



City of Bloomington Common Council

Legislative Packet

Regular Session

01 April 2009

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

812.349.3409

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



Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

- **Notice of Staff/Council Internal Work Session** on Friday, April 3rd in the McCloskey Room at 11:00 a.m.

Legislation for Final Action:

- **Ord 09-03** Approving the Issuance of Bonds of the Department of Public Parks of the City of Bloomington, Indiana in an Amount Not to Exceed \$6,500,000 to Finance Acquisition and Improvement of Certain Park Facilities (SportsPlex at 1700 West Bloomfield Road)
Contact: Mick Renneisen at 349-3700 or renneism@bloomington.in.gov

Please see the [11 March 2009 Council Legislative Packet](#) for the legislation, summary and memo to the Council.

Legislation and Background Material for First Reading:

- **App Ord 09-02** To Specially Appropriate from the General Fund Expenditures Not Otherwise Appropriated (*Appropriating Funds from the General Fund for Additional Design Services for Improvements at the Atwater and Henderson Intersection*)
 - Memo to Council from Mike Trexler, Controller; Map*Contact: Mike Trexler at 349-3416 or trexlerm@bloomington.in.gov*

- **Ord 09-05** To Amend Title 4 of the Bloomington Municipal Code Entitled “Business Licenses and Regulations” - Re: Replacing Section 4.04.110 (Lunch wagon) and Chapter 4.16 (Itinerant Merchants) with Chapter 4.16 (Itinerant Merchants, Solicitors, and Peddlers)
 - Memo to the Council, Miah Michaelsen, Assistant Director of Economic and Sustainable Development of the Arts
 - Contact: Miah Michaelsen at 349-3534 or michaelm@bloomington.in.gov or Patty Mulvihill at 349-3426 or mulvihip@bloomington.in.gov*

- **Ord 09-06** To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” (Changes in Provisions Regarding One-Way Alleys, Various Parking Regulations, Crosswalks, and Penalties)
 - Memo from Justin Wykoff, Manager of Engineering Services; Maps of Affected Areas
 - Contact: Justin Wykoff at 349-3417 or wykoffj@bloomington.in.gov
Jacquelyn Moore at 349-3426 or mooreja@bloomington.in.gov*

Minutes from Regular Session:

None

Memo

**Reminder: Staff/Council Internal Work Session on Friday, April 3rd
at 11:00 a.m. in the McCloskey Room**

**One Item Ready for Final Action and Three Items Ready for Introduction at the
Regular Session on Wednesday, April 1st**

There is one ordinance ready for final action and three ordinances ready for introduction at the Regular Session next Wednesday. The ordinance ready for final action (Ord 09-03 – Acquiring, Renovating, and Financing the SportsPlex) and related materials can be found in the [*March 11th Council Legislative Packet*](#) and the three ordinances ready for introduction can be found in this packet.

First Readings

Item One – App Ord 09-02 – Appropriating \$12,500 to Pay for Additional Design Services for Improvements to the Intersection at Henderson and Atwater Due to Work Associated with the Historic Legg House

App Ord 09-02 appropriates \$12,500 to pay for additional design services for improvements to the intersection at Henderson and Atwater due to work associated with the historic Legg House. By way of background provided by Mike Trexler, Controller and Justin Wykoff, Manager of Engineering Services, the City engaged Eagle Ridge Civil Engineering Services to design improvements at the intersection of Henderson and Atwater for \$103,000. In the course of designing those improvements, the City proposed installing a fieldstone wall next to the sidewalk along the Legg House, consistent with the fieldstone walls along other campus buildings. However, the State Historic Preservation Officer determined that the wall would have an adverse effect on the Legg House, which is an historic property, because the wall might be mistakenly perceived as having been original to the house. The consultant work necessary to resolve the issue - which may entail erecting a sign indicating that the wall is not original to the building - led to the request to amend the contract to include services of a certified historian. All told, the design, acquisition of right-of-way, and improvements will cost about \$742,000, of which \$550,000 will be paid with a Hoosier Safety Improvement Program grant. The work should proceed during IU's Summer Session in 2010.

Item Two – Ord 09-05 – Amending Title 4 of the BMC Entitled “Business Licenses and Regulations”

Ord 09-05 amends Title 4 of the Bloomington Municipal Code entitled “Business Licenses and Regulations” by deleting the section on “Lunch wagons” (BMC 4.04.110) and the chapter on “Itinerant Merchants” (BMC 4.16) and replacing them with a new Chapter 4.16 entitled “Itinerant Merchants, Solicitors, and Peddlers.” According to the memo from Miah Michaelson, Assistant Director of Economic and Sustainable Development for the Arts, these changes were proposed by a team of City staff from Parks, Legal, Economic and Sustainable Development, Public Works, and the Controller's Office in order to better coordinate and permit vending and soliciting activity in the City.

Highlights and Themes

As an overview, this ordinance:

- Defines and brings Itinerant Merchants, Solicitors and Peddlers under one chapter of the BMC;
- Regulates Solicitors for the first time;
- Offers licenses for a greater variety of time periods and sets fees in relation to those time periods;
- Augments the application requirements (by requiring more information about the applicant, employees, and business plan as well as requiring proof of insurance, written consents from affected entities, and more);
- Imposes rigorous standards of conduct for these businesses to protect the health, safety and welfare of the community (which includes the protection of businesses on the streets where these vendors will conduct their operations);
- Provides for appeals of citations as well as denial, suspension, and revocation of a license; and
- Corrects many out-of-date local cites and state provisions.

4.16.010 Definitions

Here are some of the important definitions:

- **Itinerant Merchant** is a person or entity (and those who represent it) who engages in a temporary business of selling or delivering things or services within the City and who, in the furtherance of such business, occupies a particular place on public or private property. Note: Such entities are still considered Itinerant Merchants even when they temporarily associate or conduct business with a local dealer, trader, merchant or auctioneer;
- **Peddler** is a person or entity (and those who represent it) who sells or offers to sell things for immediate delivery and does so without having a fixed place of business. Note: It does not include wholesalers, firms who sell directly to retailers or manufacturers, or bidders for public works or supplies; and
- **Solicitor** is a person or entity (and those who represent it) who goes from one location to another on public or private property via City streets selling things or services that will be delivered or performed in the future.

4.16.020 License Required

This section requires itinerant merchants, peddlers, and solicitors to obtain a license from the City Controller before conducting business within the City. Note:

It excludes businesses that only provide transportation to the general public (yet acknowledges that these businesses must still comply with all state and local laws) and also excludes businesses exempted under the Itinerant Merchants statute (I.C. 25-3-1-10).

4.16.030 License Application

This section requires applicants to submit a completed application at least 14 days before conducting business and requires them to provide the following information in or attached to the application:

- Name, current physical address and phone number, birth date and social security number of the applicant;
- If the applicant is employed by or represents another entity, then:
 - the name, current physical address and phone number of that entity,
 - the length of time the person will represent them,
 - the name, current physical address, and phone number of members or officers of that entity; and
 - the date the entity came into being and the state in which it was formed, and if that state is not Indiana, the date the entity was qualified to do business in Indiana;
- Nature of the business, duration and hours of operation, and type of products or services to be sold or provided here;
- Inventory and detailed description of the things to be sold, the manner by which they will be advertised, and the representations to be made about them;
- Place(s) where the business will operate and, if applicable, a statement from the property owner(s) giving permission for use of that location;
- Whether the applicant is seeking a license for itinerant merchant, peddler, or solicitor;
- Whether the applicant is seeking a license for: one day, 72 hours, one calendar week, 30 days, 6 months or one year;
- Date of the last application submitted to the Controller;
- Whether a previous license here or a similar license granted here or elsewhere had been revoked and the circumstances of the revocation;
- Whether the applicant or any person responsible for the management of the applicant's business was ever convicted of any crime or any violation of a municipal regulation and the circumstances surrounding that crime or violation;
- Description, vehicle identification number, and any other information to help identify any vehicle or trailer to be used under this license and the owner of that vehicle or trailer;

- Resident of the City designated to receive notice from the City as well as from others as a result of doing business here;
- Credentials from any entity the applicant represents (in regard to this application) authorizing that representation;
- A copy of a Monroe County Health Department Permit if the applicant's business involves food;
- A copy of a Monroe County Itinerant Merchants license if the applicant is seeking the same in the City;
- A copy of a limited criminal history check performed by the Police Department for the applicant and persons participating in the business;
- A copy of letter of approval from the Board of Public Works if the applicant will conduct business in the public right of way (and the applicant is required comply with terms of that approval);
- A copy of letter of approval from the Board of Park Commissioners if the applicant will conduct business on property owned or managed by that Board (and the applicant is required comply with terms of that approval);
- A copy of an Open Burn permit from the Fire Department if the applicant will produce a spark, flame or fire while conducting business under the license;
- Proof of insurance required under BMC 4.16.070; and
- Any additional information the Controller deems necessary to process the application.

4.16.040 Issuance or Denial of License

This section delegates the duty of granting or denying the permit to the Controller who if, after considering the application and related information, determines that the applicant meets the qualifications and requirements of this Chapter as well as all other applicable laws, ordinances and policies, shall grant the permit.

Along with failing to meet the foregoing standards, the Controller shall deny the application if:

- A license for a similar business which involved the applicant and any person who is responsible for managing or supervising or otherwise participates in the business was revoked by the City or any other governmental entity; or
- The purpose of the business is unlawful.

In addition, the Controller may deny the application if:

- The applicant and any person who is responsible for managing or supervising or otherwise participates in the business was convicted of a

misdemeanor or felony involving a lack of honesty or violated provisions of this Chapter within 10 years of the date of the application.

4.16.050 License Fee

Here is a break down of current and proposed fees under this ordinance:

Proposed Fees:		Existing Fees:	
		Lunch Wagons	Itinerant Merchants
One (1) Day License:	\$15.00	\$5/Veh/Day	\$10 / Day
Seventy-two (72) Hour License:	\$40.00	N/A	N/A
One (1) Week License:	\$75.00	N/A	N/A
Thirty (30) Day License:	\$120.00	\$50 + \$5/Veh/Month	N/A
Six (6) Month License:	\$175.00	N/A	N/A
One (1) Year License:	\$240.00	\$300 + \$10/Veh/Year (\$25/foot powered ice cream vendors + \$5 per bicycle)	N/A

This section exempts certain non-profit organizations who use the proceeds from this business activity exclusively for religious, charitable, educational or scientific purposes, but still requires them to comply with all of the other requirements of this chapter.

This section also exempts participants at special events (such as the Farmers’ Market, Taste of Bloomington, Fourth Street Festival and any such event approved by the Controller) from these regulations.

4.16.060 Effect of Cessation of Business

This section establishes that the fee will not be reduced in the event the licensee fails to conduct business for any part of the license term.

4.16.070 Insurance and Indemnity

This section requires applicants to provide the Controller with a certificate of liability insurance on a form approved by the Corporation Counsel. The certificate shall indicate that the applicant is insured and the City is named as a co-insured for

this retail activity against personal injury and property damage in the following amounts:

- Personal injury: \$100,000 per occurrence; \$300,000 in aggregate; and
- Property damage: \$25,000 pr occurrence; \$50,000 in aggregate.

