiff had a piece of wood from forest that he thought decayed in “a really cool way”, in his front flowerbed and Mr. Hewitt said it needed to go. Plaintiff said Mr. Hewitt was making aesthetic judgments about his property. Mr. Hewitt pointed to an Ailanthus tree on the back edge of his property and said that is an invasive species and it needed to go. On the video, submitted as Defendant's Exhibit 1, Plaintiff asked Mr. Hewitt if the City was doing any other abatements for that tree, Mr. Hewitt responded that they were not.

The Defendant called no witnesses, but counsel stated that the City does not want an injunction granted because the Abatement Order that Plaintiff is asking the Court to review is a continuous abatement order that was originally issued August 11, 2022, and that expires on August 11, 2023. If the City is not able to abate the property they will have to start over again and Plaintiff will appeal again, and at some point, municipal enforcement will be frustrated and judicial economy. Defendant says the damage to them is that the neighbors continually complain about the property and are losing faith that the Defendant will enforce their codes.

In lieu of calling witnesses the Defendant asked the Court to view two videos which would speak to the condition of the property. The first video that the Defendant presented seemed to be taken by a camera attached to someone's belt, most of it was extremely shaky and

was showing the ground. There were some items shown, without much or any context. There was a small pile of branches laying on the ground which were pointed out, they appeared to be freshly cut. The only information that the Court could glean from the video is that the Plaintiff's back wall might be slightly over the property line stake and that there was an Ailanthus tree, buckets lying on their side, a rotten chair, "ugly logs", rotten fence, piles of leaves and a bathtub in the front yard. The person on the video, presumably Mr. Hewitt, says that the items violate Title VI in that they are "trash". Trash is not a definition that the Court could locate in Title VI of the Bloomington Municipal Code. There is a term "refuse" which means "all putrescible and non-putrescible solid waste, including animal wastes, garbage, solid waste, ashes, dead animals, abandoned vehicles ..." *Bloomington Municipal Code, Title VI*.

Plaintiff testified that he put thirty (30) hours of work into the property over the weekend and that the first video was stale. In response to that objection the Defendant asked the Court for an order to video the property immediately after the hearing to preserve evidence for the August hearing, that motion was granted, and a second video was submitted as a supplement to *Defendant's Exhibit 1*. The second video did show improvements to the property including the wall being moved back to closer to the property line, the buckets stacked and in some sort of temporary shed or shelter. The unidentified representative from the City showed that there were still leaves on the property, old lap, a large collection of framework from an antenna and some rotting boards.

Plaintiff alleges that the Defendant has not shown him what is allowed and what is not trash and the video seems to support that, at least not in any detail.

3. Conclusions of Law

The grant or denial of a request for a preliminary injunction rests within the sound discretion of the trial court. "A preliminary injunction is a remedy that is generally used to preserve the status quo as it existed prior to a controversy pending a full determination on the merits of that controversy[,]to make out a successful case for a preliminary injunction, a plaintiff need only show a prima facie case on the merits". *Tomahawk Village Apartments v. Farren*, 571 N.E. 2d 1286.

"To obtain a preliminary injunction, the moving party has the burden of showing by a preponderance of the evidence the following: (1) the movant's remedies at law were inadequate, thus causing irreparable harm pending resolution of the substantive action; (2) it had at least a reasonable likelihood of success at trial by establishing a prima facie case; (3) its threatened injury outweighed the potential harm to the appellant resulting from the granting of an injunction; and (4) the public interest would not be disserved." *Ind. Family & Soc. Servs. Admin v. Walgreen Co.*, 769 N.E.2d 158.

"An injunction does not create or enlarge the rights of a party; it merely protects existing rights and prevents harm to the aggrieved party that cannot be corrected by final judgment."

Indiana v. Michigan Elec. Co. v. Whitley County Rural Elec. Membership Corp., 316 N.E.2d 584, 586 (Ind. Ct. App. 1974).

4. Conclusions of Law

Plaintiff filed a Complaint asking, among other things, for judicial review of an administrative decision. There is a Motion to Dismiss set on that complaint on August 3, 2023. Because the City opted to move forward with the Abatement Order which is at issue in the case, the Plaintiff's remedy of law, review of the decision, is not adequate to stop the changes to his property.

Plaintiff has at least a reasonable likelihood of success at trial by establishing a prima facie case. The Defendant presented the Court with no context to the videos they submitted as evidence. The Defendant did not call any witnesses.

Plaintiff threatened injury, the loss of property that has not been inventoried, outweighs the potential harm to the Defendant which is the Defendant having to field calls from neighbors who don't like the way Plaintiff's property looks. Fielding complaints from neighbors is a municipal function, and although, possibly annoying, the Court does not agree that it could be characterized as harmful.

The City made no allegations in the hearing that there were dangerous conditions or that the public interest would be disserved by granting the injunction.

IT IS THEREFORE ORDERED that the Plaintiffs' Motion for Preliminary Injunction is granted and will remain until a ruling has been issued on the August 3, 2023, hearing on Defendant's Motion to Dismiss.

