



City of Bloomington Common Council

Legislative Packet

Regular Session
followed by
Special Session

16 September 2009

Office of the Common Council
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Bloomington, Indiana 47402

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Packet Related Material

- **Memo**
- **Agenda**
- **Revised Notice and Schedule for Special Session to Consider Ord 09-12** (which, in part, sets forth items to be considered on Wednesday, September 16th)
- **Calendar**
- **Notice of Change of Time for Regular Session on September 16th (7:00 p.m.)**

Legislation for Final Action at the Regular Session on September 16th:

None

Legislation and Background Material for Introduction at the Regular Session on September 16th:

- **App Ord 09-08** To Specially Appropriate from the Electronic Map Generation Fund Expenditures Not Otherwise Appropriated (Appropriating Funds to Retain Consultant for the City's Geographic Information System)
 - Memo to the Council from Rick Dietz, Director of Information and Technology Services
Contact: Rick Dietz at dietzr@bloomington.in.gov
- **App Ord 09-09** To Specially Appropriate from the General Fund Expenditures Not Otherwise Appropriated (Appropriating a PetSmart Charities Grant for Use by the Animal Care and Control Department)
 - Memo to the Council from Mike Trexler, Controller
Contact: Mike Trexler at 349-3412 or trexlerm@bloomington.in.gov
- **Ord 09-17** To Vacate Four Public Parcels - Re: A Portion of North Madison Street, West 12th Street and Two Alleys Located Between North

Rogers Street, the Indiana Railroad, 350 West 11th Street and West 11th Street (Doug Dayhoff, Upland Brewing Company, Inc., and Middle Court Real Estate, LLC (together “Upland”), Petitioners)

- Aerial Map of Area; Survey of Right-of-Way; Photo of the North Madison Street Right-of-Way; Memo to Council from Lynne Darland, Zoning and Enforcement Manager; Petition and List of Abutting Property Owners; Letter from Petitioner; Renderings of Current Site, Phase 1 and Phase 2; Insert Indicating Responses from Utilities and Emergency Services
Contact: Lynne Darland at 349-3529 or darlandl@bloomington.in.gov

Minutes from Regular Session:

None

Items for Consideration at the Continuation of Special Session to Consider Ord 09-12 which Brings Forward Dozens of Amendments to the Unified Development Ordinance – Final Action Expected This Evening:

There are five amendment items ¹ which were carried-over from the August 5th meeting to be considered on September 16th. All of these are included in this packet:

- **UDO-094 - Defines “primary” and “secondary” exterior finish materials**
- **CCL- 011 (Amends UDO-077) – Sturbaum – Re: Reduces void to solid ratio on first floor facades in all Downtown Overlay districts. (*Note: CLL-011 applies the regulation to the B-Line Trail*)**
- **UDO-078 – Sturbaum – Re: Prohibits residential uses on the ground floor along key corridors**
- **CCL-003(a) / CCL-003(b) (Amending UDO-082) – Sturbaum/Piedmont-Smith – Re: Requires landscaping be installed when buildings are demolished unless a development plan is approved. (*Note: There are two versions of CCL-003 available for introduction Wednesday night.*)**
- **CCL-014 – Council Office – Re: Assembles Amendments into Three Attachments and Returns the Ordinance to the Plan Commission for Their Action**

¹ One of these items has more than one amendment associated with it which may make the evening longer than one might otherwise expect.

Please see the [8 July 2009 Special Session](#) packet to view all the amendments initially presented to the Council on that date.

Memo

Regular Session Followed by Special Session on September 16th - Meeting Starts at 7:00 p.m. -

There are two meetings next Wednesday. The first is a Regular Session to introduce three ordinances (which are included in this packet). It will begin at 7:00 p.m. in order to allow more time to discuss items at the Special Session that immediately follows the Regular Session. The second meeting is scheduled to be the last in a series of meetings that comprise one long Special Session convened for the purpose of considering **Ord 09-12**. **Ord 09-12** came forward from the Plan Commission and includes dozens of amendments to the Unified Development Ordinance.

First Readings

Item One – App Ord 09-08 – Appropriating \$13,861 from the Electronic Map Generation Fund to Retain a Consultant for the GIS Program

App Ord 09-08 appropriates approximately \$13,861 from the Electronic Map Generation Fund to hire *Image Matters* as a consultant for the Information and Technology Services (ITS) Department’s Geographical Information System (GIS).

Project – Plan for Future Needs

The memo from Rick Dietz, Director of ITS, says the City is “approaching its 20 year anniversary with GIS technology ... (and the) GenaMap suite of GIS software.” That’s a long time for critical software to be used without a serious look at alternatives, especially when the company appears to be focusing in other directions. For that reason, the ITS department is “undertaking a multi-step project to evaluate and formulate a plan for the future of GIS at the City.” These steps include:

- “(D)ocumenting all aspects of our current GIS” system;
- Surveying the City’s user-base and other stake-holders about its current use; and
- “(E) xploring how (to) serve any unmet needs, make better use of our resources and ... meet (future) needs.”

Choice of Consultant (*Image Matters*)

Because the “GIS staff lacks the time, expertise and resources to fully evaluate all the various technology options in the market place and assess them against (the City’s) current situation,” the ITS Department sought out a consultant for the study. It has settled on *Image Matters*, in large part, because they:

- Are a software and technology services company that specializes in geospatial and web technology; and
- Have “senior staff assigned to the project” who:
 - have an “extensive experience in the (field) and have worked extensively with government clients;”
 - “Can keep project overhead costs low” because they are located here and are familiar with both the community and City government; and
 - “have expertise with open source GIS technology as well as the traditional GIS vendors.”

Fund

As noted above, the money will come from the Electronic Map Generation Fund. This is a dedicated fund that was established in 2001 (BMC 2.25.060). It garners revenue from the fees collected for providing electronic maps. In 2008 it received \$2,982 in fees and currently has a balance of approximately \$17,967. The monies are to be used to:

- Maintain, upgrade and enhance the GIS database; and
- Reimburse City departments for expenses incurred in “supplying GIS Database information in the form requested.”

Item Two – App Ord 09-09 – Appropriating a \$16, 498 PetSmart Charities Grant to Resurface the Dog Kennel Area in the Animal Shelter

App Ord 09-09 appropriates \$16,498 of a PetSmart Charities grant to resurface the floors in the outside portion of the stray dog kennel with a very durable concrete-based product. This is the second grant for this purpose and will improve sanitation and reduce the transmission of disease in this area. The grant was received at the end of July.

Item Three - Ord 09-17 – Vacating Portions of North Madison, West 12th and Two Alleys Near 350 West 11th Street (Doug Dayhoff, et al, Petitioner)

Ord 09-17 vacates portions of North Madison Street, West 12th Street, and two alleys on behalf of Doug Dayhoff and various entities he owns, including Upland Brewery Company, Inc. and Middle Court Real Estate, LLC, together known as “Upland.” These parcels amount to approximately 0.77 acres and are located between West 11th Street on the south, 350 West 11th Street on the east, Indiana Railroad on the north, and Rogers Street on the west. Upland is requesting this action in order to allow for a two-phased expansion of its Brewery and restaurant.

General Vacation Procedures

Vacations of right-of-ways are governed by specific statutory procedures. Those procedures are found at I.C. 36-7-3-12 et seq. and start with the petitioner filing an application with the Council. The Clerk must assure that owners of property abutting the right-of-way are notified by certified mail of the proposed action and must also advertise the hearing wherein the public may offer its comments and objections against the ordinance to the Council (October 7, 2009). According to statute, the grounds for remonstrance are limited to questions of access and the orderly development of the area. In the event the ordinance is adopted by the Council, the Clerk must then file a copy with the County Recorder and the County Auditor.

In Bloomington, we begin with a pre-petition application submitted to the Planning Department. Staff reviews the request and notifies all the utility services, safety services and the Board of Public Works of the proposed action. After receiving the responses and evaluating the proposal in terms of local criteria, staff prepares a report and an ordinance for the Council Office. At that point, a formal petition is signed by the Petitioner, and the City Clerk then assures that an ad is placed in the paper and that abutting property owners have been notified by certified mail of the public hearing

Please note that the Council’s action to vacate a right-of-way or an easement must be done in the public interest. It extinguishes the City’s interest in the property and generally has the effect of splitting the right-of-way between the adjacent owners.

The following paragraphs summarize the application of the local criteria to this request as presented in reports and background material provided by Lynne Darland, Zoning and Enforcement Manager.

Petition

According to the Memo from Lynne Darland, letter from Petitioner, and other information provided by the Plan Department, the Petitioner has, over the years, acquired property to the north and west of the Upland Brewery and Restaurant and is seeking to expand the facilities onsite in two phases. The first phase, which can occur soon after the vacation, would expand the outdoor eating area on the west side of the restaurant approximately 10' into the North Madison Street right-of-way. The second phase would expand the brewery on the west and provide a drive on the western side that would access the back of the building. The Petitioner explains that the vacation will allow him to keep the production operations in one place and still in the downtown. This, in turn, will keep jobs and continue to provide a tourist attraction and amenity in the downtown as well.

Description of Vacated Property. The ordinance would vacate portions of four City-owned right-of-ways. These right-of-ways amount to approximately 0.77 acres and are located within an area surrounded by 11th Street on the south, 350 West 11th Street on the east, Indiana Railroad on the north, and Rogers Street on the West. They include:

- 1) an angled portion of North Madison Street which is 50' wide and runs north from 11th Street for approximately 560';
- 2) a nearly rectangular portion of an alley which intersects with the aforementioned part of North Madison just north of 11th Street, which is 12' wide and runs west for approximately 59';
- 3) an irregularly-shaped portion of West 12th Street which intersects with the aforementioned part of North Madison north of the aforementioned alley and which is 50' wide and runs approximately 123' to the west; and lastly
- 4) an angled portion of an alley which intersects with the aforementioned part of North Madison Street just north of West 12th Street and which is 12' wide and runs west for approximately 56'.

Please note that the survey map of these right-of-ways is enclosed in this packet and the legal description was provided by the petitioner and is set forth in the ordinance.

Interest of Utilities and Safety Services. I.C. 36-7-3-16 protects utilities which occupy or use all or part of the public way from losing their rights upon the vacation of the right-of-way, unless they choose to waive those rights.

There are two entities with interests in these right-of-ways: Vectren and the City of Bloomington. Vectren has gas lines in some of these right-of-ways and the City has stormwater and sanitary sewer lines and needs travel on the right-of-ways to work on

the Rogers Street bridge. Vickie Renfrow, Assistant City Attorney, has worked with the Petitioner to protect the City's interests during Phase 1 of the Petitioner's project through use of a "blanket easement." The "blanket easement" would:

- grant the City access to the entire vacated area (outside of the footprint of the expansion) to work on its facilities;
- require the Petitioner to relocate a sanitary sewer line which would otherwise be under the expansion of the building;
- hold the City harmless for any damage caused by trucks and other equipment needed to repair the utility lines and bridge; and
- be executed prior to Council discussion on September 23rd and recorded after adoption of the ordinance.

Please note that Vickie is exploring whether Vectren would want to be a part of the blanket easement. Also, please note that a subsequent, more specific easement would replace the blanket easement in the event the Petitioner resolves further issues in the course of going forward with Phase 2.

Please note that the Police and Fire departments were also contacted and found no problem with the vacation.

Criteria for Reviewing Vacation of Right-of-Way

Current Status - Access to Property. The Plan Memo indicates that the right-of-ways are used as private access the Upland Brewery and accessory buildings. Upland has acquired adjacent properties and now is in a position to expand its operations. As noted above, it will grant the City a blanket easement before Phase 1 of the project in order to protect the City's interests in the area.

Necessity for Growth

Future Status – The Staff Report found that “no public utilization of this right-of-way is anticipated by the City [and that] ...[a]ll public services can be adequately served through use of easements.”

Private Ownership Utilization – Concerns of Surrounding Property Owners. The Memo from Darland does not mention any concerns from neighbors. Much of the eastern half of North Madison would revert to Westwood Bloomington, LLC, which owns the site of the former car dealership to the east. In that regard, the Report does note the steep grade along this side of the right-of-way would make development difficult.

Compliance with regulations – Unlike almost all previous vacation petitions, this one comes forward without the Planning approvals in place. The Staff Report says that the vacation “will not create any issues regarding compliance with local regulations.” When ready, the site plan for Phase I and Phase II will require review by the Plan Commission. In addition, the Plan Commission and Board of Zoning Appeals will need to review a use variance to allow a brewery (rather than a brewpub) in the downtown. The Report notes that “Planning staff has reviewed both the schematic site plan and renderings (in packet) ... (and) is confident that the (P)etitioner can gain future site plan approvals with minimal issues.”

This site is in the Showers Technology Park Overlay District. Provisions governing development are found at BMC 20.03.360 – 420. See [Chapter 20.03](#) of the BMC.

Relation to City Plans – The Staff Report indicates that “the proposal is consistent with City plans.” It says that the Petitioner has “worked diligently and faithfully with the City to ...bring jobs and tourism to the downtown” and that the “loss of the right-of-way does not conflict with the City’s Thoroughfare Plan or Growth Policies Plan.”

Approvals and Recommendation

The Board of Public Works voted on August 18, 2009 to recommend approval of this action contingent upon the delivery and execution of the “blanket easement” (which, Vickie Renfrow believes, should be done by September 23rd).

Special Session to Consider Ord 09-12 which Includes Dozens of Amendments to the UDO

The Council will convene after the Regular Session next week to complete its review of **Ord 09-12**, which contains dozens of amendments to the Unified Development Ordinance. This review has taken about 15 hours so far and has been performed during one long Special Session that included meetings on July 8th, July 15th, July 29th and August 15th. There are five amendment items which were carried-over from the last meeting for consideration on September 16th. All of these are included in this packet and are briefly noted below:

- **UDO-094 - Defines “primary” and “secondary” exterior finish materials**
(This amendment was held over on behalf of Councilmember Sturbaum who, after Council adoption of CCL-002, which amended UDO-076 (Restriction on certain exterior materials), decided not to try to amend it.)