This section also requires the applicant to indemnify and hold the City harmless for losses and expenses arising out of the operation of this business and do so on a form approved by the Corporation Counsel.

4.16.080 License Identification and Display

This section requires the Controller to issue a license with a photograph of the applicant attached to all licensees. The license, in turn, provides proof that the person is duly authorized to conduct business in the City and licensees who fail to display the license in the following manner are subject to its suspension or revocation:

- Wear it in plain view and at all times when conducting business under the license; and
- Display it prominently and exhibit it whenever asked to by any police officer or person who approaches them to conduct business under the license.

4.16.090 Prohibited Locations

This section prohibits licensees from occupying certain locations. In particular, it says that licensees may not:

- Locate in a public park, plaza, or parking lot/facility without written permission from the City;
- Conduct business on the same side of the street and within 50 feet of a primary entryway into a ground level retail establishment offering the same type of items and/or services as the licensee;
- Locate or conduct sales in a street, street median, or alleyway;
- Locate unreasonably close to a posted bus stop, taxi stand, crosswalk, driveway, alleyway, right-of-way lines of two or more intersecting streets or the entry to any building or walk-up window;
- Locate unreasonably close to another licensee (and the most recent licensee to arrive at that location will be the one required to move);
- Sell items directly in front of the primary entrance of a retail business, office building, or church except with the written permission of those entities (Note: this provision defines the prohibited area by drawing virtual lines running from either side of the door to the curb);
- Locate or sell items on parts of the B-Line Trail from the:

- north side of Country Club Drive to the south side of Dodds Street;
- north side of 2nd Street to the south side of 3rd Street; and
- north side of 4th Street to the south side of 6th Street;
- Locate or conduct sales within a one-block radius of special events (such as the Farmers' Market, Fourth Street Fair, and other events approved by the Controller), except with the prior written consent of the coordinator or director of the special event;
- Locate in a public parking space except where prior approval has been granted by the Board of Public Works; and
- Locate in a manner that would significantly impede or prevent the use of City property or would endanger the safety or property of the public.

4.16.100 Standards of Conduct

This section requires all licensees to:

- Conduct themselves in an orderly and lawful manner at all times and not make or cause an unreasonable noise in violation of the noise ordinance;
- Not use a device to amplify sounds and not use noise or a light producing device to draw attention to it business;
- Reveal to prospective buyer within a reasonable time what they are selling, who they represent, and the exact price and terms of the sale;
- Not affix a cart or stand to a fixed object;
- Not use the cart or stand to advertize items or services outside those offered under the license;
- Not display a sign larger than 1.5 square feet in area;
- Not use an electrical outlet for any cart or stand while it is operating under the license;
- Protect against littering by having an adequate trash can that is emptied frequently enough to allow use by the public at any time (Note: The licensee cannot place solid wastes in a City receptacle or dispose of liquid wastes on City property and cannot dispose of either on private property without express written consent of the owner);
- Not expose pedestrians to any undue safety or health hazard and not create a public nuisance;
- Maintain each cart or stand free and clear of dirt and assure that their finish is not chipped, faded, or unduly marred;
- Sell food that is likely to spill onto the street or sidewalk by packaging it in a proper container to prevent such spillage;
- Not enter a residential property where the owner, occupant or person legally in charge of it has posted a sign at the entry of the principal building that prohibits licensees from entering;

- If using a grill or device that may result in a spark, flame, or fire,
 - Stay at least 20 feet from a building or structure and have a fire extinguisher within reach at all times;
 - Keep the flame, spark, or fire below 12 inches in height; and Provide a barrier between the device and the general public.

4.16.110 Revocation of License

This section requires the Controller to revoke a license if the Controller finds that the licensee:

- Has violated the provisions of this chapter or any applicable law or ordinance;
- Made a material misstatement in the application; or
- Otherwise ceases to qualify for the license.

Upon determining that the license should be revoked, the Controller shall notify the licensee of the revocation in writing by certified mail at the applicant's physical address or the address of the their agent as either is set forth in the application. The license, then, terminates upon the mailing of the notice.

4.16.111 Appeal

This section allows any applicant or licensee whose license has been denied, suspended or revoked or any person who is issued a citation to appeal that decision to the Board of Public Works. The appeal must be filed within 10 days after the decision and set forth in writing the grounds for the appeal. The decision of the Board is considered final and conclusive.

4.16.112 Penalty

This section says that each day a violation continues shall be considered a separate violation for purposes of penalties set forth in this Chapter. It also establishes a:

- \$250 fine for persons or entities who violate any provision of the ordinance or make a false statement in the application for the license; and
- \$500 fine for any person or entity who conducts a business regulated by this ordinance without obtaining a license first.

**Item Three - Ord 09-06 –
Amending Title 15 of the BMC Entitled Vehicles and Traffic**

Ord 09-06 makes numerous changes to Title 15 of the Bloomington Municipal Code (BMC) which are summarized in the following charts and paragraphs.

**ONE-WAY STREETS AND ALLEYS
(CHAPTER 15.12)
ONE WAY ALLEYS (SCHEDULE F)
(Section 1 of the Ordinance)**

LOCATION

ACTION and RATIONALE

Alley between 4th and 5th and
Washington and Lincoln
(Map 1)

This section converts this alley from a two-way to a one-way alley for cars proceeding west. Rationale: The change was requested by an adjacent church and will avoid confusion and congestion that occurs when cars meet on this 12-foot alley.

**PARKING CONROLS
(CHAPTER 15.32)
(Section 2 and 16 of the Ordinance)**

This section adds a new parking regulation that requires vehicles to park within the marked parking spaces when those markings are present. These markings are intended to optimize the number of vehicles that can park on those streets. Violation of this regulation would be a Class D Traffic Violation (and subject to a \$20/\$40 escalating fine if not paid within 7 days).

**NO PARKING ZONES
SCHEDULE M
(Sections 3, 4 and parts of 5 of the Ordinance)**

LOCATION

ACTION and RATIONALE

Hawthorne Drive from University Ave
to Second Street (East Side)
(Map 2)

Parking is currently prohibited on both sides of Hawthorne between University and 2nd Street. The change allows parking on the west side. Rationale: This area is in the Elm Heights Neighborhood Parking Zone (#1) and the change will provide more parking for residents in that block.

15th Street from Forrest to Woodlawn Avenue (North and South Side)
(Map 9)

This stretch of 15th Street is narrow and one block long. The change prohibits parking on the entire south side of the block and also prohibits parking on north side for the west half of the block. Rationale: It is a narrow street without room for parked cars.

Lincoln Street from 14th to 15th Street (East Side)
(Map 3)

Parking is currently allowed on both sides of Lincoln between 14th and 15th. The change will prohibit parking on the east side. Rationale: This will allow safe egress from the many drives on that side of the street.

Walnut Street from 7th to 8th Street (West Side)
(Map 4)

Parking is currently allowed on the west side of Walnut next to Kilroy's Sports Bar from 5:00 a.m. to 5:00 p.m., Monday through Saturday. The change prohibits parking on that side of the street. Rationale: Kilroy's requested reduced parking to give cars turning north on Walnut a better view of the cars approaching from the south.

LIMITED PARKING ZONES
SCHEDULE N
(Sections 5, 6, and 7 of the Ordinance)

LOCATION

ACTION and RATIONALE

General Change to the Limited Parking Regulation

Currently our code restricts persons from parking a vehicle within the same block for more than the prescribed time limit during the hours of enforcement in the course of one calendar day. This change clarifies that motorists may not park more than once in the same block during one calendar day (within the hours of enforcement). Rationale: The regulation is intended to encourage turn-over of parking on the street, which would be undermined if motorists could return to the same block later in the day.

Dunn Street from 3rd to 4th Street (East Side)
(Map 5)

Two-hour parking is currently allowed on the east side of this block between the hours of 8:00 a.m. to 5:00 p.m. from Monday through Saturday and no parking is allowed on the west side of the street. This change would allow parking all day on Saturday and Sunday. Rationale: This change makes the enforcement period the same as other downtown parking.

Grant Street from 3rd to 4th Street
(West Side)
(Map 5)

Two-hour parking is currently allowed on the west side of this block between the hours of 8:00 a.m. to 5:00 p.m. from Monday through Saturday and no parking is allowed on the east side of the street. This change would allow all-day parking to Saturday and Sunday. Rationale: Same as above.

LOADING ZONES
SCHEDULE O
and
ACCESSIBLE PARKING FOR PERSONS WITH PHYSICAL DISABILITIES
SCHEDULE S
(Section 8 and 9 of the Ordinance)

LOCATION

ACTION and RATIONALE

200 Block of West 6th Street
1st Space East of Morton (North Side)
(Map 6)

This change adds a loading zone next to Relish on West 6th Street. Rationale: Relish requested this loading zone given the nature of their business (and received approval from the Traffic Commission).

200 Block of South Grant Street
1st Space South of 4th (West Side)
(Map 5)

This change adds an accessible parking space next to Storm Realty at Grant and 4th. Rationale: Bruce Storm requested this change (and received approval from the Traffic Commission).

CHAPTER 15.40
MUNICIPAL PARKING LOTS, GARAGES AND
ON-STREET METERED PARKING
(Section 10, 11 and 17 of the Ordinance)

ACTION and RATIONALE

This change converts the following two parking violations from Class H violations (\$50.00 Fine) to Class D violations (Escalating Fine of \$20 if paid in first 7 days/\$40 if paid thereafter):

- BMC 15.40.025 (b) – parking in City parks after hours (11:00 p.m. to 5:00 a.m.);
- BMC 15.40.050 – parking in spaces allotted to visitors of City Hall when not visiting there.

This change also removes the following permit requirement as a basis for receiving a fine:

- BMC 15.40.030 (e) – being issued a permit when vehicle owner owes the City or one of its agencies money for parking tickets or any other reason.

This change removes a redundant provision regarding the cancellation or revocation of permits for permit holders who charge a 3rd party more than they paid for the permit (BMC 15.40.030(h)(1)) or resell or sublet the permit for more than they paid for it (BMC 15.40.030(i)).

CHAPTER 15.60
MISCELLANEOUS TRAFFIC RULES
SECTION 15.60.050 PEDESTRIANS (CROSSWALKS)
(Section 12 of the Ordinance)

LOCATION

ACTION and RATIONALE

1100 Block of East 10th Street
between Walnut Grove and North Fee Lane
and

1300 Block of East 10th Street
between North Fee Lane and
North Jordan Avenue
(Map 7)

This ordinance adds these three existing crosswalks on 10th and 17th Street. Please note that the memo also mentions the review of existing mid-block crosswalks for “additional safety and enhancement opportunities.”

1200 Block of East 17th Street
Between North Fee Lane and North Walnut
Grove
(Map 8)

CHAPTER 15.64
TRAFFIC VIOLATION SCHEDULE
(Sections 13 through 18 of the Ordinance)

ACTION and RATIONALE

Section 13, 14, and 15 correct the citations for certain Class D traffic violations.