SO ORDERED this 30th day of June 2023.



Kara E. Krothe
Judge, Monroe Circuit Court VI

DISTRIBUTION:
Plaintiff
Defendant

<https://www.youtube.com/watch?v=5qZ151xb9pc>

**Seventh Email from Petitioner
Fifth Attachment (A link to a youtube
video)**



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Eighth Email from Petitioner

Fwd: City Code that Establishes Process or Steps to Achieve Compliance Enforcement Under Title 6

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:52 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lucagonz@iu.edu>

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>

Date: Tue, Oct 10, 2023 at 1:44 PM

Subject: Fwd: City Code that Establishes Process or Steps to Achieve Compliance Enforcement Under Title 6

To: April Rosenberger <april.rosenberger@bloomington.in.gov>

Cc: Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>

Dear April,

Please make sure that this email string to, and from, Beth Cate, is included in the BPW Board Packet. It is especially important that the attached Chapter 6.06 of the Bloomington Municipal Code, which contains the enforcement and appeal provisions, is printed out and included for tonight.

Thank you,
-Joe

812-525-9706

----- Forwarded message -----

From: **Beth Cate** <beth.cate@bloomington.in.gov>

Date: Fri, Oct 6, 2023 at 6:29 PM

Subject: Re: City Code that Establishes Process or Steps to Achieve Compliance Enforcement Under Title 6

To: joe davis <balebuilder@gmail.com>

Cc: Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>

Hello Joe,

I've attached a copy of Chapter 6.06 of the Bloomington Municipal Code, which contains the enforcement and appeal provisions.

As you will see, the code does not require HAND to impose double or triple fines for subsequent violations (though it empowers HAND to do so), or to wait to seek abatement authorization until after double or triple fines are imposed.

Best,

Beth

On Fri, Oct 6, 2023 at 1:40 PM joe davis <balebuilder@gmail.com> wrote:

Dear Counselor Cate,

Could you please provide me with the relevant City code that establishes the process, or steps, that the City must follow to achieve compliance enforcement under Title 6.

As I believe, the typical process goes: Warning; Fine; Double fine; Triple fine; and then Abatement? I know that the appeal process is available at each separate, and distinct stage.

Thank you,
-Joe

812-525-9706

--

Beth Cate
Corporation Counsel
City of Bloomington
401 N. Morton St. Suite 200
Bloomington, IN 47402
p: 812.349.3547

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 **Bloomington, IN Code of Ordinances--Chapter 6.06.pdf**

89K

6.06.010 - Definitions.

As used in this chapter, the following terms have the following meanings unless otherwise designated:

"Board" means the City of Bloomington board of public works.

"Garbage" means putrescible animal and vegetable wastes, resulting from handling, preparation, cooking and consumption of food; refuse; and rubbish.

"HAND" means the City of Bloomington's housing and neighborhood development department.

"Owner" means a person holding legal title to real property within the City of Bloomington.

"Person" means an individual, partnership, corporation, trust, or any commercial association or venture, however defined.

"Putrescible" means substances which are subject to organic decomposition.

"Recyclable materials" means those materials designated by the board or its designee as those which may be collected for recycling purposes. Such materials may include, but may not be limited to, aluminum products, clean glass containers, bimetal containers, newspapers, magazines and periodicals, and plastic containers. What constitutes "recyclable materials" may change depending on what the board or its designee is able to dispose of through their recycling efforts.

"Refuse" means all putrescible and nonputrescible solid wastes, including animal wastes, garbage, rubbish, ashes, street cleanings, and solid market and industrial wastes.

"Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, wood, glass, bedding, crockery, construction debris, and similar materials.

"Weed" means any plant or vegetation classified as a detrimental plant, invasive plant or noxious weed by either the state under authority of IC 15, entitled Agriculture and Animals, or the United States government in accordance with 7 USC 7701. The term shall also include the vegetation listed in Section 20.05.059 of the Bloomington Municipal Code.

"Yard waste" means grass, weeds, leaves, brush, tree trimmings, hedge clippings, and other yard and garden materials.

(Ord. No. 12-23, § 1, 10-3-2012)

6.06.020 - Deposit of garbage.

It is unlawful for any person to throw, place, or scatter any garbage, recyclable materials or yard waste over or upon any premises, street, alley, either public or private, or to suffer or permit any garbage, recyclable materials or yard waste to be placed or deposited on the premises owned, occupied or controlled by such person either with or without the intent to later remove, cover, or burn it. This provision shall not restrict the filling of low lands within the city with brick, stone, sand, gravel, cold ashes, or dirt after the appropriate permit has been obtained from the city engineering department.

(Ord. No. 12-23, § 1, 10-3-2012)

6.06.030 - Use of city garbage containers.

It is unlawful for any person to deposit any household or commercial garbage, recyclable materials or yard waste in any receptacle maintained on a sidewalk or at any other public location by the city for disposal of refuse by pedestrians.