- **CCL- 011 (Amends UDO-077) – Sturbaum – Re: Reduces void-to-solid ratio on first floor facades in all Downtown Overlay districts.**
 - *CCL-011 amends UDO-007, which came forward with a positive recommendation from the Plan Commission and was adopted by the Council on July 15th;*
 - *CLL-011 extends the regulation to the B-Line Trail*

- **UDO-078 – Sturbaum – Re: Prohibits residential uses on the ground floor along key corridors** *This amendment was not adopted by the Plan Commission and is being reintroduced at the Council.*

- **CCL-003(a) /CCL-003(b) (Amending UDO-082) – Sturbaum / Piedmont-Smith – Re: Requires landscaping be installed when buildings are demolished unless a development plan is approved.**
 - *There are two versions of CCL-003 –Version (a) and Version (b). Both amend UDO-082, which was not adopted by the Plan Commission, by adding new requirements for demolition permits. Specifically, any request for a demolition permit would be required to provide a post-demolition plan for the site that could include turf grass, other ground cover, trees/shrubs or planters. Once the demolition has been completed, the post-demolition landscape plan would have to be implemented as shown on the approved plan. A site could only be released from this requirement if the demolition permit is accompanied by a proposed development plan that is submitted to the Planning Department to initiate the review process.*
 - *CCL-003 (b) differs from CCL-003 (a) in regard to the treatment of lots greater than one-half acre. Specifically, it requires a 10-ft wide planting area along all property lines bordering a public street, whereas CCL-003(a) requires that planting area only along the street in front of where the demolition occurred.*
 - *Note: It is my understanding that Plan Staff supports Version (a);*

- **CCL-014 – Council Office – Re: Assembles Amendments into Three Attachments and Returns the Ordinance to the Plan Commission for their Action**
 - *This amendment would reassemble the amendments adopted by the Council into three attachments.*

- *The first would include amendments favored by the Plan Commission and adopted by the Common Council without change.*
- *The second would include amendments forwarded by the Plan Commission that were amended by the Council.*
- *The third would include an amendment initiated by the Council for consideration by the Plan Commission under I.C. 36-7-4-607(b), which gives the Commission 60 days to hold a hearing on the matter.*
- *Lastly, this amendment authorizes the Council Administrator/Attorney to prepare the necessary documents for consideration of the changes to this ordinance by the Plan Commission under I.C. 36-7-4-607 (e) and (f).*

What Happens Next - Statutory Procedure and Timeframe

Please note that State law provides procedures and time frames for Council action on amendments to the UDO. According to IC 36-7-4-607, the Council must act on the amendments within 90 days after having received certification of action by the Plan Commission or the amendments will go into effect as if adopted at that time. That 90-day period will expire on September 23, 2009. By that time, the Council must return any amendments it rejected or amended back to the Plan Commission with a written statement of reasons for that action. The ordinance will stand as adopted by the Council, unless the Plan Commission sends a report within 45 days after receiving the statement.² If the report affirms the action of the Council, then the ordinance is considered adopted on the date of receipt of the report. But, if the report disapproves the action of the Council, then the Council must affirm its action within another 45 days in order for the ordinance to take effect.

² There is one amendment which was initiated by the Council (CCL-007 – Satterfield – Drive-Through Bays for Banks) and triggers a different time frame mentioned above under CCL-014.

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
AND SPECIAL SESSION
7:00 P.M., WEDNESDAY, SEPTEMBER 16, 2009
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: None

IV. REPORTS FROM:

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

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

None

VII. LEGISLATION FOR FIRST READING

1. Appropriation Ordinance 09-08 To Specially Appropriate from the Electronic Map Generation Fund Expenditures Not Otherwise Appropriated (Appropriating Funds to Retain Consultant for the City's Geographic Information System)
2. Appropriation Ordinance 09-09 To Specially Appropriate from the General Fund Expenditures Not Otherwise Appropriated (Appropriating a PetSmart Charities Grant for Use by the Animal Care and Control Department)
3. Ordinance 09-17 To Vacate Four Public Parcels - Re: A Portion of North Madison Street, West 12th Street and Two Alleys Located Between North Rogers Street, the Indiana Railroad, 350 West 11th Street and West 11th Street. (Doug Dayhoff, Upland Brewing Company, Inc., and Middle Court Real Estate, LLC [together "Upland"], Petitioners)

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

IX. ADJOURN

(and immediately reconvene for)

**CONTINUATION OF SPECIAL SESSION
FOR CONSIDERATION OF ORDINANCE 09-12**

(See Schedule)

**Schedule for Common Council Consideration of Ordinance 09-12 which
Brings Forward Amendments to the Unified Development Ordinance from the
Plan Commission as a Result of Its Periodic Review of Title 20 of the
Bloomington Municipal Code
(Revised September 11, 2009)**

**SPECIAL SESSION TO CONSIDER AMENDMENTS TO THE UNIFIED
DEVELOPMENT ORDINANCE (ORD 09-12) WHICH WILL BE HELD ON THE
FOLLOWING EVENINGS AT THE FOLLOWING TIMES:**

WEDNESDAY, JULY 8, 2009 - 7:00 P.M.

Motion to Introduce Ordinance 09-12- *adopted*

Motion to Approve Schedule - *adopted*

Motion to Approve Procedure - *adopted*

The Council divided the question regarding the following list of amendments: UDO-001 – UDO-061 (Excluding UDO-025, UDO-02 and UDO-044). All but those noted in italics below were adopted with one motion. As noted below, two were revised before adoption, one was postponed, and another was set for reconsideration on August 5th:

- UDO-001 **Rooming house – adds asterisk.**
- UDO-002 **Establishes parking setback from *proposed* rather than *existing* right of way or easement in IG/QY districts.**
- UDO-003 **Pitched roof exception – extends to Third Street.**
- UDO-004 **Defines “proposal” as it relates to projects within the CD zoning district**
- UDO-005 **Adds one PUD final plan change that may be approved by Planning Director.**
- UDO-006 **Adds missing restrictions on accessory structures in multifamily zoning districts.**
- UDO-007 **Provides for some variation in sidewalk/tree plot designs.**
- UDO-008 **Requires connector paths to link developments to multi-use trails.**
- UDO-009 **Makes reduction of bike parking discretionary rather than automatic in CD zoning district.**
- UDO-010 **Clarifies calculation of amount of bicycle parking.**
- UDO-011 **Clarifies height and accessory status of communication facilities in CD district.**
- UDO-012 **Prohibits driveway design where driveway is parallel to street.**
- UDO-013 **Requires entrance & drive design to be paved (like parking areas).**
- UDO-014 **Requires conservation easements for wetland buffer areas.**
- UDO-015 **Corrects UDO reference.**
- UDO-016 **Clarifies fence height maximum & calculation of decorative features.**
- UDO-017 **Corrects topographic error.**
- UDO-018 **Corrects statutory reference.**
- UDO-019 **Makes landscaping of buffer yards separate from general landscaping requirements.**
- UDO-020 **Planting requirements – increases canopy tree requirements and makes interior requirements consistent.**

- UDO-021 **Clarifies landscaping requirement.**
- UDO-022 **Clarifies parking lot island and bump-out location and function.**
- UDO-023 **Clarifies outdoor storage and merchandizing requirements.**
(Revised on July 8, 2009 to correct error)

- UDO-024 **Adds omitted requirement for maximum parking lot slope.**
- UDO-026 **Corrects omission regarding parallel parking dimensions.**
- UDO-028 **Allows back-out parking on non-arterial streets in Core Neighborhoods.**
- UDO-029 **Clarifies setback for recreational equipment.**
- UDO-030 **Establishes same setback for detached and attached carports.**
- UDO-031 **Corrects statutory reference.**
- UDO-032 **Adds cross-references for exceptions to off-premises signs.**
- UDO-033 **Clarifies requirements for changeable copy on freestanding signs.**
- UDO-034 **Prohibits external illumination of temporary signs. *(On July 8th, the Council postponed consideration of this item until August 5, 2009 and on July 15th the Council moved consideration of this item to July 29th.)***
- CCL-006

- UDO-035 **Corrects section heading for multifamily signage.**
- UDO-036 **Creates wall signage allowance for multi-tenant non-residential centers.**
- UDO-037 **Clarifies minimum lot frontage requirements for freestanding signs.**
- UDO-038 **Corrects word usage in reference to drive-though bays. *(On July 10th, Cm. Satterfield declared his intent to request reconsideration and revision of this amendment at future meeting during this Special Session.)***
- CCL-007

- UDO-039 **Clarifies exemption regarding temporary containers used for charitable purposes.**

- UDO-040 **Corrects setback error for conservation subdivisions.**
 UDO-041 **Clarifies permitted activities within conservation/preservation easements.**
 UDO-042 **Requires public street frontage for new residential lots.**
 UDO-043 **Clarifies requirement for installation of no parking signs.**
(Revised on July 8, 2009 to correct error.)
- UDO-045 **Exempts construction of small accessory structures from events that end status as a non-conforming use in non-residential and multifamily properties.**
- UDO-046 **Requires developer to list bike rack model type.**
 UDO-047 **Requires petitioner to list scientific name of landscape species.**
 UDO-048 **Corrects typographical error under subdivision control.**
 UDO-049 **Defines start and duration of timing of final plat.**
 UDO-050 **Clarifies effect of withdrawal of demolition delay application.**
 UDO-051 **Requires submission of complete application before Demolition Delay waiting period begins.**
- UDO-052 **Adds basketball courts and batting cages to definition of recreational equipment.**
 UDO-053 **Clarifies change from one residential use to another and adds abandonment as a change in use.**
- UDO-054 **Adds “florist” to class of use table in definitions.**
 UDO-055 **Establishes depth of projection from wall to definition of wall sign.**
 UDO-056 **Changes definition of impound vehicle storage to include both inside and outside storage.**
 UDO-057 **Conforms erosion and storm water regulations to Title 10 of the BMC.**
 UDO-058 **Corrects references to Bicycle and Pedestrian Plan.**
 UDO-059 **Resolves conflict between temporary use and structure provisions for temporary signs.**
 UDO-060 **Corrects definition of outpatient care facility.**
 UDO-061 **Clarifies definition of basement to establish when it constitutes a “story”.**

The Council considered separate motions regarding the following map amendments and adopted them both:

- UDO-062 **Map Amendment - Rezones remaining part of the Highpoint PUD from PUD to CD/DEO.**
 UDO-063 **Map Amendment – Rezones Basswood area property from IN to RM.**

The Council considered individual motions regarding the following text amendments and took the actions noted in italics in regard to each one:

- UDO-065 **Prohibits primary pedestrian entrance in CD district to be off an alley.** *(On July 8th, the Council adopted this amendment...)*
- UDO-066 **Clarifies “masonry” materials to be used in residential projects.** *(On July 8th, the Council postponed consideration of this item until August 5th.)*
 CCL-008
- UDO-067 **Allows additions to single family attached and detached structures to have flat roofs.** *(Note: On July 8th the Council considered and rejected an amendment (CCL-005) to this item and then adopted UDO-067.)*
- UDO-068 **Clarifies that LEED-NC guidelines used in the UDO are periodically updated by USGBC.** *(On July 8th, the Council adopted this amendment.)*
- UDO-069 **Revises list of landscaping to add native species and prohibit certain invasive species.** *(On July 8th, the Council postponed consideration of this item until August 5th and on July 15th the Council moved consideration of this item to July 29th.)*
 CCL-009
- UDO-070 **Allows window signs on upper floors but counts such signs towards sign allotment.** *(On July 8th, the Council adopted this amendment.)*
- UDO-071 **Allows only attached wall signs and sandwich board signs outside of right-of-way along the B-Line trail** *(On July 8th, the Council adopted this amendment.)*

FRIDAY, JULY 10, 2009 – 10:00 a.m.

- *Deadline for Declaring Intent to Revive Amendments Non-Adopted by the Plan Commission and the Introduction of New Amendments.*
- *Deadline for Submitting Revived Amendments, Revised Amendments, and New Amendments for Consideration on the Evening of Wednesday, July 15, 2009*

WEDNESDAY, JULY 15, 2009

(AFTER REGULAR SESSION WHICH STARTS AT 7:00 P.M.)

The Council considered individual motions regarding the following text amendments and took the actions noted below in italics:

- UDO-075 **Converts density from units per acre to bedrooms per acre.** *(On July 15th, the Council postponed consideration of this amendment until August 5, 2009 at the request of*
 CCL-010

Councilmember Volan, who may amend it or prepare a new amendment to address this issue.

- UDO-077 **Reduces void to solid ratio on first floor facades in all Downtown Overlay districts.** (*On July 15th, the Council adopted this amendment, but allowed for it to be amended on August 5th.)*)
CCL-011
UDO-079 **Adds architectural design requirement along arterial streets.** (*On July 15th, the Council adopted this amendment.*)
UDO-080 **Adds requirements for some areas now exempt from riparian buffer zones.** (*On July 15th, the Council voted to consider this amendment on July 29th.)*)
CCL-001 **Promotes Sustainable Development Practices** (*This amendment was not adopted by the Plan Commission. On July 10th, Cm. Piedmont-Smith declared her intent to reintroduce and amend this amendment. On July 15th, the Council adopted CCL-001 which amended this amendment.*)
UDO-074
CCL-002 **Restricts use of EIFS and other surface building materials in CD district.** (*On July 10th, Cm. Sturbaum declared his intent to reintroduce and revise this amendment. On July 15th, the Council did not reach consideration of this item which, according to Special Session procedure, meant this item would be taken up at the July 29th meeting.*)
UDO-076

FRIDAY, JULY 17, 2009 – 10.00 a.m.