Section 16 adds the new violation (established in Section 2) of failing to park within the marked space (BMC 15.32.180) to the list of Class D Traffic Violations.

Section 17 reflects changes in Sections 10 and 11 which converted two prohibitions – parking in City Parks after-hours and parking in City Hall visitor spaces without visiting there – from Class H Traffic Violations (\$50.00 fine) to Class D Traffic Violations (escalating \$20/\$40 fines if not paid within 7 days).

Section 18 corrects the citation for one Class H Traffic Violation.

Happy Birthday Mike Satterfield (March 29th)!

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, APRIL 1, 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

1. Ordinance 09-03 An Ordinance Approving the Issuance of Bonds of the Department of Public Parks of the City of Bloomington, Indiana in an Amount Not to Exceed \$6,500,000 to Finance Acquisition and Improvement of Certain Park Facilities (SportsPlex at 1700 West Bloomfield Road)

Committee Recommendation: Do Pass 5 – 1 – 3

VII. LEGISLATION FOR FIRST READING

1. Appropriation Ordinance 09-02 To Specially Appropriate from the General Fund Expenditures Not Otherwise Appropriated (Appropriating Funds from the General Fund for Additional Design Services for Improvements at the Atwater and Henderson Intersection)

2. Ordinance 09-05 To Amend Title 4 of the Bloomington Municipal Code Entitled “Business Licenses and Regulations” Re: Replacing Section 4.04.110 (Lunch Wagon) and Chapter 4.16 (Itinerant Merchants) with Chapter 4.16 (Itinerant Merchants, Solicitors, and Peddlers)

3. Ordinance 09-06 To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” (Changes in Provisions Regarding One-Way Alleys, Various Parking Regulations, Crosswalks, and Penalties)

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

IX. ADJOURNMENT



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

To: Council Members
From: Council Office
Re: Calendar for the Week of March 29-April 4, 2009

Sunday, March 29, 2009

Happy Birthday Councilmember Mike Satterfield!

Monday, March 30, 2009

4:30 pm Utilities Service Board Finance Subcommittee, Board Room, 600 E. Miller Drive
5:00 pm Utilities Service Board, Board Room, 600 E. Miller Drive
5:00 pm *Peace Work, Green Work, Women's Work: Women's Leadership Development Event*, City Hall

Tuesday, March 31, 2009

1:30 pm Development Review Committee, McCloskey
4:00 pm Human Rights Commission Awards Ceremony, Council Chambers
5:00 pm MOSAIC Film Festival Committee, McCloskey
5:30 pm Bloomington Public Transportation Corporation, Public Transportation Center, 130 W. Grimes Lane
5:30 pm Board of Public Works, Council Chambers

Wednesday, April 1, 2009

10:30 am Safe Routes to School Task Force, Hooker Room
12:00 pm Bloomington Urban Enterprise Association, McCloskey
4:00 pm Inclusive Recreation Advisory Council, Allison-Jukebox Community Center, 351 S. Washington St.
5:30 pm Internal Working Session, Commission on Hispanic and Latino Affairs, McCloskey
7:30 pm Common Council Regular Session, Council Chambers

Thursday, April 2, 2009

11:30 am Solid Waste Management District, Monroe County Courthouse, Judge Nat U. Hill, III Room
4:00 pm Bloomington Digital Underground Advisory Council, McCloskey
5:30 pm Commission on the Status of Women, McCloskey
5:30 pm Invasive Plant Forum, Council Chambers
7:00 pm Bloomington Peak Oil Task Force, McCloskey

Friday, April 3, 2009

8:00 am *Women of Color Leadership Conference*, Kelley School of Business Graduate and Executive Education Center
1275 E 10th St, BL450
11:00 am Common Council Internal Work Session, McCloskey
12:00 pm Economic Development Commission, Hooker Room
1:30 pm Metropolitan Planning Organization Policy Committee, McCloskey

Saturday, April 4, 2009

8:00 am Bloomington Community Farmers' Market, Showers Common, 401 N. Morton
8:00 am *Women of Color Leadership Conference*, Kelley School of Business Graduate and Executive Education Center
1275 E 10th St, BL450
10:00 am Diversity Theater's MOSAIC Film Festival, City Hall

Posted and Distributed: Friday, March 27, 2009



City of Bloomington
Office of the Common Council

NOTICE

STAFF-COMMON COUNCIL INTERNAL WORK SESSION

**FRIDAY, 03 APRIL 2009
11:00 A.M.
McCLOSKEY ROOM (#135)**

**CITY HALL
401 N. MORTON STREET**

These sessions are a forum for members of the Common Council to discuss anticipated legislative initiatives with City officials and staff. The work sessions may be held with as few as one and as many as nine members of the Council. Therefore, as a majority of the Council may be present, these sessions may constitute a meeting of the Common Council under the Indiana Open Door law. This notice alerts the public that these meetings will occur and that the public is welcome to attend, observe and record (but not comment upon) what transpires.

Dated and Posted: Friday, 20 March 2009

401 N. Morton Street • Bloomington, IN 47404

City Hall

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

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APPROPRIATION ORDINANCE 09-02

**TO SPECIALLY APPROPRIATE FROM THE GENERAL FUND EXPENDITURES NOT OTHERWISE APPROPRIATED
(Appropriating Funds from the General Fund for Additional Design Services for Improvements at the Atwater and Henderson Intersection)**

WHEREAS, the Department of Public Works desires to increase its budget to fund additional design services for the Atwater & Henderson Intersection Improvements to preserve the historical value of the Legg House;

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 – Public Works	
Line 53110 – Engineering & Architectural Services	\$ <u>12,500</u>
Total General Fund	<u>12,500</u>
 Grand Total General Fund	 <u>12,500</u>
 Grand Total All Funds	 \$ <u>12,500</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 \$12,500 from the General Fund for additional design services for the Atwater & Henderson Intersection Improvements to preserve the historical value of the Legg House.



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: March 11, 2009
Re: Appropriation Ordinance 09-02

In Appropriation Ordinance 09-02, we are requesting authorization for an expenditure of \$12,500 from the General Fund for additional design services for the Atwater & Henderson Intersection Improvements.

The project is located near a historic farm house built prior to 1901 known as the Legg House. The State Historical Preservation Officer has determined that some of the design safety features of the project will have an "Adverse Effect" on the Legg House. In order to mitigate the adverse effect, the city has proposed erecting a sign indicating the historic value of the property.

The Adverse Effect finding creates additional work and coordination that must be completed by our consultants. As a result, Eagle Ridge Civil Engineering Services has requested an amendment to the agreement for consulting services that would raise the design cost by \$12,500 to a total of \$115,500.

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

ORDINANCE 09-05

**TO AMEND TITLE 4 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED
“BUSINESS LICENSES AND REGULATIONS”
Re: Replacing Section 4.04.110 (Lunch wagon) and Chapter 4.16 (Itinerant Merchants)
with Chapter 4.16 (Itinerant Merchants, Solicitors, and Peddlers)**

- WHEREAS, the City of Bloomington is by State law permitted to establish ordinances to protect the health, safety and general welfare of its residents; and
- WHEREAS, the City of Bloomington has adopted ordinances regulating Itinerant Merchants and Lunch Wagons pursuant to the authority granted it by the State; and
- WHEREAS, the ordinances regulating Itinerants Merchants and Lunch Wagons need to be modified to promote economic development and competitive enterprise within the City while at the same time protecting residents of the City from sales harassment, unwanted disturbances, unwelcome visits and high pressure solicitation; and
- WHEREAS, the primary purpose of public streets, sidewalks, and other public ways is for use by vehicular and pedestrian traffic and, while vending on such public ways promotes the public interest by contributing to an active and attractive pedestrian environment, the current Itinerant Merchant and Lunch Wagon ordinances must be modified in order to establish a reasonable regulation of vending on public ways and to adequately protect the public health, safety, and welfare of the citizens of Bloomington; and
- WHEREAS, the Itinerant Merchant and Lunch Wagon ordinances should be modified to include the regulation of and provide protection for solicitors so that the citizens of Bloomington can receive the same protection on private residential streets that they receive on public thoroughfares;

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

SECTION I. Section 4.04.110 of the Bloomington Municipal Code entitled “Lunch Wagon” and Chapter 4.16 of the Bloomington Municipal Code entitled “Itinerant Merchants” shall be deleted and replaced with the following provisions. The codifier shall delete Section 4.04.110 from the table of contents of that chapter .

Chapter 4.16 Itinerant Merchants, Solicitors and Peddlers

- 4.16.010 Definitions
- 4.16.020 License Required
- 4.16.030 License Application
- 4.16.040 Issuance or Denial of License
- 4.16.050 License Fee
- 4.16.060 Effect of Cessation of Business
- 4.16.070 Insurance and Indemnity
- 4.16.080 License Identification and Display
- 4.16.090 Prohibited Locations
- 4.16.100 Standards of Conduct
- 4.16.110 Revocation of License
- 4.16.120 Appeal
- 4.16.130 Penalty

4.16.010 Definitions.

As used in this chapter, the following words mean, unless otherwise designated:

“Benevolent organization” means an organization which is free from the possibility of profits accruing to the founders, officers, directors or members.

“Itinerant merchant” means any person or persons, firm, limited liability company, corporation or organization, either principal or agent, employer or employee who engages in a temporary or transient business of selling and delivering goods, wares, or merchandise within the City of Bloomington (“City”), and who, in furtherance of such business, leases, uses or occupies any

temporary structure, motor vehicle, trailer, tent, lot, cart, street, alley, sidewalk or any other such place, public or private, within the City for the exhibition and sale of such goods, wares, or merchandise or who provides a service to the community. The person, firm, limited liability company, corporation or organization so engaged shall not be relieved from the provisions of this section by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by reason of conducting such temporary business in connection with or as a party of any local business or in the name of any local dealer, trader, merchant or auctioneer.

“Peddler” means any person or persons, firm, limited liability company, corporation or organization, either principal or agent, employer or employee who sells and makes immediate delivery or offers for sale an immediate delivery of any goods, wares, merchandise or item in the possession of the seller at any place in the City of Bloomington other than a fixed place of business, but shall not include salesmen or agents for wholesale houses or firms who sell to retail dealers for resale or sell to manufacturers for manufacturing purposes or to bidders for public works or supplies.

“Solicitor” means any person or persons, firm, limited liability company, corporation or organization, either principal or agent, employer or employee who engages in the business of going from house to house, place to place, in or along the streets, within the City of Bloomington selling or taking orders for or offering to sell or take orders for goods, wares or merchandise or other things of value for future delivery or for services to be performed in the future.

4.16.020 License Required.

It shall be unlawful to conduct a business of soliciting, peddling, and/or engaging in the business of being an itinerant merchant within the City of Bloomington, unless a valid license has first been issued to the solicitor, peddler and/or itinerant merchant by the City Controller. A license is not required under this Chapter if the business activity only includes the provision of transportation to the general public; however, such business must comply with any and all other applicable state or local laws. A license is also not required for entities exempted under I.C. 25-37-1-10.