(Ord. No. 12-23, § 1, 10-3-2012)

6.06.040 - Use of private garbage containers.

It is unlawful for any person to deposit garbage, recyclable materials or yard waste in a receptacle or dumpster unless said person has permission from the owner of the receptacle or dumpster to use it for garbage, recyclable materials or yard waste disposal.

(Ord. No. 12-23, § 1, 10-3-2012)

6.06.050 - Excessive growth.

It is unlawful for the owner of any lot or tract of ground within the city to allow it to become overgrown with weeds, grass, or noxious plants beyond the height of eight inches or to such extent that the growth is detrimental to the public health and constitutes a nuisance.

(Ord. No. 12-23, § 1, 10-3-2012)

6.06.060 - Inspections.

It shall be the duty of the police department or HAND to make a careful inspection of any lots, grounds and tracts of land situated within the corporate limits of the city for the purpose of determining whether there is a violation of this chapter.

(Ord. No. 12-23, § 1, 10-3-2012)

6.06.070 - Enforcement procedures.

- (a) If the director of HAND, the assistant director, any neighborhood compliance officer, or any other designee of the director (collectively referred to as "staff") determines that there is a violation of this chapter, that person shall issue a notice of violation (NOV) to the responsible party. For purposes of issuing a NOV, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: persons with any possessory interest in the property; property owner(s); and/or any persons who have caused the violation. Liability for fines shall not attach to nonpossessory property owner(s) for a period of seven days following issuance of the NOV, provided that the nonpossessory property owner(s) presents to HAND, within seven days after issuance of the NOV, a true and exact copy of any and all leases in effect during the time period covered by the NOV.
- (b) The NOV shall be in writing and shall be served on one or more of the responsible parties in one or more of the following manners: delivery in person; by first class mail; and/or by placement in a conspicuous place on the property where a violation occurs. The notice shall state:
- (1) The location of the violation;
 - (2) The nature of the violation;
 - (3) The period of correction (if any);
 - (4) The fine assessed for the violation;
 - (5) Additional remedies the city may seek for violation (including abatement of the violation by HAND or by a private contractor hired by HAND);
 - (6) That the fine is to be paid at HAND;
 - (7) That the fine may be contested in the Monroe County Circuit Courts;
 - (8) That the NOV may be appealed to the board, provided the appeal is in writing and filed with the board no later than seven days from the date of the NOV.
- (c) Schedule of Fines. The initial penalty or fine for all violations of this chapter shall be fifty dollars. A second violation of this chapter in any twelve-month period shall be subject to a penalty or fine of one hundred dollars. A third and all subsequent violations of this chapter in any twelve-month period shall be subject to a penalty or fine of one hundred fifty dollars. The twelve-month period described above shall begin on August 1 of each year and end on July 31 of the following year.
- (d) If the responsible party fails to pay any accumulated fines, the city's legal department may collect said fines in any manner authorized by law.

(Ord. No. 12-23, § 1, 10-3-2012)

6.06.080 - Failure to remedy.

- (a) HAND may file a request with the board for the abatement of any property still in violation of a NOV after the correction period in the NOV has expired.
- (b) The property owner who is the subject of an abatement request by HAND shall be notified of the request; said notice shall state the following:
 - (1) The location of the violation;
 - (2) The nature of the violation;
 - (3) A statement that abatement of the violation is being sought;
 - (4) A statement that the abatement may be provided by the city or by a private third-party contractor hired by the city to perform the abatement;
 - (5) A statement that the property owner will be liable for any and all costs associated with the city, and/or the city's contractor, abating the property;
 - (6) A statement that if the property owner fails to reimburse the city for any and all costs associated with an abatement of his property, said costs shall be filed with the county auditor and placed on the tax duplicate for the property at issue; said costs being collected as taxes are collected;
 - (7) The date, time and location of the board's hearing; and
 - (8) A statement indicating that the property owner is entitled to appear at said hearing and is entitled to present arguments and evidence in his defense at said hearing.

The abatement notice described in the above subsection (b) shall be in writing and shall be served on the property owner via certified mail, return receipt requested. If the abatement notice is returned as undeliverable the notice shall be given by personally delivering a copy of the abatement notice to the property owner; leaving a copy of the abatement notice at the usual place of abode of the property owner; sending by first class mail a copy of the abatement notice to the last known address of the property owner; or by serving the agent of the property owner.

- (c) At the abatement hearing the board shall hear evidence from all parties and render its decision in writing.
- (d) All appeals from the board's decision on an abatement request shall be made to courts of competent jurisdiction within ten days.
- (e) If an initial notice of abatement was provided in accordance with this Section, and Section 6.06.070 was first followed, a continuous abatement notice may be posted at the property at the time of abatement instead of by certified mail. A continuous abatement notice serves as notice to the property owner that each subsequent violation of this chapter during the same twelve-month period for which the initial NOV was provided may be abated by the city or its private third-party contractors.