- *Deadline for Submitting Revived Amendments, Revised Amendments, and New Amendments for Consideration on the Evening of Wednesday, July 29, 2009*

WEDNESDAY, JULY 29, 2009 – 7:00 P.M.

The Council considered the following text amendments and took the actions regarding them as noted in italics:

- UDO-080 **Adds requirements for some areas now exempt from riparian buffer zones.** (*On July 15th, the Council voted to consider this amendment on July 29th. On July 29th, the Council adopted this amendment.*)
CCL-002 **Restricts use of EIFS and other surface building materials in CD district.** (*This amendment was not adopted by the Plan Commission. On July 10th, Cm. Sturbaum declared his intent to reintroduce and amend this amendment. On July 15th, the Council did not reach consideration of this item which, according to Special Session procedure, meant this item would be taken up at the July 29th meeting. On July 29th, the Council adopted this amendment.*)
UDO-076
UDO-081 **Reduces buffer yard requirements.** (*On July 29th, the Council adopted this amendment.*)
UDO-083 **Converts minimum to maximum parking in non-residential, multifamily and affordable single family developments.** (*On July 10th, Cm. Volan declared his intent to amend this amendment or introduce a new amendment on this subject. On July 24th, the schedule was revised to note that staff will request consideration of an amendment that incorporates UDO-025, UDO-027, and UDO-044. On July 29th, the Council adopted CCL-013.*)
CCL-013
UDO-025 **Clarifies calculation of car dealer parking.** (*On July 29th, the Council denied this amendment because it had been incorporated into CCL-013.*)
UDO-027 **Allows stacked parking for MF garages** (*On July 29th, the Council denied this amendment because it had been incorporated into CCL-013.*)
UDO-044 **Clarifies when parking setback, impervious surface, and entrances/drive requirements are necessary for non-conforming properties.** (*On July 29th, the Council denied this amendment because it had been incorporated into CCL-013.*)
UDO-085 **Adds or changes parking requirements for preschools, outdoor storage, and brewpubs.** (*On July 29th, the Council adopted this amendment.*)
UDO-086 **Defines and adds parking requirements for “outdoor retail.”** (*On July 29th, the Council adopted this amendment.*)
UDO-088 **Relaxes restrictions on size and duration of political signs to conform to case law.** (*On July 29th, the Council adopted this amendment.*)
UDO-089 **Changes restrictions on “reader board” signs to conform to case law** (*On July 29th, the Council adopted this amendment.*)
CCL-003 **Requires landscaping be installed when buildings are demolished unless a development plan is approved.** (*This amendment was not adopted by the Plan Commission. On July 10th, Cm. Sturbaum declared his intent to introduce CCL-003 which amends this amendment. On July 24th, he declared is intent to request postponement until August 5th to provide time to draft the amendment. On July 29th, the Council agreed to postpone this amendment and place at the end of the August 5th agenda with the possibility that it would be considered in September if the Council did not complete its deliberations that evening.*)
UDO-082
UDO-034 **Prohibits external illumination of temporary signs.** (*On July 8th, the Council postponed this item to August 5th and on July 15th moved its consideration to July 29th. On July 17th, Plan Staff submitted CCL-006 which defined “externally” and “internally” illuminated signs. On July 29th, the Council adopted CCL-0006.*)
CCL-006
UDO-069 **Revises list of landscaping to add native species and prohibit certain invasive species.** (*On July 8th, the Council postponed consideration of this item to August 5th and on July 15th moved*)
CCL-009

its consideration to July 29th. On July 17th, Plan Staff submitted an amendment which suitable and unsuitable cultivars of the “flowering crabapple” tree. On July 29th, the Council did not reach this item and will, therefore, hear it first on August 5th.) On July

FRIDAY, JULY 31, 2009 – 10:00 a.m.

- *Deadline for Submitting Revived Amendments, Revised Amendments, and New Amendments for Consideration on the Evening of Wednesday, July 29, 2009*

WEDNESDAY, AUGUST 5, 2009 (AFTER THE REGULAR SESSION WHICH BEGINS AT 7:00 P.M.)

The Council will Consider Individual Motions Regarding the Following Text Amendments:

- CCL-009** **Revises list of landscaping to add native species and prohibit certain invasive species.** (On July 8th, the Council postponed consideration of this item to August 5th and on July 15th moved its consideration to July 29th. On July 17th, Plan Staff submitted an amendment which suitable and unsuitable cultivars of the “flowering crabapple” tree. On July 29th, the Council did not reach this item and then adopted it on August 5th.)
- UDO-069**
- UDO-090** **Restricts seasonal sale of fireworks to CA districts and clarifies length seasonal sales are permitted.** (On August 5th the Council adopted this item.)
- UDO-091** **Adds maximum suburban parent tract size for Suburban Subdivision type.** (On August 5th, the Council adopted this item.)
- UDO-092** **Requires more detail for models accompanying downtown development proposals** (On August 5th, the Council adopted this item.)
- UDO-095** **Defines certain urban agricultural activities and imposes special conditions on**
- CCL-015** **community gardens in residential zones.** (On August 5th, the Council adopted CCL-015.)
- CCL-004** **Requires grading permit for single family lots which have not been part of a larger**
- UDO-093** **grading plan.** (This amendment was not adopted by the Plan Commission. On July 10th, Cm. Piedmont-Smith declared her intent to reintroduce and amend this amendment. On August 5th, the Council adopted CCL-004.)
- CCL-008** **Clarifies “masonry” materials to be used in residential projects.** (UDO-066 was adopted
- UDO-066** **by the Plan Commission and postponed on July 8th to August 5th by the Council. On August 5th, the Council adopted CCL-008 which amended UDO-066.)**

Other Amendments Declared by Council Members by July 10, 2009 and to be filed with the Council Office by July 31, 2009

- CCL-007** **Allows banks to have up to three drive-through bays in CD district** (On July 10th, during discussion of UDO-038, Cm. Satterfield declared his intent to, among other possible actions, introduce a new amendment on the subject of drive-through bays and banks. On July 31, Cm Satterfield submitted CCL-007 which, if adopted, would be treated as a Council initiative to amend the UDO under I.C. 36—4-607(b). On August 5th, the Council adopted this item.)
- CCL-010** **Converts density from units per acre to bedrooms per acre; Creates a weighting**
- UDO-075** **system that encourages efficiencies and 1-bedroom units and discourages 4-bedroom and 5-bedroom units.** (UDO-075 was adopted by the Plan Commission. On July 15th, the Council postponed consideration of this amendment until August 5, 2009 at the request of Councilmember Volan, who intends to introduce CCL-010 in order to amend it. On August 5th, the Council adopted CCL-010.)
- UDO-083** ~~**Converts minimum to maximum parking in non-residential, multifamily and affordable single family developments.**~~ (On July 10th, Cm. Volan declared his intent to amend this amendment or introduce a new amendment on this subject. On July 29th, the Council considered CCL-013 which incorporates UDO-025, UDO-027, and UDO-044. By July 31st, Cm. Volan had not submitted an amendment to UDO-083.)
- UDO-094** **Defines “primary” and “secondary” exterior finish materials.** (On July 10th, Cm. Sturbaum
- CCL-012** **declared his intent to amend this amendment, but on July 31st indicated he would not do so.)**
- CCL-011** **Reduces void to solid ratio on first floor facades in all Downtown Overlay districts.** (On
- UDO-077** **July 15th, the Council adopted this amendment and allowed for it to be amended on August 5th.)**
- UDO-078** **Prohibits residential uses on the ground floor along key corridors.** (This amendment was not adopted by the Plan Commission. On July 10th, Cm. Sturbaum declared his intent to reintroduce this amendment without change.)

- CCL-003 (a) **Requires landscaping be installed when buildings are demolished unless a development plan is approved.** (UDO-082 was not adopted by the Plan Commission. On July 10th, Cm. Sturbaum declared his intent to introduce CCL-003, which amends this amendment. On July 24th, he declared is intent to request postponement until August 5th to provide time to draft the amendment. On July 29th, the Council agreed to postpone this amendment and place at the end of the August 5th agenda, with the possibility that it would be considered in September in the event the Council did not complete its deliberations that evening. On July 31st, Cm. Sturbaum submitted CCL-003(a) and CCL-003(b) with the expectation that CCL (a) would be sponsored by a Council member that evening.)
- CCL-003 (b)
- UDO-082

At the end of this meeting, the Council voted to continue the Special Session until after the Regular Session on September 16th to consider the remaining amendments.

WEDNESDAY, SEPTEMBER 16, 2009 (AFTER THE REGULAR SESSION WHICH BEGINS AT 7:00 P.M.)

The Council will Consider Individual Motions Regarding the Following Amendments Which were Carried Over from the August 5th Meeting:

- UDO-094 **Defines “primary” and “secondary” exterior finish materials.** (On July 10th, Cm. Sturbaum declared his intent to amend this amendment, but on July 31st indicated he would not do so.)
~~CCL-012~~
- CCL-011 **Reduces void to solid ratio on first floor facades in all Downtown Overlay districts.** (On July 15th, the Council adopted this amendment and allowed for it to be amended on August 5th.)
 UDO-077
- UDO-078 **Prohibits residential uses on the ground floor along key corridors.** (This amendment was not adopted by the Plan Commission. On July 10th, Cm. Sturbaum declared his intent to reintroduce this amendment without change.)
- CCL-003 (a) **Requires landscaping be installed when buildings are demolished unless a development plan is approved.** (UDO-082 was not adopted by the Plan Commission. On July 10th, Cm. Sturbaum declared his intent to introduce CCL-003, which amends this amendment. On July 24th, he declared is intent to request postponement until August 5th to provide time to draft the amendment. On July 29th, the Council agreed to postpone this amendment and place at the end of the August 5th agenda, with the possibility that it would be considered in September in the event the Council did not complete its deliberations that evening. On July 31st, Cm. Sturbaum submitted CCL-003(a) and CCL-003(b) with the expectation that CCL (a) would be sponsored by a Council member that evening. One or both of these amendments may be considered on September 16th.)
 CCL-003 (b)
 UDO-082
- CCL-014 **Assembles Amendments into Three Attachments and Returns the Ordinance to the Plan Commission** (This amendment was carried over from the August 5th meeting.)

Motion to Adopt Ord 09-12 As Amended

The Council may revise this schedule and continue consideration of the UDO to other dates by a vote of the Council taken at any time during this Special Session.

Posted and Distributed on: Friday, September 11, 2009



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

To: Council Members
From: Council Office
Re: Calendar for the Week of September 14-19, 2009

Monday, September 14, 2009

5:00 pm Redevelopment Commission, McCloskey
5:00 pm Utilities Service Board, Board Room, 600 E Miller Dr

Tuesday, September 15, 2009

8:00 am Community Development Block Grant Information Meeting, McCloskey
4:00 pm Bloomington Community Farmers' Market, Madison St, Between 6th & 7th St
4:00 pm Board of Public Safety, McCloskey
4:00 pm Community and Family Resources Commission, Hooker Room
5:00 pm NAACP Freedom Fund Banquet Planning Committee, Dunlap
5:30 pm Animal Control Commission, McCloskey
5:30 pm Board of Public Works, Council Chambers

Wednesday, September 16, 2009

9:30 am Tree Commission, Building Trades Park Shelter House
2:30 pm Safe Routes to School Task Force - International Walk to School Day Planning Committee, Hooker Room
4:00 pm Soul Food Festival Planning Committee, Dunlap
5:30 pm Bloomington Community Arts Commission, McCloskey
7:00 pm Council of Neighborhood Associations, Hooker Room
7:00 pm Common Council Regular Session *immediately followed by a* Special Session, Council Chambers

Thursday, September 17, 2009

8:00 am Bloomington Housing Authority, Housing Authority, 1007 N Summit, Community Room
3:30 pm Bloomington Municipal Facilities Corporation, Hooker Room
7:00 pm Environmental Commission, McCloskey

Friday, September 18, 2009

11:00 pm Common Council Internal Work Session, McCloskey
12:00 pm Monroe County Domestic Violence Task Force Meeting, McCloskey

Saturday, September 19, 2009

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

Posted and Distributed: Friday, September 11, 2009



City of Bloomington
Office of the Common Council

NOTICE OF REGULAR SESSION

THE COMMON COUNCIL'S REGULAR SESSION
SCHEDULED FOR
WEDNESDAY, 16 SEPTEMBER 2009
WILL BE HELD AT 7:00 PM,
IN COUNCIL CHAMBERS – ROOM 115
401 N. MORTON STREET

Per Indiana Open Door Law, this statement provides notice that this meeting will occur and is open for the public to attend, observe and record what transpires.

Dated and Posted: Friday, September 11, 2009

401 N. Morton Street • Bloomington, IN 47404

City Hall

Phone: (812) 349-3409 • Fax: (812) 349-3570

www.bloomington.in.gov/council
council@bloomington.in.gov

APPROPRIATION ORDINANCE 09-08

**TO SPECIALLY APPROPRIATE FROM THE ELECTRONIC MAP GENERATION FUND
EXPENDITURES NOT OTHERWISE APPROPRIATED
(Appropriating Funds to Retain Consultant for the City’s Geographic Information System)**

WHEREAS, the ITS department desires to increase its Electronic Map Generation Fund budget to enter into a contract for GIS consulting services to undertake a multi-step project to evaluate and formulate a plan for the future of GIS at the City;

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

SECTION I. For the expenses of said municipal corporation, the following additional sums of money are hereby appropriated and ordered set apart from the funds herein named and for the purposes herein specified, subject to the laws governing the same:

	AMOUNT REQUESTED
Electronic Map Generation Fund	
Line 53170 – Mgt. Fees, Consultants & Workshops	\$ <u>13,861.24</u>
Total Electronic Map Generation Fund	<u>13,861.24</u>
 Grand Total Electronic Map Generation Fund	 <u>13,861.24</u>
 Grand Total All Funds	 \$ <u>13,861.24</u>

SECTION II. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

ANDY RUFF, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2009.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance appropriates \$13,861.24 from the Electronic Map Generation Fund for consulting services relating to the City’s Geographic Information System (GIS).