4.16.030 License Application.

Any person desiring a license under this chapter shall submit a fully completed application to the City Controller at least fourteen (14) days prior to the proposed date of conducting the business activity. The application must set forth or have attached the following information as specified below:

- (a) The applicant’s name, current physical address, telephone number, date of birth and social security number;
- (b) The name, current physical address, and telephone number of the person, firm, limited liability company, corporation or organization which the applicant is employed by or represents, and the length of time of such employment or representation;
- (c) If the applicant is employed by or represents a firm, limited liability company or corporation, the applicant shall provide the name and current physical address of all members of the firm or limited liability company, or all officers of the corporation, as the case may be;
- (d) If the applicant is employed by or represents a corporation or a limited liability company then there shall be stated on the application the date of incorporation or organization, the state of incorporation or organization, and if the applicant is a corporation or limited liability company formed in a state other than the State of Indiana, the date on which such corporation or limited liability company qualified to transact business as a foreign corporation or foreign limited liability company in the State of Indiana;
- (e) A brief description of the nature of the business in which the applicant is engaged, the length of time for which the applicant desires to transact business, the hours of the day the applicant desires to transact business and the type of products or services to be sold or rendered;
- (f) The place or places where said business may be conducted, and a written statement, if applicable, from the owner of such place or places authorizing the applicant to conduct said business;
- (g) A detailed inventory and description of the goods, wares and merchandise to be offered for sale, the manner in which the same is to be advertised for sale and the representations to be made in connection therewith;
- (h) The category of license the applicant is seeking: itinerant merchant, peddler or solicitor;
- (i) The type of license the applicant is seeking: one (1) day; seventy-two (72) hour; one (1) calendar week; thirty (30) day; six (6) month; or one (1) year.
- (j) The date, or approximate date, of the latest previous application for a license, if any, was submitted to the City Controller;

- (k) A statement whether a license, under the provisions of this Chapter, or any other similar ordinance of the City of Bloomington or any county or municipality, has been revoked, together with the details thereof;
- (l) A statement as to whether the applicant or any person responsible for the management or supervision of the applicant's business have been convicted of any crime, misdemeanor, or violation of any municipal regulation or ordinance together with the details thereof;
- (m) If a motor vehicle and or mobile trailer is to be used, a description of the same, together with the current vehicle identification number and license number of said vehicle and/or trailer as issued by the relevant state agency and any other identification as will serve to identify said vehicle or trailer and its owner;
- (n) The designation of a resident of the City of Bloomington as a registered agent for purposes of receiving notices from the City of Bloomington or other service of process, as a result of doing business in the City of Bloomington;
- (o) Attached to the application shall be credentials from the person, firm, limited liability company, corporation or organization for which the applicant proposes to do business and authorizing the applicant to act as such representative;
- (p) Attached to the application shall be a copy of the Monroe County Health Department permit if the applicant will be using, handling, selling or distributing food.
- (q) If the applicant is applying for an itinerant merchant license, a copy of the itinerant merchant license issued by Monroe County, Indiana, shall be attached to the application;
- (s) Attached to the application shall be a copy of a limited criminal history check obtained from the City of Bloomington Police Department covering the applicant and any person who participates in the business;
- (t) If the applicant will conduct business in the City of Bloomington public right of way, attached to the application shall be a letter of approval from the Board of Public Works. Said applicant shall be required to adhere to any standards or restrictions noted in the letter of approval provided by the Board of Public Works.
- (u) If the applicant will conduct business in or on property owned and/or managed by the City of Bloomington Parks Department, attached to the applicant shall be a letter of approval from the City of Bloomington Parks Department. Said applicant shall be required to adhere to any standards or restrictions noted in the letter of approval provided by the City of Bloomington Parks Department.
- (v) If the applicant will produce any type of spark, flame or fire in the course of his/her business, he/or she shall attach a copy of an open burning permit issued by the City of Bloomington Fire Department.
- (x) Attached to the application shall be proof of insurance in accordance with the limits described in section 4.16.070 of this Chapter; and
- (y) Any additional information that the City Controller may deem necessary to process the application.

4.16.040 Issuance or Denial of License

- (a) After consideration of the application and all information and data obtained relative thereto, the City Controller shall issue a license to the applicant if he/she determines that the applicant has the qualifications and meets the requirements of this Chapter, and all other applicable laws, ordinances and policies; if not, the application shall be denied and the applicant shall not engage in or carry out any business herein defined in the City of Bloomington.
- (b) The application may be denied if the applicant, any person who is to participate in the business or any person who will be responsible for the management or supervision of the applicant's business has, within ten (10) years prior to the date of the application, been convicted of a felony or a misdemeanor that involved a lack of honesty or violated the provisions of this Chapter. An application shall be denied if the aforementioned persons had one of the aforementioned relationships with a license or other such permit to engage in or carry out such business defined herein that has, at any time, been revoked by the City or any other governmental agency or body. An application shall also be denied if the purpose of the business is otherwise unlawful.

4.16.050 License Fee

- (a) Each applicant shall pay a license fee in accordance with the schedule set forth below (all licenses are for a consecutive period of time):

(1)	One (1) Day License:	\$15.00
(2)	Seventy-two (72) Hour License:	\$40.00
(3)	One (1) Week License:	\$75.00
(4)	Thirty (30) Day License:	\$120.00
(5)	Six (6) Month License:	\$175.00
(6)	One (1) Year License:	\$240.00

(b) The following listed organizations and/or entities are exempt from payment of a licensing fee, so long as the proceeds thereof are to be used exclusively for religious, charitable, educational or scientific purposes, but are nonetheless required to adhere to all other requirements of this chapter:

- (1) Churches;
- (2) Schools;
- (3) Benevolent organizations;
- (4) Fraternal organizations; and
- (5) Other similarly situated organizations.

(c) Participants at the following special events are exempt from the provisions of this Chapter:

- (1) City of Bloomington's Farmers' Market;
- (2) City of Bloomington's Holiday Market;
- (3) The Taste of Bloomington;
- (4) Lotus World Music and Arts Festival;
- (5) The Fourth Street Festival;
- (6) City of Bloomington A Fair of the Arts;
- (7) Strawberry Festival;
- (8) Canopy of Lights;
- (9) Fourth of July Parade; and
- (10) Any other special events approved by the City Controller.

4.16.060 Effect of Cessation of Business

No deductions shall be allowed from the fee for a license issued pursuant to this Chapter for any part of the term of which the licensee does not engage in such business.

4.16.070 Insurance and Indemnity

(a) Each applicant for a license shall provide a certificate of liability insurance to the City Controller upon a form approved by the Corporation Counsel for the City of Bloomington, insuring the applicant, and naming the City of Bloomington, as co-insured, against the following liabilities and in the following amounts relative to such retail activity:

- (1) Personal injury: \$100,000.00 per occurrence and \$300,000.00 in the aggregate; and
- (2) Property damage: \$25,000.00 per occurrence and \$50,000.00 in the aggregate.

(b) Each applicant shall provide a document, approved by the Corporation Counsel for the City of Bloomington, in which the applicant agrees to indemnify and hold harmless the City of Bloomington for losses or expenses arising out of the operation of his/her business.

4.16.080 License Identification and Display

(a) Any itinerant merchant, peddler and/or solicitor being duly licensed according to the provisions of this Chapter shall wear on his/her person at all times, and in plain view while operating in the City of Bloomington, a license furnished by the City Controller. This license shall serve as notice to the public that such itinerant merchant, peddler and/or solicitor is duly licensed by the City of Bloomington and has the necessary approval of the City Controller;

(b) Any license issued to an itinerant merchant, peddler and/or solicitor shall contain a permanently affixed photograph of the applicant;

(c) All itinerant merchants, peddlers and/or solicitors shall prominently display the license issued by the City Controller and shall exhibit the same whenever he/she is requested to do so by any police officer or any person who approaches the itinerant merchant, peddler and/or solicitor for purposes of engaging in or carrying on the business defined therein; and

(d) Failure to display or exhibit a license in accordance with this section may be grounds for suspension or revocation of said license.

4.16.090 Prohibited Locations

(a) No itinerant merchant, peddler or solicitor may be located in any public park, plaza or parking lot/facility, without written authorization from the City of Bloomington; and

(b) No itinerant merchant, peddler or solicitor may conduct business on the same side of the street and within fifty (50) feet of a primary entry way into a ground level retail establishment which offers the same type of goods, wares, services, foods, or products as the itinerant merchant, peddler or solicitor; and

(c) No itinerant merchant, peddler or solicitor may be located nor any such sales be made in a street, a street median strip or an alleyway; and

- (d) Itinerant merchants, peddlers and/or solicitors shall locate themselves a reasonable distance from any posted bus stop, taxi stand, crosswalk, driveway, alleyway, right-of-way lines of two (2) or more intersecting streets or building entrance or walk-up window; and
- (e) Itinerant merchants, peddlers and/or solicitors shall locate themselves a reasonable distance from another cart or stand. Where two (2) or more carts or stands are so located, the cart or stand which has been most recently located in violation of this provision shall be required to move so as not be in violation; and
- (f) No itinerant merchant, peddler or solicitor may sell or peddle any ware at a location directly in front of the primary entrance to a retail business, office building or church. The area in which an itinerant merchant, peddler or solicitor may not sell or peddle any wares is defined by the doorway line, lines running on either side of the door to the nearest curb, and the curb lines. If an itinerant merchant, peddler or solicitor has the prior written approval of the retail business, office building or church it wishes to sell or peddle its wares in front of, this section need not apply; and
- (g) No itinerant merchants, peddlers or solicitors may be located nor any such sales be made on the following portions of the City of Bloomington B-Line Trail:
 - (1) From the north side of Country Club Road to the south side of Dodds Street
 - (2) From the north side of 2nd Street to the south side of 3rd Street
 - (3) From the north side of 4th Street to the south side of 6th Street; and
- (h) No itinerant merchant, peddler or solicitor may be located nor any such sales be made within a one block radius during the hours of operation of the following special events unless prior written consent has been provided by the coordinator or director of the special event:
 - (1) City of Bloomington Farmers' Market
 - (2) City of Bloomington Holiday Market
 - (3) The Taste of Bloomington
 - (4) Lotus World Music and Arts Festival
 - (5) The Fourth Street Festival
 - (6) Arts Fair on the Square
 - (7) Strawberry Festival
 - (8) Canopy of Lights;
 - (9) Fourth of July Parade; and
 - (10) Any other special events approved by the City Controller; and
- (i) No itinerant merchant, peddler or solicitor may be located in a public parking space unless prior approval has been granted by the Board of Public Works; and
- (j) No itinerant merchant, peddler or solicitor may be located in a manner which would significantly impede or prevent the use of any City of Bloomington property, or which would endanger the safety or property of the public.