(Ord. No. 12-23, § 1, 10-3-2012)

6.06.090 - Cost of removal by city.

If the landowner fails to remedy a violation under this chapter, the controller shall make a certified statement of the actual cost incurred by the city for any abatement conducted by the city or its private third party contractor. The statement shall be served on the property owner by certified mail, return receipt requested. The property owner shall pay the amount in the statement to the city legal department within ten days after receiving it. If the landowner should fail to pay within the ten-day period, a certified copy of the statement of costs shall be filed in the office of the county auditor. The auditor shall place the amount claimed on the tax duplicate against the property affected by the work. The amount shall be collected and disbursed to the general fund of the city.

(Ord. No. 12-23, § 1, 10-3-2012)

6.06.100 - Vehicles hauling garbage.

- (a) It is unlawful to transport garbage, recyclable material, yard waste, stone or other materials that are likely to fall from a vehicle unless such materials are covered and secured so as to prevent their deposit on public and private property.
- (b) Any materials falling from a vehicle shall be promptly removed by the person responsible for their deposit. If such person neglects or refuses to remove the materials, the city shall cause such materials to be removed at the expense of the person responsible, who shall be liable to pay the city the cost of the removal.

(Ord. No. 12-23, § 1, 10-3-2012)

6.06.110 - Violations.

Violations of the provisions of this chapter are declared a public nuisance. each day that a violation continues shall constitute a separate violation.

(Ord. No. 12-23, § 1, 10-3-2012)



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fwd: Draft letter

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:55 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lucaagonz@iu.edu>

Ninth Email from Petitioner

----- Forwarded message -----

From: joe davis <balebuilder@gmail.com>

Date: Thu, Oct 5, 2023 at 1:44 PM

Subject: Re: Draft letter

To: Cathy <cathygotm@gmail.com>

Cc: Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>, <pwdorfman@gmail.com>, guaguero <nedpow@peoplepc.com>, <JamiScholl@gmail.com>, The Venue Fine Art & Gifts <Venue.Colman@gmail.com>, William Morris <william@morrislawofc.com>

Thank you, Cathy, for speaking to the HAND representative at the market on Saturday. It might be a good idea to record your interaction with whichever HAND official is present? Recording with your phone would just be a means in which you could relay verbatim to me any response.

Assistant City Attorney, Chris Wheeler, just gave me a phone call saying that he is going to leave 15 detailed images taken by HAND compliance officer Rob Council, at the front desk, of City Hall for me to pick-up. Evidently, these images are going to have circles around any non-compliant 'garbage' that is scattered across my property? This is also going to be an inventory of the offending materials.

Perhaps, I could show you these images in advance of your Saturday market activities? Copies of these images might aid your discussion?

Please, let me know if you have any Friday afternoon, or evening availability? Thank you.

Keep dry,
-Joe

812-525-9706

On Wed, Oct 4, 2023 at 4:55 PM Cathy <cathygotm@gmail.com> wrote:

Tuesday evening isn't good for me.

I noticed HAND will be at the farmers market this Saturday. I will stop and talk to them then.

Cathy Meyer
Retired and loving it!
Sent from my iPhone

On Oct 4, 2023, at 1:24 PM, joe davis <balebuilder@gmail.com> wrote:

Thank you, Cathy, ever so much!

I am hoping that your letter will help to dissolve the legitimacy of their accusations.

Would you be able to be present this coming Tuesday, at 5:30 pm, in my defense?

Enjoy the beautiful day!
-Joe

On Tue, Oct 3, 2023 at 12:56 PM Cathy Meyer <cathygotm@gmail.com> wrote:

I sent the letter to April and cc'ed the others as requested.
Good luck!

Cathy

On Tue, Sep 26, 2023 at 1:31 PM joe davis <balebuilder@gmail.com> wrote:

Thank you, Cathy!

Don't let the Badlands get you to fall down, as they say.
-Joe

On Tue, Sep 26, 2023 at 12:14 PM Cathy <cathygotm@gmail.com> wrote:

That's good news. I can take more time with it when I return.
Don't let the bastards get you down, as they say.

Cathy Meyer
Retired and loving it!
Sent from my iPhone

On Sep 26, 2023, at 7:45 AM, joe davis <balebuilder@gmail.com> wrote:

Cathy,

I just learned, this morning, that my appeal hearings before the Board of Public Works have been moved to the next meeting in two weeks. It is still very relevant that you send your letter, such that the prosecution sees that there are advocates on my behalf. However, this two week continuation in the process negates your letter's immediate submission.

If you would like to take a few days to think about your letter's contents, and context, and even introduce around the campfire conversation about how harassing bullies in our local City government have run amuck, in our quaint little town? Then, please do so.

In the meantime, enjoy your 'bad times' in the Badlands.

Yours,
-Joe

Joseph B. Davis
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

Kicking the City's ass.
Because someone has to do it!

On Tue, Sep 26, 2023 at 12:50 AM Cathy <cathygotm@gmail.com> wrote:

I arrived in the Black Hills Saturday. I'll try to get the letter forwarded tomorrow. We have been pretty busy here every day.