MEMORANDUM

TO: BLOOMINGTON COMMON COUNCIL
FROM: RICK DIETZ & LAURA HALEY
SUBJECT: GIS SYSTEM REVIEW
DATE: 09/03/2009

The City of Bloomington is approaching its 20 year anniversary with GIS technology. After a formal needs assessment and benchmark analysis of the capabilities of different products, the City chose the GenaMap suite of GIS software. We continue to use GenaMap today. Of course, the software has evolved over time and we have grown with it. The City has invested heavily in building a mature GIS with hundreds of data sets that have been integrated into the daily workflow of City departments and is a vital resource for our staff and the Bloomington public.

The ITS Department is requesting an appropriation from the Electronic Map Generation Fund (2.25.060) -- aka the GIS fund -- to enter into contract for GIS consulting services. We are undertaking a multi-step project to evaluate and formulate a plan for the future of GIS at the City. As part of this effort, first we are documenting all aspects of our current GIS; software, hardware, applications, functional requirements, users, and data. Second, we will conduct a needs analysis through a survey of our user base and other stakeholders to determine how City Departments and staff are using our GIS. Lastly we will explore how we can serve any unmet needs, make better use of our resources and plot a path forward using GIS and GIS related technology tools to meet our needs. This proposal is in keeping with the GIS fund's purpose: the maintenance, upgrading and enhancement of the GIS Database. The current balance is \$17,966.95 and we propose to appropriate \$13,861.24. 2008 fund revenue was \$2982.00.

GIS staff lacks the time, expertise and resources to fully evaluate all the various technology options in the marketplace and assess them against our current situation. We are largely consumed with day to day tasks. ITS desires to seek outside advice on how to move forward given the options available, the resources we have at our disposal, our functional requirements, and future needs. Image Matters, a software technology and professional services company that specializes in Geospatial and Web technology has the qualifications we seek to complete this project and is uniquely positioned to assist us in this task. The senior staff assigned to this project has many years in the industry and have worked extensively with government clients. They have a local Bloomington office so they are familiar with Bloomington and Bloomington City Government, and can keep project overhead costs low. They have expertise with open source GIS technology as well as the traditional GIS vendors. We are satisfied that the proposal Image Matters has made will fulfill our needs.

We believe that our GIS has been meeting our basic needs. But, we also believe that our software environment makes it more challenging to take advantage of new opportunities. Our current vendor is focusing on other aspects of it business, and although there isn't an immediate threat of our software becoming unavailable or obsolete, we need to plan for the future. Any significant change to our operations will take time given our current investment. Our goal with this project is to arrive at the right mix of available solutions, maintain the positive aspects of our current system and improve in other areas. This project will help us achieve those goals.

Warm regards,

Rick Dietz Director, ITS

APPROPRIATION ORDINANCE 09-09

TO SPECIALLY APPROPRIATE FROM THE GENERAL FUND EXPENDITURES NOT OTHERWISE APPROPRIATED

(Appropriating a PetSmart Charities Grant for Use by the Animal Care and Control Department)

WHEREAS, the Animal Care & Control Department has received and wishes to expend a grant from PetSmart Charities for \$16,498 to be used for resurfacing the adoptable and stray dog kennels;

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

SECTION I. For the expenses of said municipal corporation, the following additional sums of money are hereby appropriated and ordered set apart from the funds herein named and for the purposes herein specified, subject to the laws governing the same:

	AMOUNT REQUESTED
General Fund – Animal Care & Control	
Line 54510 – Other Capital Outlays	\$ <u>16,498</u>
Total General Fund	<u>16,498</u>
 Grand Total General Fund	 <u>16,498</u>
 Grand Total All Funds	 \$ <u>16,498</u>

SECTION II. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

ANDY RUFF, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2009.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance appropriates a \$16,498 grant, received from PetSmart Charities, from the General Fund for the resurfacing of the adoptable and stray dog kennels at the City of Bloomington Animal Shelter.



MARK KRUZAN
MAYOR

CITY OF BLOOMINGTON

401 N Morton St
Post Office Box 100
Bloomington IN 47402

Mike Trexler
CONTROLLER

CONTROLLER'S OFFICE

p 812.349.3412
f 812.349.3456
controller@bloomington.in.gov

Memorandum

To: Council Members
From: Mike Trexler, Controller
Date: September 4, 2009
Re: Appropriation Ordinance 09-09

In Appropriation Ordinance 09-09, we are requesting authorization for an expenditure of \$16,498 from the General Fund for the resurfacing of the outside portion of the stray dog kennels at the Animal Care & Control Department. This project will improve sanitation efforts and reduce disease transmission at the facility. This improvement is made possible by a \$16,498 grant from PetSmart Charities that was received on July 29, 2009. This is the second grant received from PetSmart Charities for this purpose and allows us to continue progress towards resurfacing all dog kennel floors throughout the building.

Feel free to contact me by email at trexlerm@bloomington.in.gov or by phone at 349-3412 at any time.

ORDINANCE 09-17

TO VACATE FOUR PUBLIC PARCELS -

**Re: A Portion of North Madison Street, West 12th Street and Two Alleys Located Between North Rogers Street, the Indiana Railroad, 350 West 11th Street and West 11th Street.
(Doug Dayhoff, Upland Brewing Company, Inc., and Middle Court Real Estate, LLC
[together "Upland"], Petitioners)**

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

WHEREAS, the petitioners, Doug Dayhoff, Upland Brewing Company, Inc., and Middle Court Real Estate, LLC (together "Upland"), have filed a petition to vacate four parcels of City property more particularly described below;

WHEREAS, pursuant to I.C. 36-7-3-16, the following Utilities have submitted letters to the Common Council indicating that they are not occupying or using any part of this public way and do not object to this vacation: Duke Energy, AT&T, and Bloomington Digital Underground;

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

SECTION I. Through the authority of I.C. 36-7-3-12, four portions of City-owned right-of-way shall be vacated. These right-of-ways amount to approximately 0.77 acres and are located within an area surrounded by 11th Street on the south, 350 West 11th Street on the east; Indiana Railroad on the north; and Rogers Street on the West. They include: 1) an angled portion of North Madison Street which is 50' wide and runs north from 11th Street for approximately 560'; 2) a nearly rectangular portion of an alley which intersects with the aforementioned part of North Madison just north of 11th Street, which is 12' wide and runs west for approximately 59'; 3) an irregularly shaped portion of West 12th Street which intersects with the aforementioned part of North Madison just north of the aforementioned alley and which is 50' wide and runs approximately 123' to the west; and lastly 4) an angled portion of an alley which intersects with the aforementioned part of North Madison Street just north of West 12th Street and which is 12' wide and runs west for approximately 56'. These right-of-ways are more particularly described as follows:

A part of Madison Street (Ellettsville and Mt. Tabor Road) in 2nd Addition Maple Heights Amended Plat in the City of Bloomington, Indiana as recorded in Plat Cabinet B, Envelope 21, Office of the Recorder, Monroe County, Indiana; described as follows:

Beginning at a PK nail at the Southeast corner of Lot 54 in said Maple Heights; thence North 00 degrees 00 minutes 00 seconds East (basis of bearings), with the West line of Madison Street, 543.65 feet to a 5/8 inch rebar with yellow plastic cap in the South line of a railroad Right-of-Way; thence along a curve to the right on said Right-of-Way which has a radius of 1446.91 feet, an arc length of 53.09 feet and a chord which bears North 70 degrees 22 minutes 26 seconds East, 53.08 feet to the East line of Madison Street; thence South 00 degrees 00 minutes 00 seconds West, with said East line of Madison Street, 560.98 feet to the North line of 11th Street; thence South 89 degrees 25 minutes 43 seconds West, 50.00 feet to the Point of Beginning, containing 0.634 acres, more or less.

A part of an alley in Maple Heights 2nd Addition Amended (Plat Cabinet B, Envelope 21) in the Office of the Recorder of Monroe County, Indiana described as follows:

Beginning at the Northwest corner of Lot 54 in said Addition and on the south side of an alley; thence North 00 degrees 07 minutes 47 seconds East 12.00 feet to the Southwest corner of Lot 69 in said Addition; thence along said South line North 89 degrees 01 minutes 22 seconds East 59.68 feet to the West line of Madison Street; thence along said West line South 00 degrees 00 minutes 00 seconds East 12.00 feet to the Northeast corner of Lot 54 in said addition; thence along said North line South 89 degrees 01 minute 22 seconds West 59.71 feet to the Point of Beginning, containing 0.016 acres.

A part of 12th Street in Maple Heights 2nd Addition Amended (Plat Cabinet B, Envelope 21) in the Office of the Recorder of Monroe County, Indiana described as follows:

Beginning at the Southeast corner of Lot 70 in said Addition; thence South 00 degrees 00 minutes 00 seconds East along the West line of Madison Street 50.00 feet to the Northeast corner of Lot 69; thence South 89 degrees 01 minutes 22 seconds West along the North line of Lots 69 and 68, a distance of 123.06 feet to the Northwest corner of Lot 68 thence along the Right-of-Way of Rogers Street North 19 degrees 56 minutes 46 seconds East 17.00 feet; thence South 70 degrees 03 minutes 14 seconds East 12.00 feet; thence North 19 degrees 13 minutes 49 seconds East 40.92 feet to the North line of 12th Street; thence along said North line North 89 degrees 01 minute 22 seconds East 92.49 feet to the Point of Beginning, containing 0.12 acres.

A part of an alley located in Maple Heights 2nd Addition Amended (Plat Cabinet B, Envelope 21) in the Office of the Recorder of Monroe County, Indiana described as follows:

Beginning at the Southeast corner of Lot 94 in said Addition; thence South 00 degrees 00 minutes 00 seconds East along the West line of Madison Street 12.00 feet to the Northeast corner of Lot 70; thence along the North line of said Lot 70 South 89 degrees 01 minute 16 seconds West 56.38 feet to the East line of Rogers Street; thence along said East line North 19 degrees 56 minutes 46 seconds East 12.85 feet to the South line of said Lot 94; thence along said South line North 89 degrees 01 minutes 22 seconds East 52.00 feet to the Point of Beginning, containing 0.015 acres.

SECTION II. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION III. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

ANDY RUFF, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

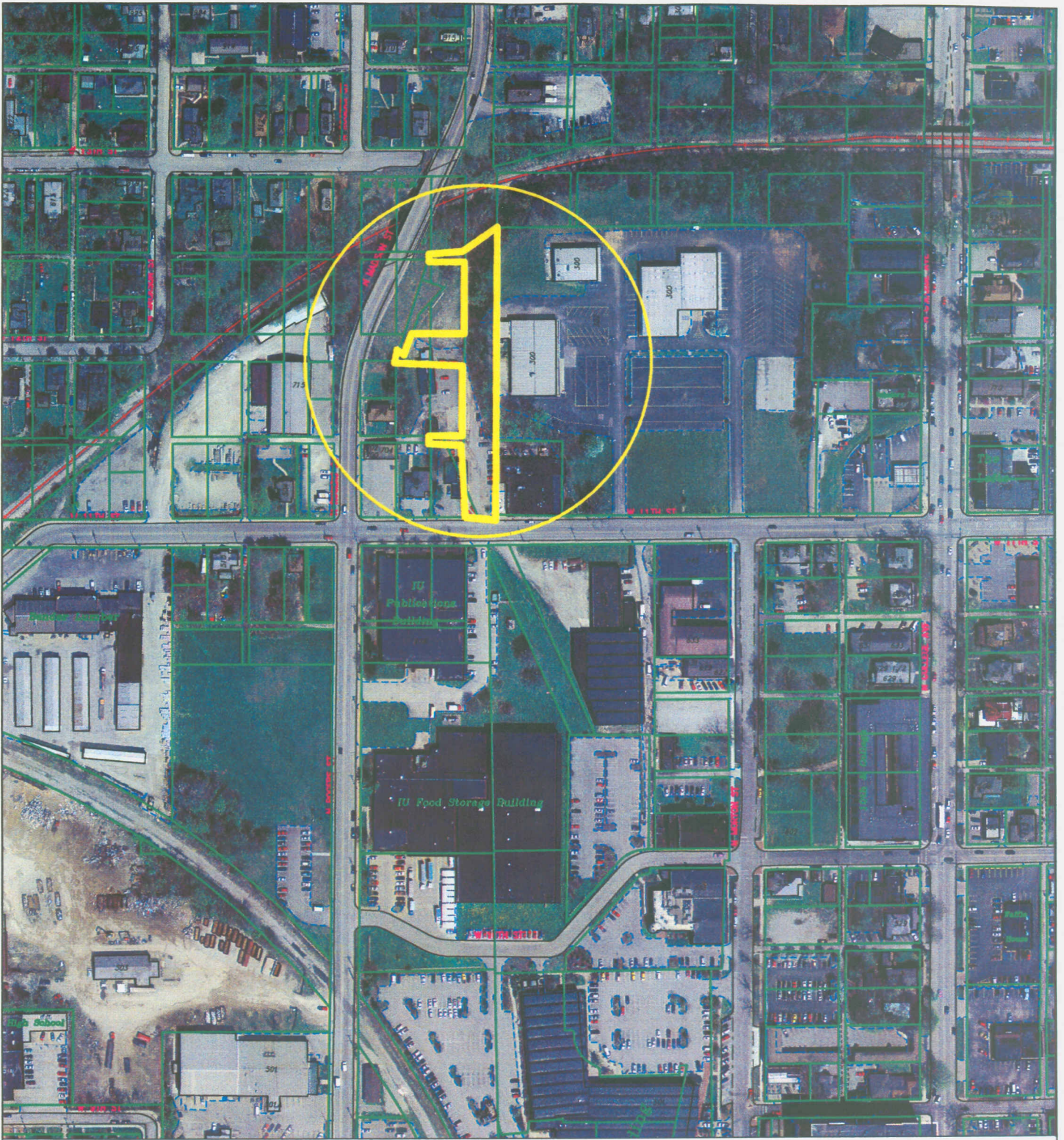
REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2008.