4.16.100 Standards of Conduct

All itinerant merchants, peddlers and solicitors engaged in or carrying on the business defined herein shall conform to the following standards of conduct:

- (a) Itinerant merchants, peddlers and solicitors shall conduct themselves at all times in an orderly and lawful manner, and shall not make, or cause to be made, any unreasonable noise of such volume as to be in violation of the City of Bloomington Noise Ordinance as stated in Title 14 of the Bloomington Municipal Code;
- (b) A device may not be used which would amplify sounds nor may attention be drawn to the itinerant merchant's, peddler's or solicitor's business by an aural means or a light-producing device;
- (c) Itinerant merchants, peddlers and solicitors shall, within a reasonable time, clearly reveal to the prospective buyer, the product or service they are selling or securing orders for future delivery, the company they are employed by or represent, and the exact price and conditions of the proposed sale;
- (d) No cart or stand may be permanently or temporarily affixed to any fixed object, and no cart or stand may be permanently or temporarily affixed to any object, including but not limited to buildings, trees, signs, telephone poles, streetlight poles, traffic signal poles or fire hydrants;
- (e) No cart or stand may be used to advertise any product or service which is not authorized to be sold from that cart or stand;
- (f) No itinerant merchant, peddler or solicitor may display a sign that is greater than 1 ½ square feet in total area;
- (g) No cart or stand may make use of any public or private electrical outlet while in operation;
- (h) Efforts shall be made by each itinerant merchant, peddler or solicitor to protect against littering; each cart or stand must have an adequate trash receptacle which is emptied sufficiently often to allow disposal of litter and waste by the public at any time; the trash receptacle on the cart or stand shall not be emptied into trash receptacles owned by the City of Bloomington; and

liquid from a cart or stand may not be discharged on or in a City sewer or drain or elsewhere on City property, nor on private property without the express written consent of the owner thereof;

- (i) Pedestrians shall not be exposed to any undue safety or health hazard nor shall a public nuisance be created;
- (j) Each cart or stand shall be maintained free and clear of dirt, and finishes shall not be chipped, faded or unduly marred;
- (k) Foods which present a substantial likelihood that liquid matter or particles will drop to the street or sidewalk during the process of carrying or eating the food shall be sold in proper containers; and
- (l) It shall be unlawful for any licensee to enter upon any residential premises in the City of Bloomington where the owner, occupant or person legally in charge of the premises has posted, at the entry to the premises, or at the entry to principal building on the premises, a sign bearing the words, "No Peddlers," "No Solicitors," or other words of similar import.
- (m) Itinerant merchants, peddlers and/or solicitors who use a grill or a device that may result in a spark, flame or fire shall adhere to the following additional standards:
 - (1) Stand approximately twenty (20) feet from a building or structure;
 - (2) Provide a barrier between the grill or device and the general public;
 - (3) The spark, flame or fire shall not exceed twelve (12) inches in height; and
 - (4) A fire extinguisher shall be within reaching distance of the itinerant merchant, peddler or solicitor at all times.

4.16.110 Revocation of License

- (a) Any license issued under this Chapter shall be revoked by the City Controller if the holder of the license is found to have violated this Chapter or any other applicable law or ordinance, or ceases to possess the qualifications required for licensing hereunder, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a license under this Chapter.
- (b) Immediately upon the revocation of a license issued under this Chapter, written notice thereof shall be given by the City Controller to the holder of the license by certified mail, return receipt requested, addressed to the applicant's physical address or his/her agent as set forth in the application. Immediately upon the mailing of such notice, the license shall become null and void.

4.16.111 Appeal

Any applicant or licensee aggrieved by the action of the City Controller in the denial, suspension or revocation of a license or any person who is issued a citation shall have the right of appeal to the Board of Public Works . Such appeal shall be taken by filing with the Board of Public Works , within ten (10) days after the action complained of, a written statement setting forth fully the grounds for the appeal. The decision and order of the Board of Public Works on such appeal shall be final and conclusive.

4.16.112 Penalty

Citations may be issued by the Chief of Police or his or her designee:

- (a) Each day that any violation continues shall be considered a separate violation for purposes of the penalties specified in this Chapter.
- (b) Any person, firm, limited liability company, corporation or organization who violates any provision of this Chapter, or who makes a false statement upon an application for a license provided herein, shall be subject to a fine of two hundred and fifty dollars (\$250.00).
- (c) Any person, firm, limited liability company, corporation or organization who conducts any business described in this Chapter, without first obtaining a license as described herein, shall be assessed a fine of five hundred dollars (\$500.00).

SECTION. 2. Severability The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect.

SECTION 3. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval of the Mayor and publication in accordance with law.

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 amends Title 4 of the Bloomington Municipal Code entitled “Business Licenses and Regulations” by deleting the section on “Lunch wagons” (BMC 4.04.110) and the chapter on “Itinerant Merchants” (BMC 4.16) and replacing them with a new Chapter 4.16 entitled “ Itinerant Merchants, Solicitors, and Peddlers.” It requires potential vendors to apply for and obtain a license before conducting business in the City. Licensees are prohibited from conducting business in certain locations and are held to certain standards of conduct. Applicants and licensees whose license is denied, revoked or suspended and any person who is issued a citation may appeal that decision.



MEMORANDUM

To: City of Bloomington Common Council
From: Miah Michaelson, Assistant Director of Economic & Sustainable Development for the Arts
Date: February 23, 2009
RE: Proposed Itinerant Merchant Ordinance

This purpose of this memo is to summarize the changes in the proposed Itinerant Merchant Ordinance from the current Itinerant Merchant Ordinance.

BACKGROUND

A City team consisting of members of Parks, Legal, ESD, Public Works and the Controller's Office was tasked to review current legislation regarding vending and solicitation and draft new legislation as needed. The team determined that to more effectively streamline the coordinating and permitting of vending and solicitation activity in the City, the current Itinerant Merchant and Lunch-wagon ordinances should be folded into one comprehensive ordinance.

SUMMARY OF MAJOR CHANGES

DEFINITIONS: The proposed ordinance specifically defines the categories of itinerant merchant, peddler and solicitor.

SOLICITATION: The proposed ordinance specifically regulates solicitation; which the current ordinance does not. Citizens will be given the same protection on private streets that they now only have on public streets.

LICENSE TYPES: The proposed ordinance establishes different types of licenses (1 day, week, weekend). The current ordinance has only one type of license and one fee category.

FEES: The proposed ordinance increases fees in alignment with increased length of license (exemptions for nonprofits and identified community events).

IDENTIFICATION: License issued by Controller's Office will be on public display while in use.

LOCATIONS: The proposed ordinance states the areas along the B-Line that are permitted for use. All requests for locating on Parks property must receive prior approval by the Parks Department. Use of public parking spaces must gain prior approval from the Board of Public Works. All requests within a one-block radius of community special events (specific list provided) must receive prior written consent by the coordinator of the special event. Reasonable accommodations for distance from taxi stand, bus stop, driveway, alleyway, retail business, office building or church are also stated.

PUBLIC SAFETY AND CONDUCT: The proposed ordinance requires adherence to the Noise Ordinance, Sign Ordinance and reasonable fire and health precautions.

INSURANCE: Specific insurance requirements are included in the proposed ordinance (currently required as an administrative policy but not included in the ordinance).

APPEAL PROCEDURE: Proposed ordinance calls for the addition of an appeal procedure if an applicant is denied or a license is revoked.

ORDINANCE 09-06

**TO AMEND TITLE 15 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “VEHICLES AND TRAFFIC”
(Changes in Provisions Regarding One-Way Alleys, Various Parking Regulations,
Crosswalks, and Penalties)**

WHEREAS, the Traffic Commission has recommended certain changes be made in Title 15 of Bloomington Municipal Code entitled “Vehicles and Traffic”;

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

SECTION 1. Chapter 15.16 entitled “One-Way Streets and Alleys,” Section 020 entitled “One-Way Alleys,” Schedule F shall be amended to add the following:

ONE-WAY ALLEYS

Alley – Between	From	To	Direction of Travel
4 th Street & Kirkwood Avenue	Washington Street	Lincoln Street	West

SECTION 2. Chapter 15.32 entitled “Parking Controls” shall be amended by adding the following section number and listing said section in the table of contents for this Chapter:

Section 15.32.180 Parking within marked space: No person shall park a vehicle across any line or marking designating a parking space, or park a vehicle in any way that is not wholly within the parking space as designated by the lines or markings.

SECTION 3. Section 15.32.080 Schedule M shall be amended to delete the following:

NO PARKING ZONES

Street	From	To	Side of Street	Time of Restriction
Hawthorne Lane	University Avenue	Second Street	East/West	Any Time

SECTION 4. Section 15.32.080 Schedule M shall be amended to add the following:

NO PARKING ZONES

Street	From	To	Side of Street	Time of Restriction
Fifteenth Street	Woodlawn Avenue	Forrest Avenue	South	Any Time
Fifteenth Street	Forrest Avenue	Alley West of Forrest Avenue	North	Any Time
Hawthorne Drive	University Street	Second Street	East	Any Time
Lincoln Street	Fourteenth Street	Fifteenth Street	East	Any Time
Walnut Street	Seventh Street	Eighth Street	West	Any Time

SECTION 5. Section 15.32.090 Schedule N shall be amended to delete the following:

LIMITED PARKING ZONES

Street	From	To	Side of Street	Time of Restriction
Dunn Street	Third Street	Fourth Street	East	2 Hr. (2)
Grant Street	Third Street	Fourth Street	West	2 Hr. (2)
Walnut Street	Seventh Street	Eighth Street	West	2 Hr. (8)

SECTION 6. Section 15.32.090 Schedule N shall be amended to add the following:

LIMITED PARKING ZONES

Street	From	To	Side of Street	Time of Restrict.
Dunn Street	Third Street	Fourth Street	East	2 Hr. (3)
Grant Street	Third Street	Fourth Street	West	2 Hr. (3)

SECTION 7. Section 15.32.090 Limited Parking Zones shall be amended by replacing subsection (b) with the following:

(b) Vehicles may be parked one time only, per day, in the designated limited parking zones within the same one hundred block of any street or parts of streets described in Schedule N during the hours that the restrictions on parking are in effect.

SECTION 8. Section 15.32.100 Schedule O shall be amended to add the following:

LOADING ZONES

200 Block of West Sixth Street, first space east of Morton Street on the north side

SECTION 9. Section 15.32.150 Schedule S shall be amended to add the following:

ACCESSIBLE PARKING FOR PERSONS WITH PHYSICAL DISABILITIES

200 Block of South Grant Street, first space south of Fourth Street on the west side of Grant Street.

SECTION 10. Chapter 15.40 entitled “Municipal Parking Lots, Garages and On-Street Metered Parking, Section 070 entitled “Violation and penalty,” Subsection (b), shall be amended by deleting Section 15.40.025(b), 15.40.030(e) and 15.40.050 so that the provision now reads:

(b) Any violation of Sections 15.40.060(b) or 15.40.060(j) is a Class H traffic violation and subject to the penalty listed in Section 15.64.010(i).

SECTION 11. Chapter 15.40 entitled “Municipal Parking Lots, Garages and On-Street Metered Parking, Section 070 entitled “Violation and penalty,” shall be amended by deleting Subsection (c).