Cathy Meyer
Retired and loving it!
Sent from my iPhone

On Sep 24, 2023, at 10:30 AM, joe davis <balebuilder@gmail.com>
wrote:

Cathy,

I am sorry to be so slow in responding to your awesome letter of support! My Saturday got away with me, and exhaustion from my physical efforts put me in bed before 9 pm. My apologies to you.

Your draft letter is perfect just the way it is. The best thing to do at this point is to send it to April Rosenberger, at the Public Works Department, and ask her to submit it to the Board Packet for the Public Works Board meeting on Tuesday evening at 5:30 pm. April's email address is: april.rosenberger@bloomington.in.gov

You might also copy Colleen Newbill, assistant city attorney, as she sent me an email stating that both the Notice of Violation, and fine, the City's Request for Abatement would be heard on the same evening: colleen.newbill@bloomington.in.gov

It might also make sense to copy Dave Askins, and Jeremy Hogan, as they have been closely following the current saga, as members of the local media. Their emails follow respectively: dave@bsquarebulletin.com and jeremy@bloomingtonian.com

By the way, here is a link to Dave Askins' latest coverage on this issue in the Bsquare:

<https://bsquarebulletin.com/2023/09/22/skirmishing-over-garbage-between-homeowner-city-of-bloomington-set-for-next-week/#more-51141>

And, Jeremy Hogan's coverage in the Bloomingtonian:

<https://bloomingtonian.com/2023/09/16/private-home-owner-fined-7500-dollar-per-day-over-zoning-violations-in-bloomington-indiana/>

I am assuming that you are currently in transit to your outdoor camp, out west? I hope that you arrive safely, and soundly, and ready for good times in the Badlands. I will look forward to hearing all about your trip upon your return.

If you have any difficulty passing along your letter to the BPW, please let me know if you are able. Thank you.

So very appreciatively,
-Joe

812-525-9706

On Fri, Sep 22, 2023 at 3:23 PM Cathy Meyer
<cathygotm@gmail.com> wrote:

What do you think?

Cathy

 **Joe Davis Letter of Support_Cathy Meyer.docx**
22K

**Ninth Email from Petitioner
First Attachment**

Board of Public Works

RE: Joe Davis Issue

September 22, 2023

To Whom it May Concern:

I am puzzled by the charges against Joe Davis, a well-known sustainable builder and respected citizen of this city who I have known for many years. I have visited his property, and while it may not meet the aesthetic or cultural standards of his neighbors, it is not a hazard to public health.

I have looked for information in the city code about the alleged violations and I do not see how his property could be in violation. Section 6 lists the following definitions:

"Garbage" means all putrescible animal solid, vegetable solid and semisolid wastes resulting from processing, handling, preparation, cooking, serving or consumption of food or food materials.

"Putrescible waste" means waste that is subject to organic decomposition.

"Yard waste" means all vegetative matter including grass, weeds, leaves, brush, tree trimmings, hedge clippings and garden waste.

I have also looked at commonly accepted definitions of these terms.

Garbage, the technical term for putrescent organic matter such as kitchen or food scraps, was fed to pigs and other livestock or boiled down in a process known as "rendering," to extract fats, oils, and greases for manufacturing lubricants, or allowed to dry to become commercial fertilizer.

And putrescible waste is defined as:

Putrescible wastes include matter that rots or decays rapidly. It can be characterized as soft organic material which usually have high moisture content, are readily degradable, generate odor and attracts vermin. These are produced by domestic and commercial premises.

Mr. Davis does not have any garbage or putrescible waste on his property. I observed some dead leaves and a few decaying tree limbs. These materials decompose slowly and would not be odorous or attract vermin.

According to Section 6.06.020 - Deposit of garbage.

It is unlawful for any person to throw, place, or scatter any garbage, recyclable materials or yard waste over or upon any premises, street, alley, either public or private, or to suffer or permit any garbage, recyclable materials or yard waste to

be placed or deposited on the premises owned, occupied or controlled by such person either with or without the intent to later remove, cover, or burn it.

Anyone with trees upon their lot permits such materials to be deposited on their premises, whether or not they intend to remove it. In fact, the city itself encourages residents to allow leaves to accumulate on their lot by offering classes, videos, and informational materials promoting the composting and mulching of these organic materials.

The following is copied from the city's website announcing that curbside collection has ended:

NO CURBSIDE VACUUM LEAF COLLECTION STARTING IN 2023!

2023 is the first year the City of Bloomington will no longer offer curbside vacuum leaf collection. This decision was made after [two years of study and interaction with thousands of residents](#) indicating that ***the combination of mulching and composting as much as possible in one's yard, and bagging the rest for collection by the City's yard waste program is both do-able and preferable.*** Vacuum leaf collection is inefficient, environmentally wasteful, expensive, and difficult to staff.

The NEW ways that the City will support the management of your leaves are included below.