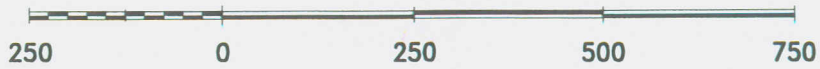
MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

The petitioner, Doug Dayhoff, Upland Brewing Company, Inc., and Middle Court Real Estate, LLC (together "Upland"), is proposing vacation of four segments of right-of-way including portions of North Madison Street, West 12th Street and two alleys located between Rogers Street, Indiana Railroad, 350 West 11th Street and 11th Street. The public comment portion of the Regular Session on October 7, 2009 shall serve as the required public hearing on this action.

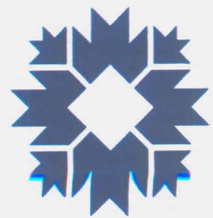


By: whiter
10 Sep 09



For reference only; map information NOT warranted.

City of Bloomington
Planning

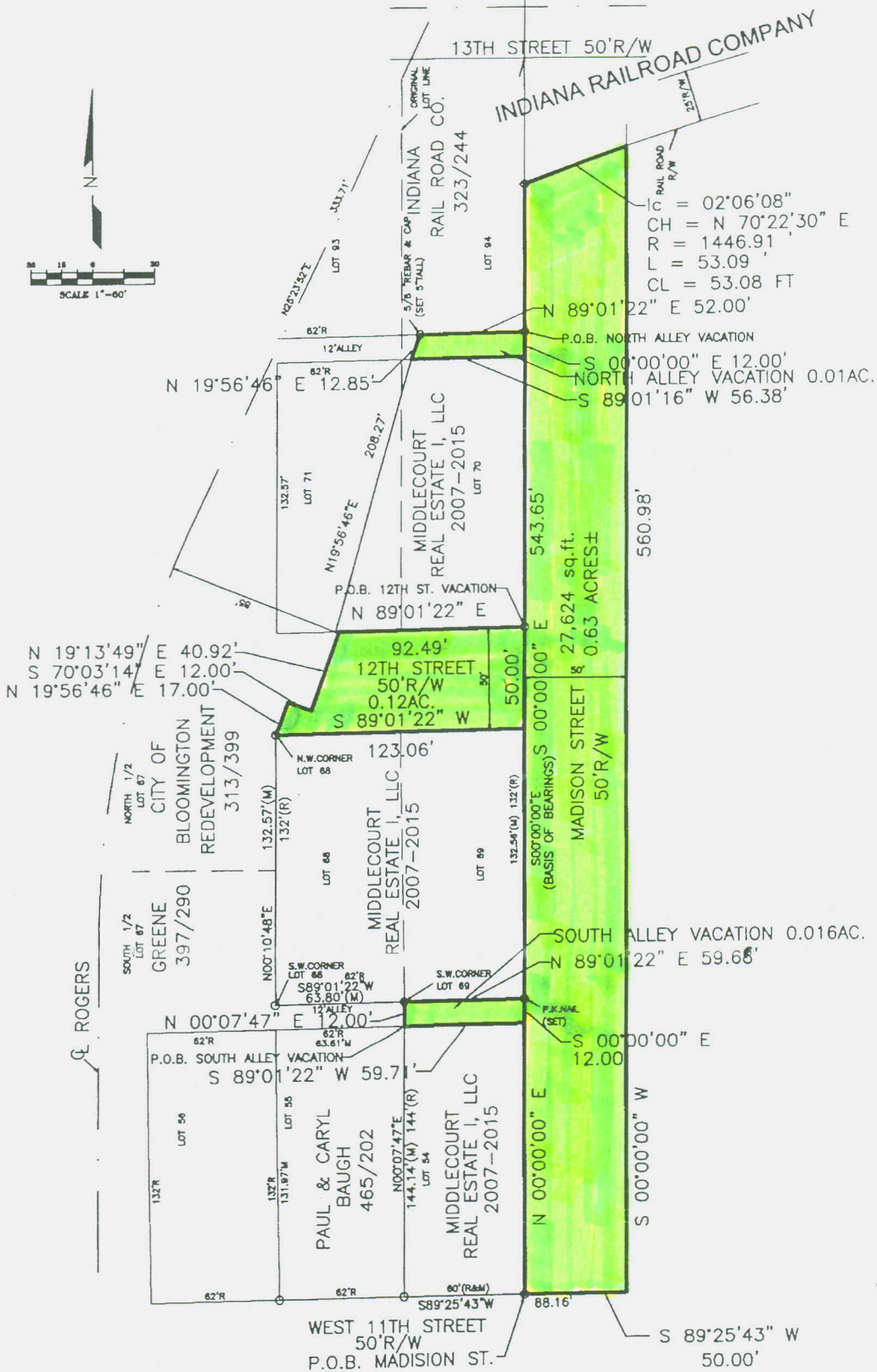


Scale: 1" = 250'



ALLEY AND STREET VACATIONS
A PART OF MAPLE HEIGHTS 2ND ADDITION AMENDED IN THE CITY OF BLOOMINGTON AS
RECORDED IN PLAT CABINET B, ENVELOPE 21, OFFICE OF THE RECORDER MONROE
COUNTY, INDIANA
JOB No. 2735

Client Name: City of Bloomington





9/9/2009 14:48



**CITY OF BLOOMINGTON
PLANNING DEPARTMENT
MEMORANDUM**

DATE: September 3, 2009
TO: City of Bloomington Common Council Members
FROM: Lynne Darland, Zoning & Enforcement Manager
SUBJECT: Request for vacation of two street and two alley rights-of-way
PETITIONERS: Doug Dayhoff, Upland Brewing Company, Inc., Middle Court Real Estate, LLC (together "Upland")

LOCATION: The petitioner is proposing to vacate a portion of the street rights-of-way of Madison Street and 12th Street as well as two segments of alley rights-of-way. The portion of Madison Street that is petitioned for vacation runs north/south between 11th Street and Rogers Street and measures approximately 50 feet in width by 560 feet in length. The portion of 12th Street petitioned for vacation runs east/west from Madison Street to Rogers Street and measures 50 feet in width by 123.06 feet in length. The two alley segments run east/west and are located on the west side of the portion of Madison Street petitioned for vacation. One is located north of the 12th Street right-of-way and one is located south of 12th Street. The alley right-of-way located north of 12th Street measures 56.38 feet in length, and the alley right-of-way located south of 12th Street measures 59.68 feet in length. Both alley segments measure 12 feet in width. The total area petitioned for vacation is approximately 0.77 acres.

BACKGROUND: Upland Brewery, Inc., located at 350 W. 11th Street desires to expand their restaurant and brewery business in two planned phases. Architectural drawings of the building expansion are included in the packet. The Phase I expansion includes an expansion of the outside dining area. The expansion of the decking would be approximately ten feet into the Madison Street right-of-way. The City has stormwater lines and sanitary sewer lines in the rights-of-way and needs access to repair and maintain the infrastructure of the Rogers Street bridge located at the north end of the Madison Street right-of-way. The City has worked out an agreement with the petitioner to create what's called a "blanket easement" that maintains City access to all utility lines as well as the bridge. In addition, Upland will be required to relocate the sanitary sewer line that is located within the area of the deck expansion planned for Phase I so that the line will not be under the deck. The blanket easement also holds the City harmless for damage caused by City trucks and other equipment that could be needed to repair the City's infrastructure. This blanket easement will be recorded if the City Council gives final approval for the vacation of the rights-of-way. Vectren will also require an easement for a gas line in the Madison Street right-of-way.

In association with the larger Phase II expansion, the blanket easement document would be revised in favor of more precise sewer and stormwater utility easements that will ensure City access to new sewer and stormwater lines that will be installed by the petitioner and turned over to the City.

UTILITY INTRESTS: The following utility and city service organizations have responded to this request with no objections for the vacation of the existing right-of-way:

- The City of Bloomington Public Works Department

- **The City of Bloomington Utilities Department**
- **The City of Bloomington Information & Technology Services Department**
- **AT&T**
- **Duke Energy**
- **Comcast Communications**
- **City of Bloomington Police Department**
- **City of Bloomington Fire Department**
- **Vectren**

The request for vacation was heard by the Board of Public Works (BPW) on August 18, 2009. The BPW voted to recommend vacation of the right-of-way. As noted above, CBU has public sewer and stormwater lines, and Vectren has a gas line in the right-of-way. Upland will grant a blanket easement to the affected parties. City Police and Fire had no objections to vacating these rights-of-way.

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

1. Current Status - Access to Property.

These rights-of-way are located within an area that is used as a private access to the Upland Brewery business and its accessory buildings. Over time, Upland has purchased surrounding properties to the north and west of their original site with the intent of expanding their business in the future. As previously stated, both the Fire and Police Departments find that they can adequately serve the area, and Upland will grant a blanket easement so that the City and Vectren can maintain their utilities. This blanket easement will also allow the City to continue accessing the property to service the Rogers Street bridge.

2. Necessity for Growth of the City:

Future Status: No public utilization of these rights-of-way is anticipated by the City. All public services can adequately be served through use of easements.

Proposed Private Ownership Utilization: The only other interested party to this right-of-way, Westwood Bloomington, LLC, will gain ownership of the east portion of the Madison Street Right-of-way. The steep elevation changes in this area would make development of this strip of land difficult to develop.

Compliance with Regulations: The vacation of this street segment will not create any issues regarding compliance with local regulations. Both expansions, Phase I and Phase II, still require site plan review by the City Planning Department. The Phase II expansion will additionally require Plan Commission site plan review. Planning staff has reviewed both the schematic site plan and renderings submitted by the petitioner. Staff is confident that the petitioner can gain future site plan approvals with minimal issues.

Relation to Plans: The proposal is consistent with City Plans. Upland Brewery has worked diligently and faithfully with the City to create new economic development for downtown Bloomington. Their future expansion plans will bring jobs and tourism to the downtown. Loss of this right-of-way does not conflict with the City's Thoroughfare Plan or Growth Policies Plan.

RECOMMENDATION: Both staff and the Board of Public Works have recommended that the City vacate the street and alley rights-of-way in question.



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

Petition for Vacation of Public Right-of-Way

Ordinance: Ord 09-17
Hearings:

Council Chambers **Regular Session: First Reading** September 16, 2009 (7:00 p.m.)
401 North Morton Street **Committee of the Whole: Discussion** September 23, 2009 (7:30 p.m.)
 Regular Session: Public Hearing & October 7, 2009 (7:30 p.m.)
 Final Action

Address of Property 350 West 11th Street

Description of Proposed Vacation: Portions of North Madison Street, West 12th Street and two alleys between West 11th Street, 350 West 11th Street, Indiana Railroad, and North Rogers Street

Name of Petitioner Doug Dayhoff, Upland Brewing Company, Inc., and Middle Court Real Estate, LLC (together "Upland")

Address 350 West 11th Street, Bloomington, IN 47404-3720
Phone 812-336-2337 ext 200

Consultant Bill Riggert, Bledsoe Riggert Guerrettaz
Address 1351 West Tapp Road, Bloomington, IN 47403
Phone 812-336-8277

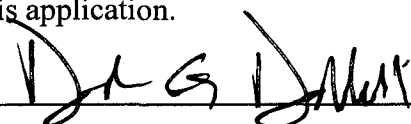
Abutting Property Owners: *See Attachment*

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

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

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

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

Signature: 

Date: 9/11/2009

Listed below are the owners of property abutting the right-of-ways and their addresses.

Paul D. & Caryl Baugh
550 Turtleback Creek Dr.
Ellettsville, IN 47429

City of Bloomington
Department of Redevelopment
P.O. Box 100
Bloomington, IN 47402

The Indiana Rail Road Company
500 Water Street
Suite C190
Jacksonville, FL 32202-4423

Westwood Bloomington LLC
ABR Building, Suite 165
5784 Lake Forest Drive
Atlanta, GA 30328

Petitioners Request

The Owners of the Upland Brewing Company, Inc. and MiddleCourt Real Estate, LLC (sister entities with same ownership, together "Upland") wish the City of Bloomington to vacate an unused portion of Madison Street north of 11th Street and adjacent to Upland's property so that we can expand and improve our production facilities. Our operations currently straddle this portion of Madison street, which we have used for traffic circulation and parking. To the best of our knowledge, this land has never been used as a public right-of-way since the street was originally platted. We also believe that it is highly improbable that it ever could be utilized as a public right-of-way because it terminates into the active railroad corridor; further, the existence of the Rogers Street overpass that connects to North Madison Street makes an extension redundant.

If the street were to be vacated, Upland intends to move our site's primary ingress/egress to the western edge of our property and expand our brewery facilities onto the land in question. Our current brewery building is essentially land-locked so further expansion is not possible without the vacation, and splitting our production activities into multiple, disconnected facilities would be impractical and inefficient.

The public would benefit from this vacation in two ways. First, it would enable us to keep our brewery and its jobs in downtown Bloomington, which would justify long-term investments and improvements on the site. Secondly, the brewery itself is a tourist attraction and amenity for the downtown community, which helps to encourage hi-quality development, pedestrian lifestyles, and entertainment-based tourism in the area.

For many years, Upland has been the only active and attractive retail business north of the Showers Complex. We have played a major role in creating the inertia that is leading the redevelopment of our neighborhood, and we expect to continue that leadership into the future with quality architectural improvements and a dynamic brewpub restaurant. Please help us maintain the momentum.