SECTION 12. Chapter 15.60 entitled “Miscellaneous Traffic Rules,” Section 050 entitled “Pedestrians” shall be amended to add the following:

1100 Block of East Tenth Street between North Walnut Grove and North Fee Lane
1300 Block of East Tenth Street between North Fee Lane and North Jordan Avenue
1200 Block of East Seventeenth Street between North Fee Lane and North Walnut Grove

SECTION 13. Chapter 15.64 entitled "Traffic Violation Schedule," Section 010 entitled "Violations and penalties," Subsection (d) entitled "Class D Traffic Violations," shall be amended by replacing 15.40.050(a), (c), (d), (e), (f), (g), (h) with 15.40.060(a), (c), (d), (e), (f), (g), (h)

SECTION 14. Chapter 15.64 entitled "Traffic Violation Schedule," Section 010 entitled "Violations and penalties," Subsection (d) entitled "Class D Traffic Violations," shall be amended by:

- (1) deleting the reference to 15.32.170 (and the accompanying description) from the list of violations; and
- (2) deleting the reference to 15.38.020 (and the accompanying description) from the list of violations and replacing it with the following:

15.38.020 Unauthorized parking in City employee parking lots including during Farmers' Market

SECTION 15. Chapter 15.64 entitled "Traffic Violation Schedule," Section 010 entitled "Violations and penalties," Subsection (d) entitled "Class D Traffic Violations," shall be amended by replacing 15.32.180 with 15.32.170 in the list of violations so that the line will read as follows:

15.32.170 Parking facing traffic

SECTION 16. Chapter 15.64 entitled "Traffic Violation Schedule," Section 010 entitled "Violations and penalties," Subsection (d) entitled "Class D Traffic Violations," shall be amended by inserting Section 15.32.180 to the list of violations so that the new line will read as follows:

15.32.180 Parking within marked space

SECTION 17. Chapter 15.64 entitled "Traffic Violation Schedule," Section 010 entitled "Violations and penalties," Subsections (d) entitled "Class D Traffic Violations" and (i) entitled "Class H Traffic Violations," shall be amended by moving the following violations from Subsection (i) to subsection (d):

15.40.025(b) Overnight parking in city parks and recreation parking lots between eleven p.m. and five a.m.

15.40.050 Parking in space designated for city hall visitors when not in city hall or moving between vehicle and city hall

SECTION 18. Chapter 15.64 entitled "Traffic Violation Schedule," Section 010 entitled "Violations and penalties," Subsection (i) entitled "Class H Traffic Violations," shall be amended by replacing reference to Section 15.40.050(b) with Section 15.40.060(b) in the list of violations so that the revised line will read as follows:

15.40.060(b) Parking in leased stall without a permit

SECTION 19. 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 20. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval of the Mayor and publication according to law.

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 makes several changes to the Bloomington Municipal Code. This includes changes in regard to one-way alleys, no parking zones, limited parking zones, loading zones, accessible parking for persons with physical disabilities, the section entitled "pedestrians" and violations and penalties.

ENGINEERING MEMORANDUM

TO: COMMON COUNCIL MEMBERS
FROM: JUSTIN WYKOFF, MANAGER OF ENGINEERING SERVICES
SUBJECT: ORDINANCE 09-06
DATE: 3/27/2009
CC: DAN SHERMAN, COUNCIL ADMINISTRATOR/ATTORNEY

Ordinance 09-06 is composed of several modifications to Title 15 "Vehicles and Traffic" which include but are not limited to changes to restricted parking, neighborhood parking, one way alley's, loading zones, traffic enforcement clarifications.

Section 1

The section updates the code and changes the direction of travel in an alley to accommodate local businesses and a church. The east/west alley between 4th Street and Kirkwood and running between Lincoln Street and Washington Street is to be made one-way west. This change will alleviate confusion and congestion in the alley when cars often meet in the 12 foot wide alley. This change was approved by the City of Bloomington Traffic Commission and was requested by the local church.

See Maps # 1

Section 2

This new section clarifies that vehicles parked on streets where parking spaces are marked shall be parked within the marked spaces. This is intended to allow for the maximum number of vehicles to be parked on streets with marked spaces.

Section 3

This section removes a section of Hawthorne Drive from a 'no parking' designation in Elm Heights neighborhood. Area residents made this request. This area is in the Zone 1 Neighborhood Parking Permit area and will result in creating additional parking for those residents.

See Maps # 2

Section 4

This section adds a 'no parking' zone on 15th Street and continues no parking on the east side of Hawthorne between University and Second. This was a request of area residents. Additionally this removes parking along Lincoln Street due to the close proximity of multiple drives along the east side of Lincoln Street between 14th Street and 15th Street.

The owner of Kilroy's Sports Bar requested parking in front of their establishment be eliminated. This allows for better visibility for cars exiting 8th St. on to Walnut. These changes were approved by the City of Bloomington Traffic Commission (*and appear in Section 5*).

See Map # 2, # 3, # 4 & # 9

Section 5

This section takes the limited parking from the west side of Walnut by Kilroy's (*see Section 4*) and deletes time of restriction from Monday through Saturday for parking along Dunn Street and Grant Street between 3rd Street and 4th Street. *This will be addressed again in section 6.*

Section 6

This section adds a time of restriction of Monday through Friday for parking along Dunn Street and Grant Street between 3rd Street and 4th Street. This is consistent with other downtown parking that is enforced Monday through Friday.

See Map # 5

Section 7

This section amends and clarifies the description of the allowable duration of parking within a Limited Parking Zone.

Section 8

This section adds a 'loading zone' in the 200 Block of west 6th Street adjacent to 'Relish' and at their request with the approval of the City of Bloomington Traffic Commission.

See Map # 6

Section 9

This section allows for the creation of an accessible parking space in the 200 Block of Grant Street at the request of Bruce Storm and with the approval the City of Bloomington Traffic Commission.

See Map # 5

Section 10

This section deletes overnight parking in city parks and recreation lots violations and city hall visitor parking violations from the list of violations that are Class H (\$50) violations. In another section of this ordinance we are making these violations Class D traffic violations like most other violations which are \$20 at issuance.

The deletion of 15.40.030(e) is made because this subsection involves a procedural step and not a violation of the code.

Section 11

This section deletes subsection (c) and is a correction that is made following the passage of last year's omnibus ordinance in which 15.40.030(i) was deleted. Both deleted sections here deal with the issue of restrictions of permit holders, which was deleted in Ord. 08-19.

Section 12

This section allows for the codification of existing mid-block crossings on 10th Street (2) and on 17th Street (1), which are being reviewed along with other approved mid-block crossings for additional safety and enhancement opportunities.

See Map # 7 & # 8

Section 13

This change corrects a cite numbering error.

Section 14

This change corrects a cite numbering error and amends the description that accompanies the correct cite.

Section 15

This change corrects a cite numbering error.

Section 16

This change corrects the reference to 15.32.180 as parking within marked space, which is a new section added previously in this ordinance.

Section 17

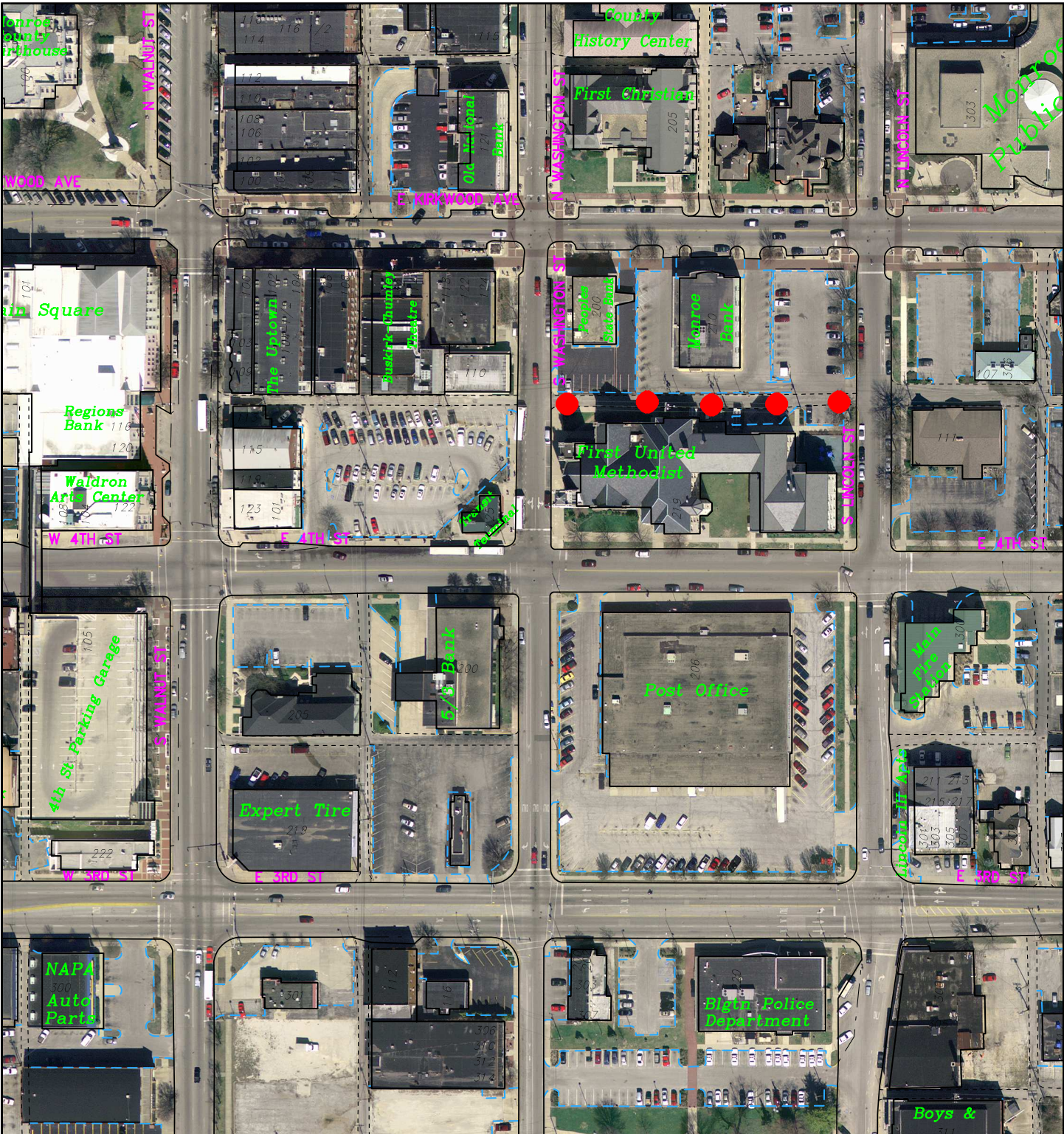
This section makes changes to correspond with the change from Class H violations to Class D violations in a previous section of this ordinance. This changes the fine at issuance from \$50 to \$20.

Section 18

This change corrects a cite numbering error.

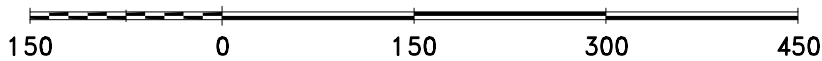
Should you have any questions regarding this Ordinance or need additional information please let me know at your convenience.