MULCHING AND COMPOSTING IN YOUR OWN YARD IS THE BEST OPTION

Recycling your leaves by mow mulching and/or composting in your own yard is the greenest way to manage your leaves and create useful fertilizer for your yard. It's natural, and less work than raking. Not sure how to mulch or compost? No problem - we can help!

- **EASIEST OPTION!!! Video:** [Mayor Hamilton Mow Mulching: Be a Climate Champion](#) (0m 58s) Mow mulch whenever there is a thin layer of leaves on the ground. You'll need to mow mulch ~ 3x/season.
- **Access Our Online content:** Click the link to access [short videos on mulching and composting, general information, and links to helpful articles from experts.](#)
- **Watch Testimonials from Others Who Made the Switch:** How did other people make the switch from raking to the property edge to mulching and composting? Here are a few testimonials:
 - [Testimonial from Devta Kidd](#)
 - [Testimonial from Michael Large](#)
- **Join the Facebook Community Dedicated to Mulching and Composting:** Ask a question, answer a question, find someone who wants your leaves, or find someone whose leaves you want! Click the link to [join this Facebook group.](#)
- Attend the ["Leave the Leaves \(and Do Less Yard Work!\)."](#) workshop on October 19 from 5:30-7:30pm led by Casey Kennett from [Urban Soil](#)

[Health](#). The workshop is hosted by the City of Bloomington Community Gardens, costs just \$12 per person, and will take place at the Willie Streeter Community Garden located at 2125 South Highland Avenue. Register for your spot today!

I, myself, participated in the pilot program leading up to the decision to cease curbside leaf vacuuming and have been, apparently illegally, composting leaves on my city lot and using leaves as mulch in my landscaping for many years. As the city website notes,

Q: Will composting leaves attract bugs & rodents?

A: Composting leaves creates a nice home for pollinators like bees & beetles and supplies larvae for birds to eat. Composting leaves will not attract rodents, but if you have them in your area, it is best to use a bin that has a lid so that you are not creating a comfy bed for them! Mowing or clearing the area around the bin and not putting it up against a house or a barn wall can also help.

Source: 1,000 Households Who Mulch Training and Education Subcommittee

Bloomington, rightly, takes pride in its conservation practices and efforts to promote sustainability. I was involved in efforts to attain Wildlife Habitat Community certification for the city from the National Wildlife Federation and Bird City recognition from Indiana Audubon Society a few years ago. Bloomington is also a Tree City and has several boards and commissions that promote sustainability such as Canopy Bloomington, the Environmental Commission, etc.

My own property is a Certified Wildlife Habitat, and I serve on the city parks Environmental Resource Advisory Committee, the Monroe County – Identify and Reduce Invasive Species group, Indiana Native Plant Society, Friends of Lake Monroe, and many other environmental groups.

In summary, it seems that Mr. Davis is being selectively targeted by the city for the very same activities that other citizens are being encouraged to practice, activities that align with the city's environmental aspirations and goals. If he is in violation, we all are!

Respectfully,

Cathy Meyer

Tenth Email from Petitioner

Jacqueline Scanlan <scanlanj@bloomington.in.gov>

**Fwd: Appeal of HAND NOV and Request for Abatement**

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:57 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lcagonz@iu.edu>

----- Forwarded message -----

From: **Christopher Wheeler** <wheelech@bloomington.in.gov>

Date: Fri, Sep 29, 2023 at 2:40 PM

Subject: Re: Appeal of HAND NOV and Request for Abatement

To: joe davis <balebuilder@gmail.com>

Cc: Colleen Newbill <colleen.newbill@bloomington.in.gov>, Mike Rouker <roukerm@bloomington.in.gov>, April Rosenberger <april.rosenberger@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, <jeremy@bloomingtonian.com>

Mr. Davis,

Thank you for your email. The September 12, 2023 Board of Public Works agenda items regarding your property were continued to bring the Public Works actions and the Board of Zoning Appeals action closer together in time. All of these proceedings involve the same parties and the same general evidence. I would also note that the continuance also afforded you additional time to review the materials contained in the BPW packet that was released on September 8, 2023, as you had requested.

Sincerely,

Chris Wheeler

On Fri, Sep 29, 2023 at 11:15 AM joe davis <balebuilder@gmail.com> wrote:

Ms. Newbill,

This is a follow-up, on my previous unanswered email.

Thank you,
-Joe

812-525-9706

On Tue, Sep 26, 2023 at 3:28 PM joe davis <balebuilder@gmail.com> wrote:

Dear Ms. Newbill,

I would like to ask the reason for my HAND appeals to the NOV w/ Fine, and the Request for Abatement, were moved from the 9-12-23 date to the 9-26-23 date of today? I do understand that the second continuance for this matter, for City officials health reasons, was moved to two weeks into the future, from today. However, I do wish to know what prompted this first of currently two continuations? Thank you.