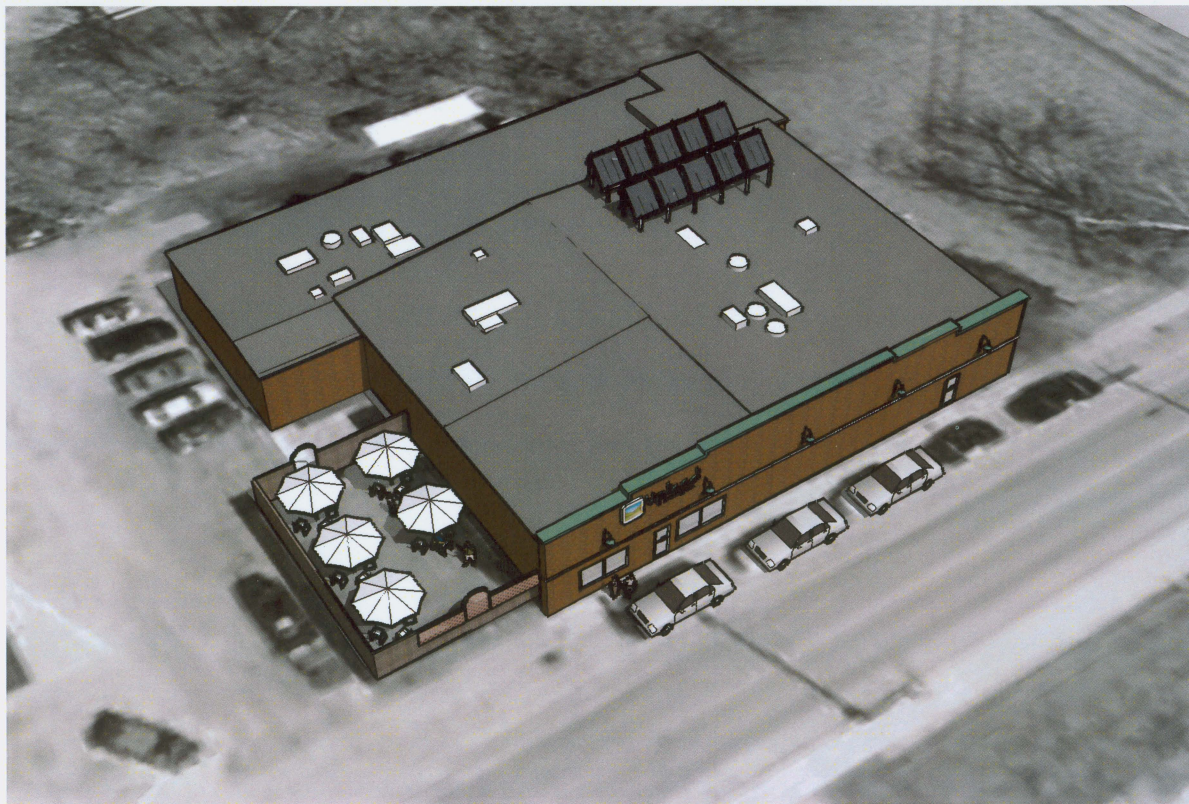
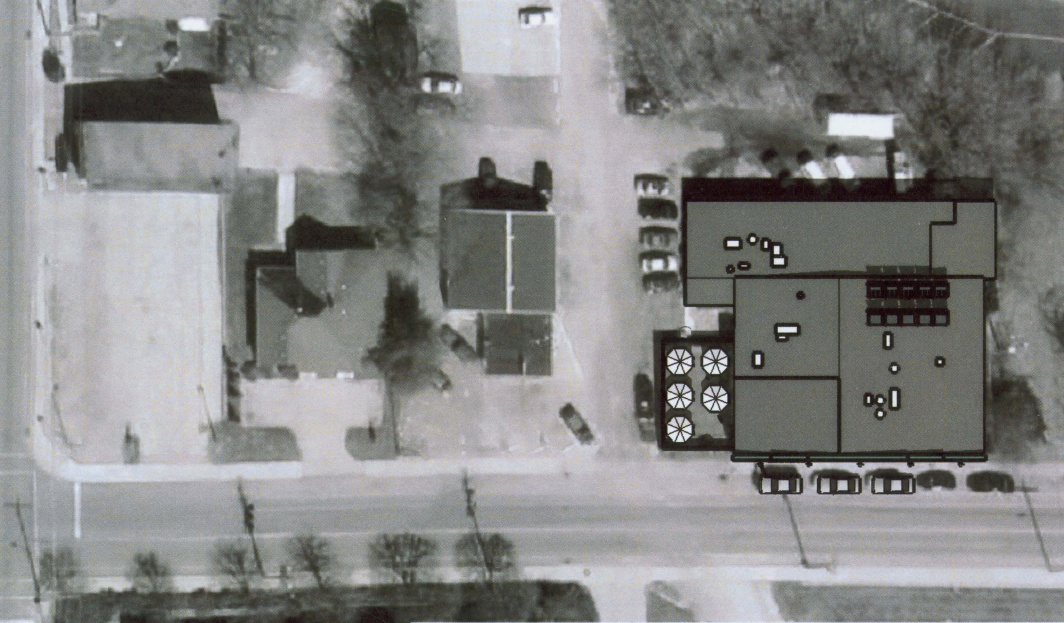
Respectfully,



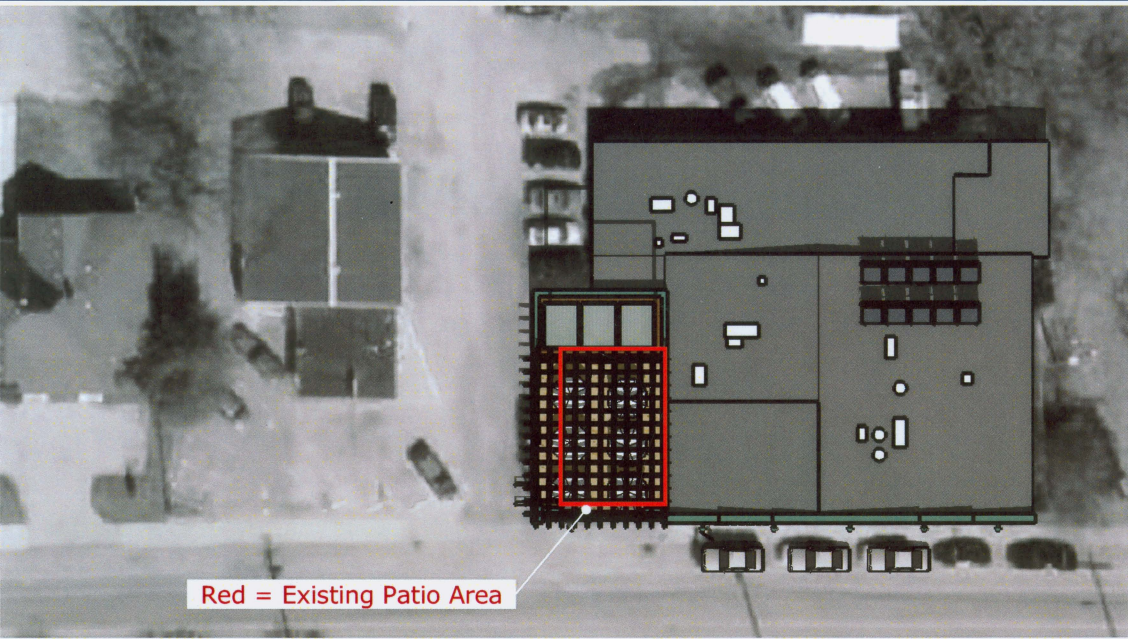
Doug Dayhoff
President

November 3, 2008

original petitioner's
statement



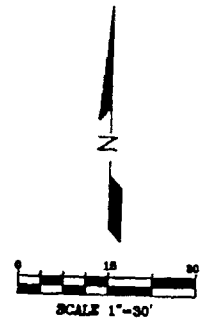
EXISTING



Red = Existing Patio Area



Easement Exhibit
 Upland Brewery Job No. 6409(5843)