Thank you,



Map 1

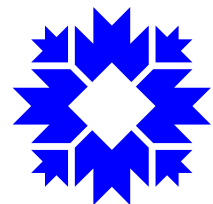
By: ecclese
23 Mar 09



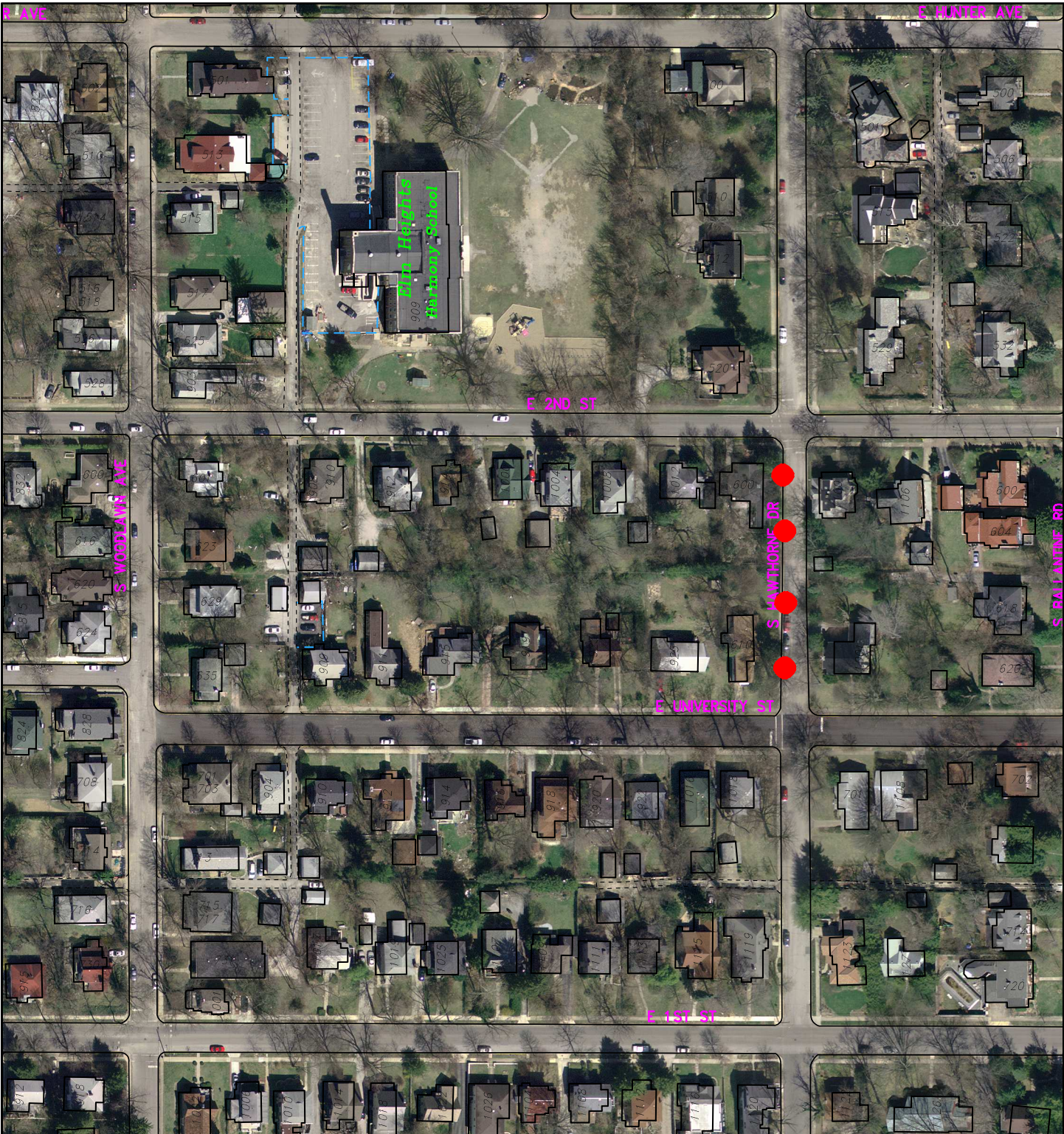
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City of Bloomington
Engineering

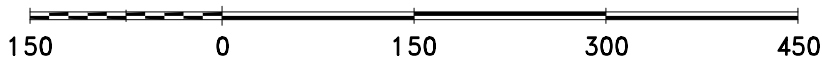


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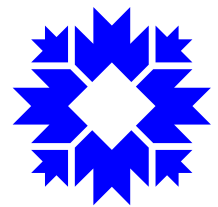


Map 2

By: ecclese
23 Mar 09

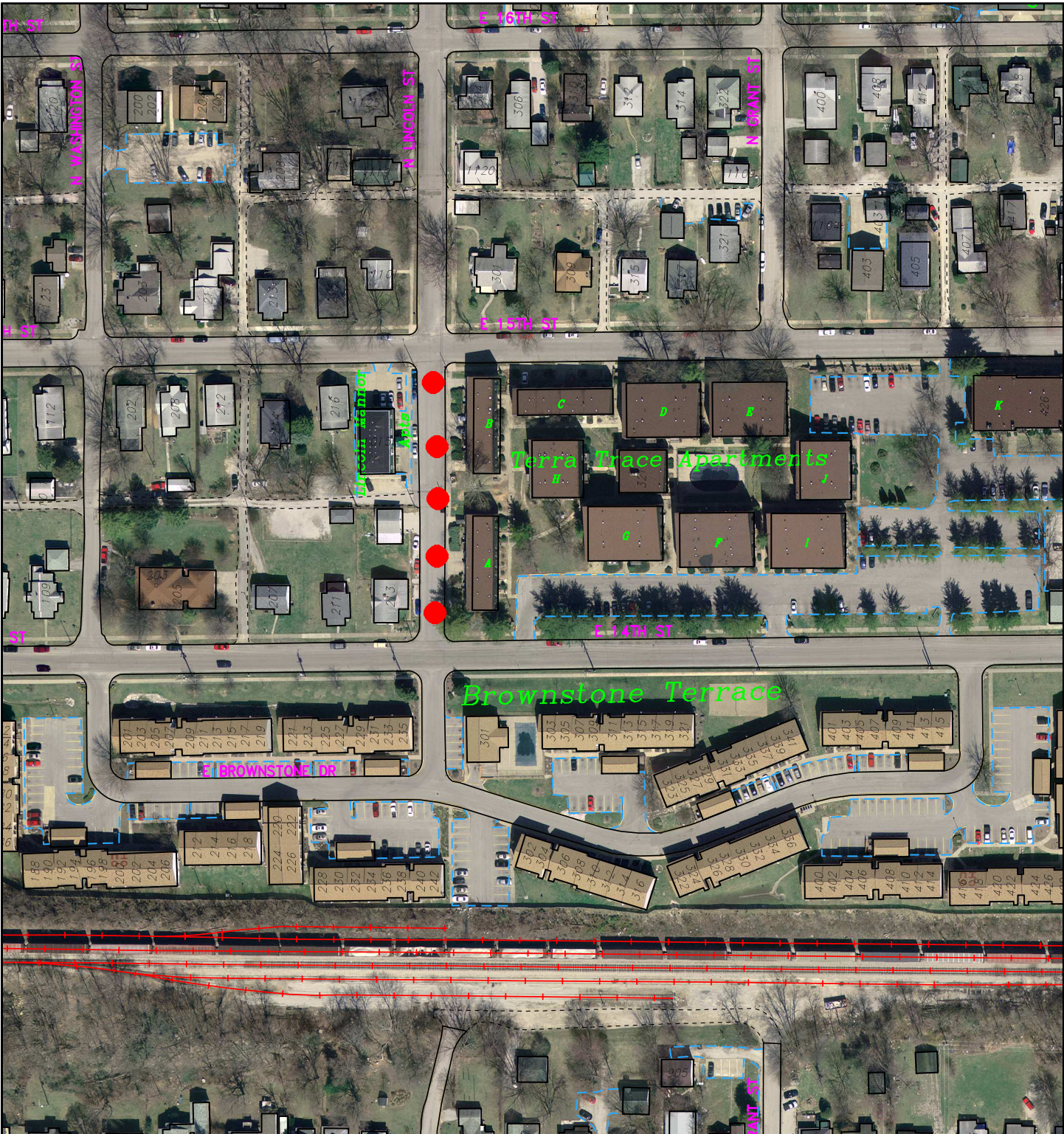


City of Bloomington
Engineering



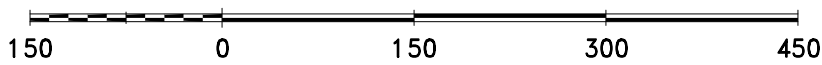
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For reference only; map information NOT warranted.



Map 3

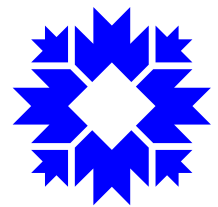
By: ecclese
23 Mar 09



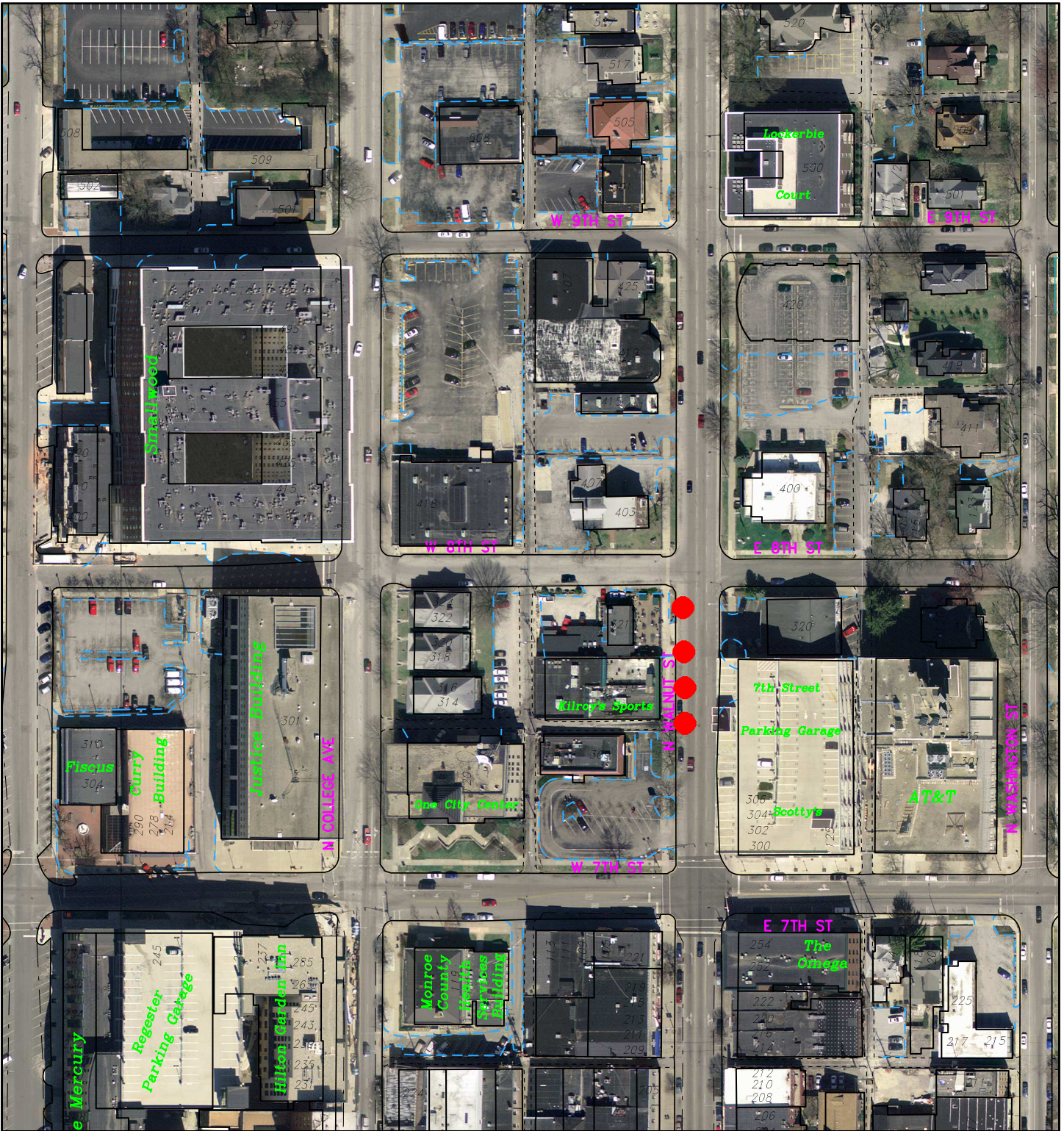
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City of Bloomington
Engineering