Always my best,
-Joe

812-525-9706

On Thu, Aug 31, 2023 at 2:38 PM Colleen Newbill <colleen.newbill@bloomington.in.gov> wrote:

Mr. Davis:

The Board of Public Works will address both your appeal of the Notice of Violation (NOV) and HAND's request for an abatement at its September 12, 2023 meeting. This is because the request for abatement arises out of the NOV issued on August 17, 2023, which is also the NOV you are appealing.

As for the evidence that will be presented at the Board's meeting, documentation and other information to be presented to the Board by the City will be provided in the meeting packet, which is made available the Friday before the Board's meeting. For the September 12 meeting, the packet will be made available sometime on September 8.

Colleen Newbill
Assistant City Attorney
City of Bloomington Legal Department
[401 N. Morton Street](#)
P O Box 100
Bloomington, IN 47402-0100
(812) 349-3426
(812) 349-3441 (fax)

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--

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

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Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Eleventh Email from Petitioner

Fwd: Invitation: Board of Public Works Meeting @ Tue Nov 22, 2022 5:30pm - 7pm (EST) (balebuilder@gmail.com)

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 12:00 PM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lucagonz@iu.edu>

----- Forwarded message -----

From: **Adam Wason** <wasona@bloomington.in.gov>

Date: Tue, Nov 22, 2022 at 1:37 PM

Subject: Re: Invitation: Board of Public Works Meeting @ Tue Nov 22, 2022 5:30pm - 7pm (EST) (balebuilder@gmail.com)

To: joe davis <balebuilder@gmail.com>

Cc: April Rosenberger <april.rosenberger@bloomington.in.gov>, Christopher Wheeler <wheelech@bloomington.in.gov>, Mike Rouker <roukerm@bloomington.in.gov>, Heather Lacy <heather.lacy@bloomington.in.gov>

Joe,

Here is a [link to the list of CATS recordings](#). If you scroll down you'll find the link to the 9/27 BPW meeting.

I've also confirmed with City legal that the term "garbage" is not defined in the zoning ordinance.

Adam Wason

Director, Department of Public Works

City of Bloomington, IN

wasona@bloomington.in.gov

812.349.3516

bloomington.in.gov

On Tue, Nov 22, 2022 at 1:19 PM joe davis <balebuilder@gmail.com> wrote:

Hi April !

Good day, to you. The sun is out today for Hoagy Carmichael's birthday. I'm hoping for a little Stardust to bless my appeal tonight.

Thank you for sending along the details. Speaking of which, I would like to review my earlier unsuccessful appeal that was made on 9-27-22 before the Public Works Board. Do you know where I might be able to find a video recap of that evening? Is there a transcript available? I would like to review all that was stated during my presentation.

Also, do you know which parts of the UDO/ Planning Ordinance define and describe the term 'garbage', and where it fits with BMC 6.06.020? I am having some difficulty navigating these land use control documents. Thank you.

'Til later, may you be hummin' with Hoagy, all the day long!

See you tonight,

-Joe

On Tue, Nov 22, 2022 at 10:31 AM <april.rosenberger@bloomington.in.gov> wrote:

Meeting Agenda and Packet can be found here:

https://bloomington.in.gov/onboard/meetingFiles?committee_id=27

Topic: Board of Public Works Meeting

Time: Nov 22, 2022 05:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://bloomington.zoom.us/j/83690576968?pwd=a2lySnFPTk1YeVhRT3RxTWdFTXRiUT09>

Meeting ID: 836 9057 6968

Passcode: 255144

Dial by your location

- +1 312 626 6799 US (Chicago)
- +1 646 931 3860 US
- +1 929 205 6099 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 309 205 3325 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 564 217 2000 US
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 719 359 4580 US

Meeting ID: 836 9057 6968

Passcode: 255144

Find your local number: <https://bloomington.zoom.us/u/keAFVWj4Yc>

When

Tuesday Nov 22, 2022 · 5:30pm – 7pm (Eastern Time - New York)

Location

City Hall-1-Cityhall Council Chambers (RM #115) (41)

[View map](#)

Guests

boruffj@bloomington.in.gov

thompsol@bloomington.in.gov

robinsos@bloomington.in.gov

williamm@bloomington.in.gov

heather.lacy@bloomington.in.gov

kehrbern@bloomington.in.gov

rembert@bloomington.in.gov
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martindj@bloomington.in.gov
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jen.lloyd@comcast.net
elizabethkaron5@gmail.com
news@wfhb.org
moneill@monroe.lib.in.us
wfiu@indiana.edu

wwu@indiana.edu

203

Junior Blondell

balebuilder@gmail.com

rob@wgclradio.com

government@heraldt.com

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Reply for balebuilder@gmail.com

Yes	No	Maybe	More options
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Twelfth Email from Petitioner
Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fwd: Letter of support for Joseph Davis

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:53 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lucagonz@iu.edu>

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>

Date: Tue, Oct 10, 2023 at 8:18 AM

Subject: Fwd: Letter of support for Joseph Davis

To: April Rosenberger <april.rosenberger@bloomington.in.gov>

Dear April,

Please make sure that this statement from Keith Romaine is included in tonight's BPW Board Packet.