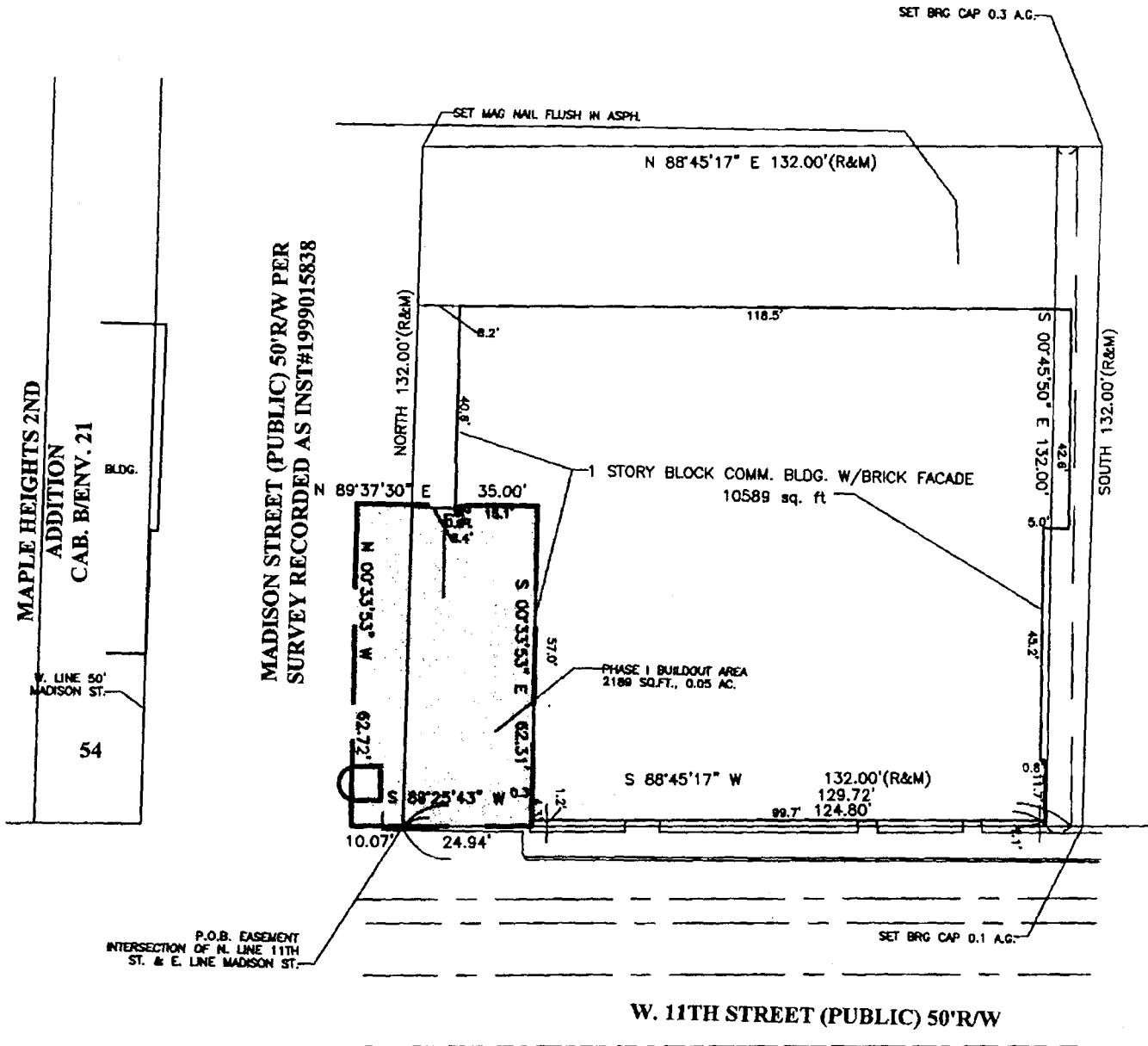


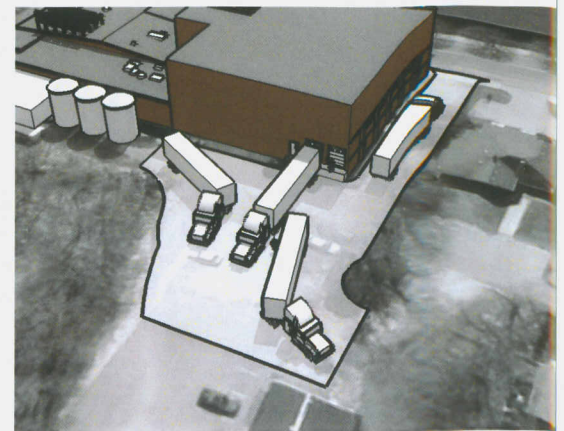
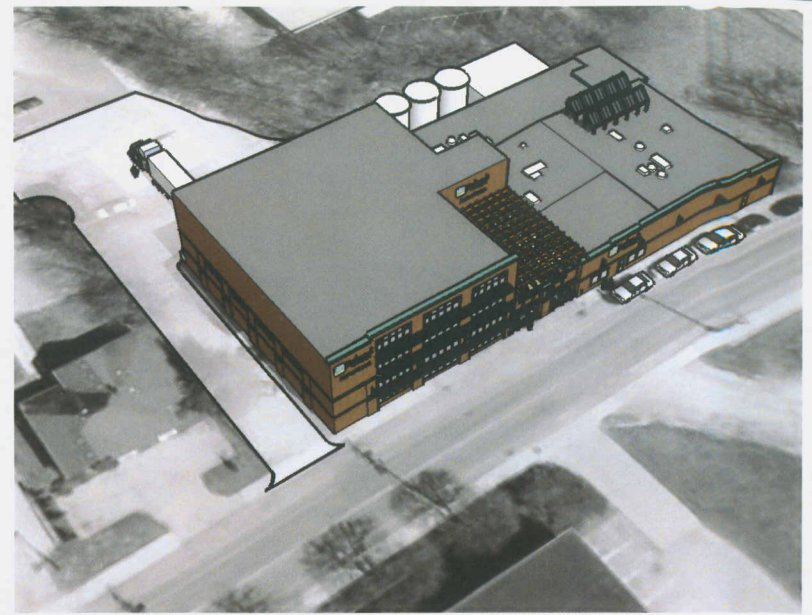
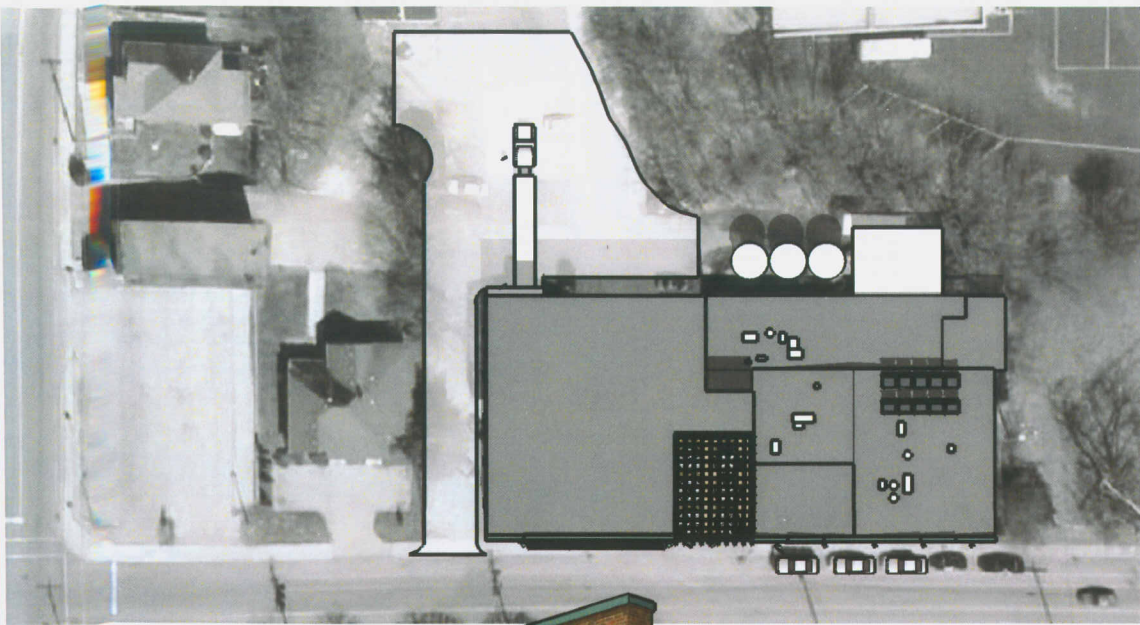
Responsible Surveyor: Ben E. Bledsoe

Signature: *Ben E. Bledsoe*

Date: Aug. 5, 2009

S0559

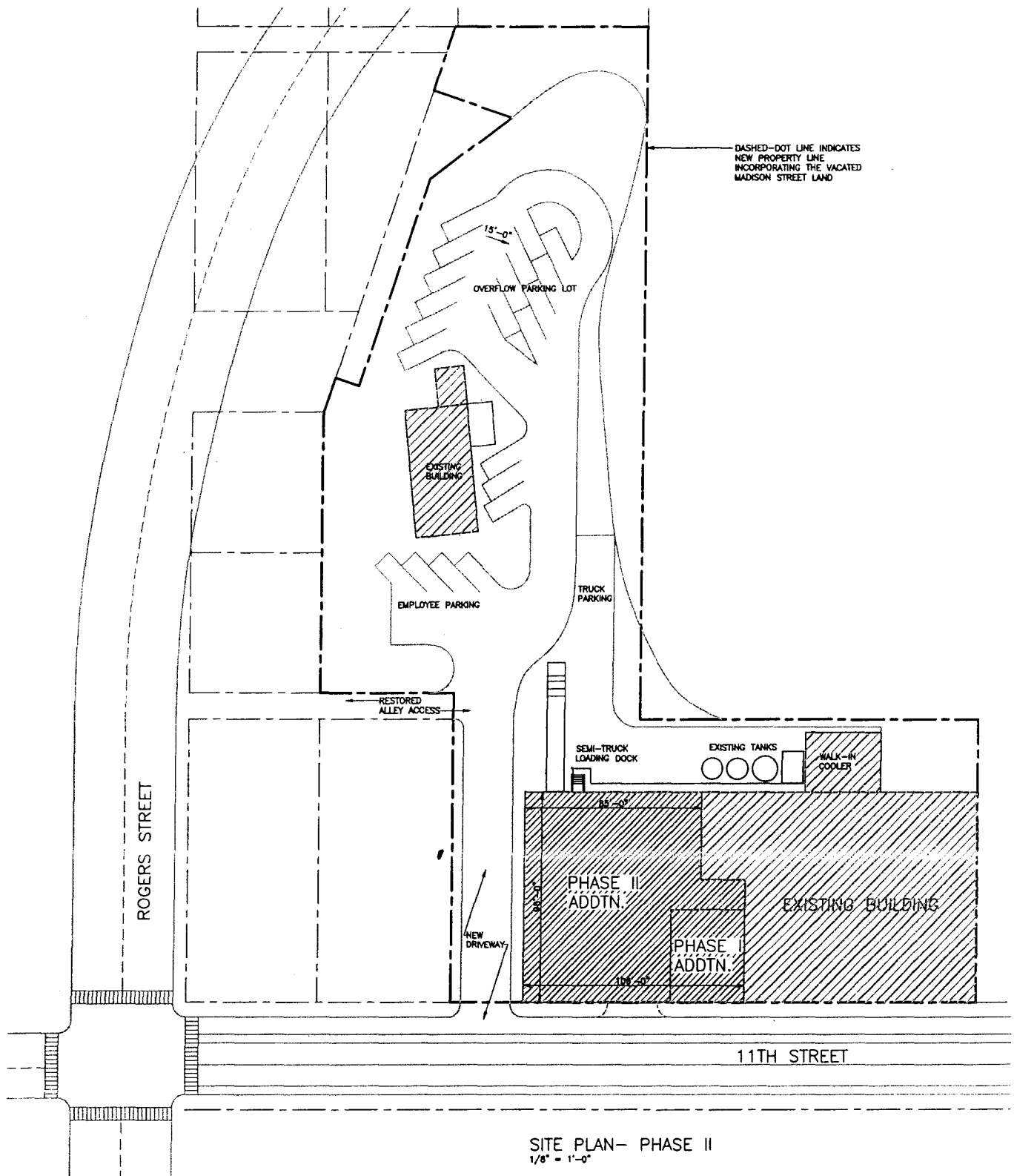




PHASE 2



PHASE 2A



SITE PLAN- PHASE II
1/8" = 1'-0"

Ord 09-17 Vacation of Right of Way for Upland

Responses from Utilities and Safety Services **(Available in the Council Office)**

I.C. 36-7-3-16 (b) provides that utilities that are occupying and using all or part of the right-of-way for the location and operation of their facilities at the time the vacation proceedings are instituted may continue to do so after the vacation of right-of-way, unless they waive their rights by filing written consent in those proceedings.

Safety Services Interest in the Alley Ways

Police Department Fine with the request.
Fire Department No objection

Utility Interests in the Alley Ways

Vectren Has “existing natural gas pipelines within the subject right-of-way” and does *not* waive rights to the right-of-way.
Duke Does not oppose the vacation.
Comcast Has facilities in the easement that would require routine maintenance and wants to be reimbursed for any necessary relocation.
City of Bloomington Has stormwater and sanitary sewer lines in easement (and notes that Public Works needs access to the bridge). Vickie Renfrow Utilities Dept has prepared a “blanket easement” for Phase I of petitioner’s project. Once Phase II goes forward a subsequent easement identifying the new location of facilities will replace blanket easement.
AT&T Has no facilities there and has no plans for future construction.
Bloomington Digital “See(s) no problem” – while the vacation is in one of the Underground (BDU) proposed paths for BDU, “an alternative path can be used.”

**CONTINUATION OF SPECIAL SESSION
TO CONSIDER ORDINANCE 09-12**

Ordinance 09-12

Amendments to Title 20 (Unified Development Ordinance) Adopted by the Plan Commission

Council Amendment #: CCL-012 Plan Commission Amendment #: UDO – 094

Sponsor: Councilmember Sturbaum Date:

Synopsis

This amendment provides a definition of the terms “primary exterior finish material” and “secondary exterior finish material”. Chapter 20.03 of the UDO currently places restrictions on the use certain exterior finish materials based on whether they are “primary” or “secondary”, but no specific definition of those terms is provided in Chapter 20.11.

Plan Commission Adopt [9:0]

Action:

Council Action on

UDO-094:

Action Date:

Page 11-17

Chapter 11 Definitions

~~**Exterior Building Material:** Material used to surface the exterior of a building to protect against exposure to the elements, prevent heat loss, and visually unify the façade.~~

Exterior Finish Material, Primary: An exterior finish material that covers more than fifteen percent (15%) of a building façade. Windows, doors, building trim, cornices, and similar architectural features shall not count toward calculation of the square footage of the building façade.

Exterior Finish Material, Secondary: An exterior finishing material that covers fifteen percent (15%) or less of a building façade. Windows, doors, building trim, cornices, and similar architectural features shall not count toward calculation of the square footage of the building façade.

Ordinance 09-12

Amendments to Title 20 (Unified Development Ordinance) Adopted by the Plan Commission

Council Amendment #: CCL-011 Plan Commission Amendment #: UDO – 077

Sponsor: Sturbaum Date: July 30, 2009

Synopsis

Reduces void to solid ratio on first floor facades in all Downtown Overlay districts.

On July 15, 2009, the original version of this amendment (UDO-077) was adopted by the Council. The Council passed the amendment with the caveat that the amendment could be brought back before the body with an additional amendment; specifically with a new amendment regarding the void-to-solid percentage standards for facades facing the B-Line Trail. In order to extend the policy rationale of UDO-077 to the B-Line Trail, CCL-011 requires a void-to-solid percentage of 60% of the wall/façade areas of the first floor facades/elevations facing the B-Line Trail within the following overlay districts: Courthouse Square, Downtown Core, Downtown Edges, Downtown Gateway and Showers Technology Park.

Plan Commission N/A
Action:

Council Action on Adopt 7 – 1 (Volan) (Absent: Mayer)
UDO-077
Action Date: July 15, 2009

Council Action on Consider on August 8 – 0 (Absent: Mayer)
CCL-011 5, 2009
Action Date: July 15, 2009

Council Action
Action Date:

Page 3-7 Courthouse Square Overlay

20.03.060(b)(2)

(A) First Floor (Building Base): Transparent glass or framed façade open areas consisting of display windows, entries and doors shall comprise a minimum of ~~eighty-five~~ **seventy** percent (~~85~~**70** %) of the total wall/façade area of the first floor façade/elevation facing a street.

(C) Transparent glass or framed façade open areas consisting of display windows, entries and doors shall comprise a minimum of sixty percent (60%) of the wall/façade area of the first floor facade/elevation facing the B-Line Trail.

Page 3-13 Downtown Core Overlay

20.03.130(b)(2)

(A) First Floor (Building Base): Transparent glass or framed façade open areas consisting of display windows, entries and doors shall comprise a minimum of ~~seventy~~ **sixty** percent (~~70~~**60** %) of the total wall/façade area of the first floor façade/elevation facing a street.

(C) Transparent glass or framed façade open areas consisting of display windows, entries and doors shall comprise a

minimum of sixty percent (60%) of the wall/façade area of the first floor facade/elevation facing the B-Line Trail.

Page 3-20 University Village Overlay

20.03.200(b)(2)(A)

- (ii) Kirkwood Corridor: Transparent glass or framed façade open areas consisting of display windows, entries and doors shall comprise a minimum of ~~seventy six~~ **sixty** percent (~~76~~ **60**%) of the total wall/façade area of the first floor façade/elevation facing a street.

Page 3-25 Downtown Edges Overlay

20.03.270(b)(2)

- (A) First Floor (Building Base): Transparent glass areas shall comprise a minimum of ~~fifty~~ **forty** percent (~~50~~ **40**%) of the wall/façade area of the first floor façade/elevation facing a street.

(C) Transparent glass or framed façade open areas consisting of display windows, entries and doors shall comprise a minimum of sixty percent (60%) of the wall/façade area of the first floor facade/elevation facing the B-Line Trail.

Page 3-31 Downtown Gateway Overlay

20.03.340(b)(2)

- (A) First Floor (Building Base): Transparent glass shall areas shall comprise a minimum of ~~fifty~~ **forty** percent (~~50~~ **40**%) of the total wall/façade area of the first floor façade/elevation facing a street.

(C) Transparent glass or framed façade open areas consisting of display windows, entries and doors shall comprise a minimum of sixty percent (60%) of the wall/façade area of the first floor facade/elevation facing the B-Line Trail.

Page 3-37 Showers Technology Park Overlay

20.03.410(b)(2)

- (A) First Floor (Building Base): Glass or framed façade open areas consisting of display windows, entries and doors shall comprise a minimum of ~~fifty~~ **forty** percent (~~50~~ **40**%) of the wall/façade area of the first floor façade/elevation facing a street ~~or the B-Line Trail~~.

(C) Transparent glass or framed façade open areas consisting of display windows, entries and doors shall comprise a minimum of sixty percent (60%) of the wall/façade area of the first floor facade/elevation facing the B-Line Trail.

Ordinance 09-12

Amendments to Title 20 (Unified Development Ordinance) Adopted by the Plan Commission

Council Amendment #: N/A Plan Commission Amendment #: **UDO – 078**

Sponsor: N/A Date: N/A

Synopsis

Prohibits residential uses on the ground floor along key corridors

This amendment would require the provision of ground-floor nonresidential space along certain key corridors within the Commercial Downtown (CD) zoning district. This amendment would apply within the four downtown overlay districts that do not already require ground floor nonresidential uses, and would ensure that each identified street frontage provides nonresidential uses. It would also require that at least 50% of the ground floor area of any building along the identified streets be utilized by nonresidential uses.

Plan Commission Deny [1:6]

Action:

Council Action:

Action Date:

Page 3-12

20.03.120 Downtown Core Overlay (DCO); Development Standards

(e) Ground Floor Nonresidential Uses:

(1) This subsection shall apply to any property with frontage on the following streets:

- (A) 10th Street
- (B) 9th Street
- (C) 8th Street (between Morton Street and Walnut Street)
- (D) 7th Street
- (E) 6th Street
- (F) Kirkwood Avenue
- (G) 4th Street
- (H) 3rd Street
- (I) 2nd Street
- (J) Madison Street
- (K) Morton Street (between 6th Street and 10th Street)
- (L) College Avenue
- (M) Walnut Street
- (N) Washington Street (between 3rd Street and 4th Street)

(2) All properties to which this subsection applies shall provide ground floor nonresidential uses along the applicable street frontage. No less than fifty percent (50%) of the total ground floor area shall be used for such nonresidential uses. Enclosed parking garages shall not be counted toward the required nonresidential uses.

Page 3-18

20.03.190 University Village Overlay (UVO); Development Standards

(e) Ground Floor Nonresidential Uses:

(1) This subsection shall apply to any property with frontage on the following streets:

- (A) Kirkwood Avenue
- (B) 4th Street
- (C) 3rd Street
- (D) Washington Street
- (E) Lincoln Street
- (F) Grant Street
- (G) Dunn Street
- (H) Indiana Avenue

(2) All properties to which this subsection applies shall provide ground floor nonresidential uses along the applicable street frontage. No less than fifty percent (50%) of the total ground floor area shall be used for such nonresidential uses. Enclosed parking garages shall not be counted toward the required nonresidential uses.

Page 3-24

20.03.260 Downtown Edges Overlay (DEO); Development Standards

(e) Ground Floor Nonresidential Uses:

(1) This subsection shall apply to any property with frontage on the following streets:

- (A) 7th Street (west of Washington Street)
- (B) Kirkwood Avenue (between Rogers Street and Madison Street)
- (C) 3rd Street (between Rogers Street and Dunn Street)
- (D) 2nd Street (between Morton Street and Washington Street)
- (E) Madison Street (north of 3rd Street)
- (F) College Avenue
- (G) Walnut Street (South of 10th Street)

(2) All properties to which this subsection applies shall provide ground floor nonresidential uses along the applicable street frontage. No less than fifty percent (50%) of the total ground floor area shall be used for such nonresidential uses. Enclosed parking garages shall not be counted toward the required nonresidential uses.

Page 3-30

20.03.330 Downtown Gateway Overlay (DGO); Development Standards

(e) Ground Floor Nonresidential Uses:

(1) This subsection shall apply to any property with frontage on the following streets:

- (A) 10th Street
- (B) 2nd Street
- (C) College Avenue (between 1st Street and 2nd Street)
- (D) Walnut Street (between 1st Street and 2nd Street)

(2) All properties to which this subsection applies shall provide ground floor nonresidential uses along the applicable street frontage. No less than fifty percent (50%) of the total ground floor area shall be used for such nonresidential uses. Enclosed parking garages shall not be counted toward the required nonresidential uses.

Ordinance 09-12

Amendments to Title 20 (Unified Development Ordinance) Adopted by the Plan Commission

Council Amendment #: CCL-003(a) Plan Commission Amendment #: UDO – 082

Sponsor: Sturbaum Date: July 31, 2009

Synopsis

Requires landscaping be installed when buildings are demolished unless a development plan is approved.

CCL-003(a) amends UDO-082 which was not adopted by the Plan Commission. It would add a new requirement for demolition permits. Specifically, any request for a demolition permit would be required to provide a post-demolition plan for the site that could include turf grass, other ground cover, trees/shrubs, or planters. Once the demolition has been completed, the post-demolition landscape plan would have to be implemented as shown on the approved plan. A site could only be released from this requirement if the demolition permit is accompanied by a proposed development plan that is submitted to the Planning Department to initiate the review process.

Plan Commission Deny [2:7]

Action:

Council Action on Postpone Until 7 – 0 - 1 (Satterfield) (Absent: Piedmont-Smith

UDO-082: August 5, 2009

Action Date: July 29, 2009

Council Action:

Action Date:

Page 5-52

20.05.057 LA-06 [Landscaping Standards; Vacant Lot Landscaping]

This Landscaping Standards section applies to the following zoning districts:

[RM] [RH] [CL] [CG] [CA] [CD] [IG] [BP] [IN] [MD]

- (a) **Applicability:** Any lot with frontage on a public street shall be subject to the requirements of this section.
- (b) **Timing:** Landscaping or ground cover shall be installed as required in Subsection (c) on the lot where demolition activity has occurred within one hundred and eighty (180) days after the issuance of a demolition permit, unless:
 - (1) The Planning Director has granted an extension of time due to the need for more time to complete demolition activities or due to the presence of seasonal or inclement weather; or
 - (2) A site plan has been approved for the reuse of the property. If an approved site plan has expired and has not been renewed, landscaping as outlined in Subsection (c) shall be installed within one hundred and eighty (180) days after site plan expiration.
- (c) **Planting Requirements:**
 - (1) For lots of one-half (1/2) acre or less, the entire lot containing the demolition activity shall be covered with grass or other suitable ground cover as outlined in Section 20.05.057. No ground cover is required in locations where existing vegetation, remaining structures, or parking areas serving such remaining structures still exist.
 - (2) For lots greater than one-half (1/2) acre, one of the following landscaping options must be selected:
 - (A) The entire area disturbed for demolition shall be covered with grass or other suitable ground cover as outlined in Section 20.05.057; or

(B) A ten (10) foot wide planting area shall be installed along the property line bordering the entire area disturbed for demolition from any public street. This planting area may either utilize raised planters or be level with street grade. Evergreen shrubs that grow to a minimum height of at least four (4) feet shall be planted every three (3) feet within these planting areas.

(d) **Maintenance Requirements:**

- (1) All plant material shall be maintained alive, healthy, and free from disease and pests;
- (2) All raised landscape planters shall be repaired or replaced periodically to maintain a structurally sound condition;
- (3) Ground cover shall be maintained in compliance with Bloomington Municipal Code Title 6, *Health and Sanitation*; and
- (4) Public sidewalks shall be maintained in compliance with Bloomington Municipal Code Title 12, *Streets, Sidewalks, and Storm Sewers*.

[Subsequent sections of Chapter 20.05 will be renumbered to accommodate the inclusion of this new section.]

Page 9-29

20.09.230 Demolition and Demolition Delay

Insert a new part(a) which shall read as follows:

(a) **Demolition Landscaping**

- (1) *Applicability:* A demolition permit application for a lot subject to the standards of *Section 20.05.057: Landscaping Standards; Vacant Lot Landscaping* shall meet the requirements of this section.
- (2) *Vacant Lot Landscaping Plan:* Any demolition permit application subject to this section shall be accompanied by a Vacant Lot Landscaping Plan meeting the standards of *Section 20.05.057: Landscaping Standards; Vacant Lot Landscaping*.
- (3) *Exemption:* A demolition permit application shall be exempt from the requirements of this section if a site plan approval for the reuse of the subject lot has been obtained and has not expired.

Reletter subsequent parts of 20.09.230 accordingly.

Other Pages in the UDO

Substitute references to “20.09.230 Demolition Delay” with “20.09.230 Demolition and Demolition Delay” wherever it appears in Title 20.

Ordinance 09-12

Amendments to Title 20 (Unified Development Ordinance) Adopted by the Plan Commission

Council Amendment #: CCL-003 (b) Plan Commission Amendment #: UDO – 082

Sponsor: Sturbaum Date: July 31, 2009

Synopsis

Requires landscaping be installed when buildings are demolished unless a development plan is approved.

CCL-003 (b) amends UDO-082, which was not adopted by the Plan Commission. It would add a new requirement for demolition permits. Specifically, any request for a demolition permit would be required to provide a post-demolition plan for the site that could include turf grass, other ground cover, trees/shrubs, or planters. Once the demolition has been completed, the post-demolition landscape plan would have to be implemented as shown on the approved plan. A site could only be released from this requirement if the demolition permit is accompanied by a proposed development plan that is submitted to the Planning Department to initiate the review process. Note CCL-003 (b) differs from CCL-003 (a) in regard to the treatment of lots greater than one-half acre. Specifically, it requires a 10-ft wide planting area along all property lines bordering a public street, whereas CCL-003(a) requires that planting area only along the street in front of where the demolition occurred.

Plan Commission Deny [2:7]

Action:

Council Action on Postpone Until 7 – 0 - 1 (Satterfield) (Absent: Piedmont-Smith
UDO-082: August 5, 2009
Action Date: July 29, 2009

Council Action:

Action Date:

Page 5-52

20.05.057 LA-06 [Landscaping Standards; Vacant Lot Landscaping]

This Landscaping Standards section applies to the following zoning districts:

[RM] [RH] [CL] [CG] [CA] [CD] [IG] [BP] [IN] [MD]

- (a) **Applicability:** Any lot with frontage on a public street shall be subject to the requirements of this section.
- (b) **Timing:** Landscaping or ground cover shall be installed as required in Subsection (c) on the lot where demolition activity has occurred within one hundred and eighty (180) days after the issuance of a demolition permit, unless:
 - (1) The Planning Director has granted an extension of time due to the need for more time to complete demolition activities or due to the presence of seasonal or inclement weather; or
 - (2) A site plan has been approved for the reuse of the property. If an approved site plan has expired and has not been renewed, landscaping as outlined in Subsection (c) shall be installed within one hundred and eighty (180) days after site plan expiration.
- (c) **Planting Requirements:**
 - (1) For lots of one-half (1/2) acre or less, the entire lot containing the demolition activity shall be covered with grass or other suitable ground cover as outlined in Section 20.05.057. No ground cover is required in locations where existing vegetation, remaining structures, or parking areas serving such remaining structures still exist.

- (2) For lots greater than one-half (1/2) acre, one of the following landscaping options must be selected:
 - (A) The entire area disturbed for demolition shall be covered with grass or other suitable ground cover as outlined in Section 20.05.057; or
 - (B) A ten (10) foot wide planting area shall be installed along any property line bordering a public street. This planting area may either utilize raised planters or be level with street grade. Evergreen shrubs that grow to a minimum height of at least four (4) feet shall be planted every three (3) feet within these planting areas.

(d) Maintenance Requirements:

- (1) All plant material shall be maintained alive, healthy, and free from disease and pests;
- (2) All raised landscape planters shall be repaired or replaced periodically to maintain a structurally sound condition;
- (3) Ground cover shall be maintained in compliance with Bloomington Municipal Code Title 6, *Health and Sanitation*; and
- (4) Public sidewalks shall be maintained in compliance with Bloomington Municipal Code Title 12, *Streets, Sidewalks, and Storm Sewers*.

[Subsequent sections of Chapter 20.05 will be renumbered to accommodate the inclusion of this new section.]

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20.09.230 Demolition and Demolition Delay

Insert a new part(a) which shall read as follows:

(a) Demolition Landscaping

- (1) *Applicability:* A demolition permit application for a lot subject to the standards of *Section 20.05.057: Landscaping Standards; Vacant Lot Landscaping* shall meet the requirements of this section.
- (2) *Vacant Lot Landscaping Plan:* Any demolition permit application subject to this section shall be accompanied by a Vacant Lot Landscaping Plan meeting the standards of *Section 20.05.057: Landscaping Standards; Vacant Lot Landscaping*.
- (3) *Exemption:* A demolition permit application shall be exempt from the requirements of this section if a site plan approval for the reuse of the subject lot has been obtained and has not expired.

Reletter subsequent parts of 20.09.230 accordingly.

Other Pages in the UDO

Substitute references to “20.09.230 Demolition Delay” with “20.09.230 Demolition and Demolition Delay” wherever it appears in Title 20.

***** Amendment Form *****

Ordinance #: 09-12
Amendment #: CCL-014
Submitted By: Council Office
Date: August 5, 2009

Proposed Amendment:

1. Section One of Ord 09-12 shall be deleted and replaced with the following:

SECTION 1. The Common Council hereby adopts amendments to the text and incorporated maps of Title 20 entitled, "Unified Development Ordinance." These amendments are attached hereto and incorporated by reference into this ordinance and consist of the following documents:

- (a) Amendments to the text of Title 20 as well as to the maps incorporated into Title 20 which were forwarded by the Plan Commission to the Common Council with a positive recommendation and which were adopted by the Common Council (hereinafter Attachment A); and
- (b) Amendments to the text of Title 20, which were forwarded by the Plan Commission to the Council either with a positive recommendation and subsequently revised or amended by the Common Council or with a negative recommendation and subsequently approved or amended by the Common Council (hereinafter "Attachment B").
- (c) An amendment that was initiated by the Common Council for consideration by the Plan Commission under I.C. 36-7-4-607(b) (hereinafter "Attachment C").

2. The Common Council authorizes the Council Attorney/Administrator to prepare the necessary documents for consideration of the changes to this ordinance by the Plan Commission under I.C. 36-7-4-607 (e) and (f).

Synopsis

This amendment would reassemble the amendments adopted by the Council into three appendices or attachments. The first would include amendments favored by the Plan Commission and adopted by the Common Council without change. The second would include amendments forwarded by the Plan Commission that were amended by the Council. The third would include an amendment initiated by the Council for consideration by the Plan Commission under I.C. 36-7-4-607(b), which gives the Commission 60 days to hold a hearing on the matter. Lastly, this amendment authorizes the Council Administrator/Attorney to prepare the necessary documents for consideration of the changes to this ordinance by the Plan Commission under I.C. 36-7-4-607 (e) and (f).

9/16/09 Special Session Action: Pending

September 11, 2009