Thanks,
-Joe

Joseph B Davis
530 S. Washington St.
Bloomington, IN 47401
812-525-9706
balebuilder@gmail.com

----- Forwarded message -----

From: **Romaine, J Keith** <jromaine@iu.edu>

Date: Mon, Oct 9, 2023 at 4:53 PM

Subject: Letter of support for Joseph Davis

To: April.rosenberger@bloomington.in.gov <April.rosenberger@bloomington.in.gov>

Cc: Balebuilder@gmail.com <Balebuilder@gmail.com>

Monday, October 9, 2023

To whom it may concern.

Joseph Davis, 530 South Washington St, Bloomington, is a natural builder and is committed to reusing valuable materials.

He an innovative leader in this type of construction in our community.

He is committed to environmentally sustainable living.

He is a strong advocate for biophilic cities and a future that works for all life on our planet.

He has also created a public gallery called, Smile Gallery.

This gallery is a contribution to his neighbors.

Thank you,
Keith Romaine, MFA, PhD.
Professor of Art, IUPUC and Ivy Tech Community College

907 South Madison St
Bloomington, IN



Joseph Davis Letter.docx

13K

**Twelfth Email from Petitioner
First Attachment**

Monday, October 9, 2023
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Thank you,
Keith Romaine, MFA, PhD.
Professor of Art, IUPUC and Ivy Tech Community College
907 South Madison St
Bloomington, IN



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Thirteenth Email from Petitioner**Fwd: Mr. Joe Davis letter of support**

joe davis <balebuilder@gmail.com>

Fri, Oct 13, 2023 at 11:56 AM

To: Jacqueline Scanlan <scanlanj@bloomington.in.gov>, Dave Askins <dave@bsquarebulletin.com>, jeremy@bloomingtonian.com, "Gonzalez, Lucas Emanuel" <lucagonz@iu.edu>

----- Forwarded message -----

From: **joe davis** <balebuilder@gmail.com>

Date: Tue, Oct 10, 2023 at 8:24 AM

Subject: Fwd: Mr. Joe Davis letter of support

To: April Rosenberger <april.rosenberger@bloomington.in.gov>

Dear April,

Please make sure that this message of support, from Chris Banul, is included in tonight's Board of Public Works meeting Packet.

Thank you,
-Joe

----- Forwarded message -----

From: <chrisbanul@hotmail.com>

Date: Mon, Oct 9, 2023 at 3:02 PM

Subject: Fwd: Mr. Joe Davis letter of support

To: joe davis <balebuilder@gmail.com>

Sent from my iPhone

Begin forwarded message:

From: Chris Banul <chrisbanul@hotmail.com>**Date:** October 8, 2023 at 1:08:56 PM EDT**To:** april.rosenberger@bloomington.in.gov**Subject:** Mr. Joe Davis letter of support

Dear Ms. Rosenberger,

I am writing this today as a letter of support for Mr. Joe Davis. My name is Chris Banul and I have managed Ace Pawn shop at 532 south walnut for the past 23 years. I have been a part this neighborhood for a very long time.

Over the past several years my employees and I have been watching Mr. Davis efforts to improve his home and property according to his personal taste. Part of those efforts do require Mr. Davis to acquire various different types of building material that he stores onsite. In the last year or so he has built a privacy fence so a lot of his collection can't be seen from the ally, Arby's parking lot, or South Walnut street.

A major part of my profession is buying and loaning on items either as collateral or to purchase for resale. I have spent over half my life assigning value to all kinds of items. I am also a woodworker and a "do it yourself" homeowner. The materials being classified as garbage are not being classified fairly and are not invaluable. All the wood, blocks, and metal pieces have monetary value to them and Mr. Davis correctly

208
treats them as such. He has invested time and effort into acquiring these items and has taken effort into protecting them from the elements where they are stored on the throughout his property.

While improving the interior and exterior look of my business over the past year, Mr Davis and I have become aquatinted and he has recently shared his frustration with HAND's accusations against him and efforts to remove his private possessions from his property.

Mr. Davis's efforts match most of the other businesses and homeowners in the neighborhood. His vision isn't mainstream but that is not for us or anyone to judge. Of all the problems our neighborhood is facing, Mr. Davis and his property is not one of them. He is an artist, a "do it yourselfer," and has been a good neighbor and part of Bloomington's diverse and inclusive community.

The argument seems to be more of an aesthetic value placed on Mr Davis's possessions and even a criticism of how certain items are stored rather than some form of effort to improve public safety. Threats to remove his property are unfair and I would rather see Mr. Davis putting his time and effort into working on his projects than having to direct it trying to protect his property and limited finances from the city of Bloomington.

Please have more understanding and consideration towards him. He is just working on making his life happier and better and, as his neighbor and fellow human being, I would like see that for him.

Thank you for reading this,

Chris Banul