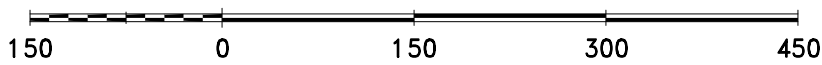


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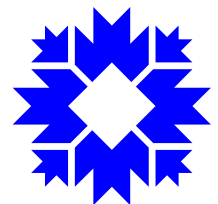


Map 4

By: ecclese
23 Mar 09

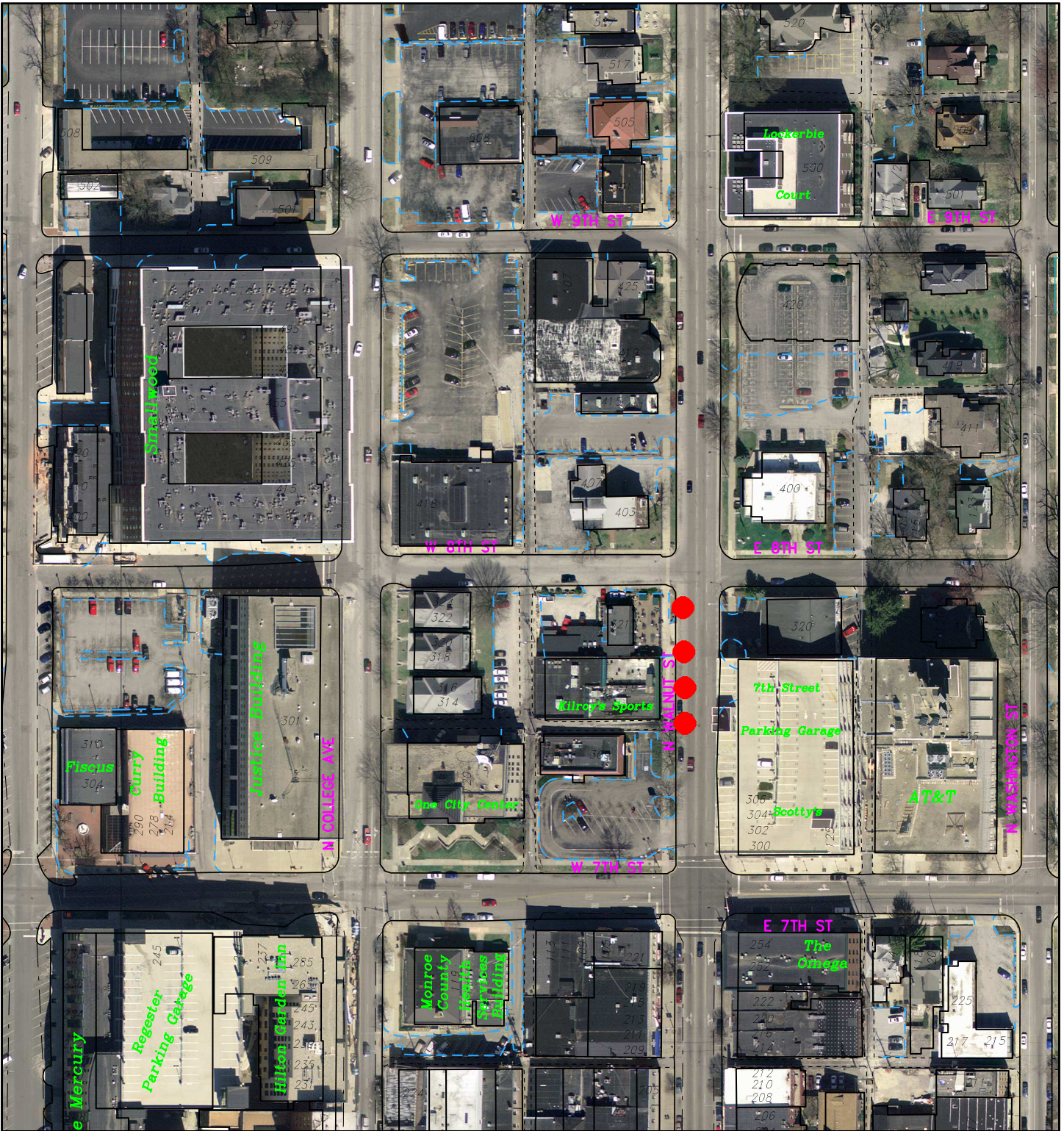


City of Bloomington
Engineering



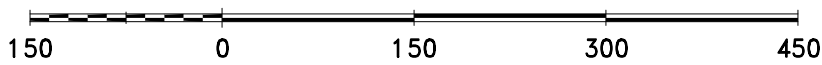
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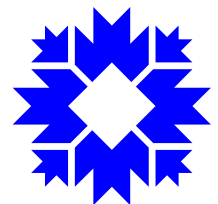


Map 4

By: ecclese
23 Mar 09

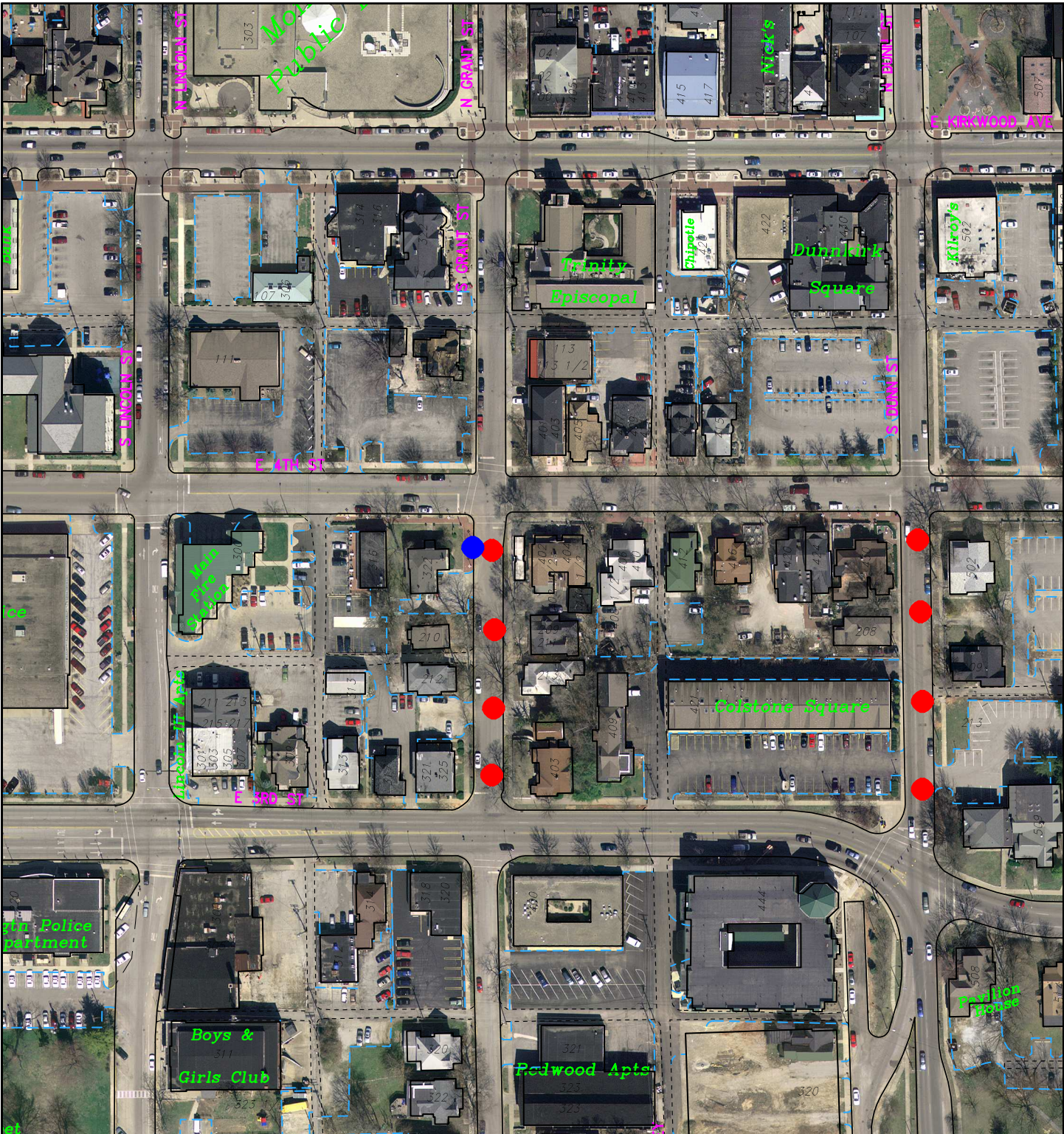


City of Bloomington
Engineering



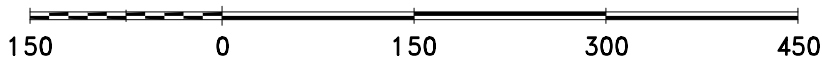
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For reference only; map information NOT warranted.



Map 5

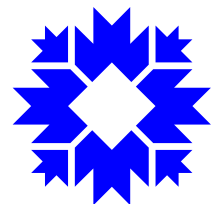
By: ecclese
23 Mar 09



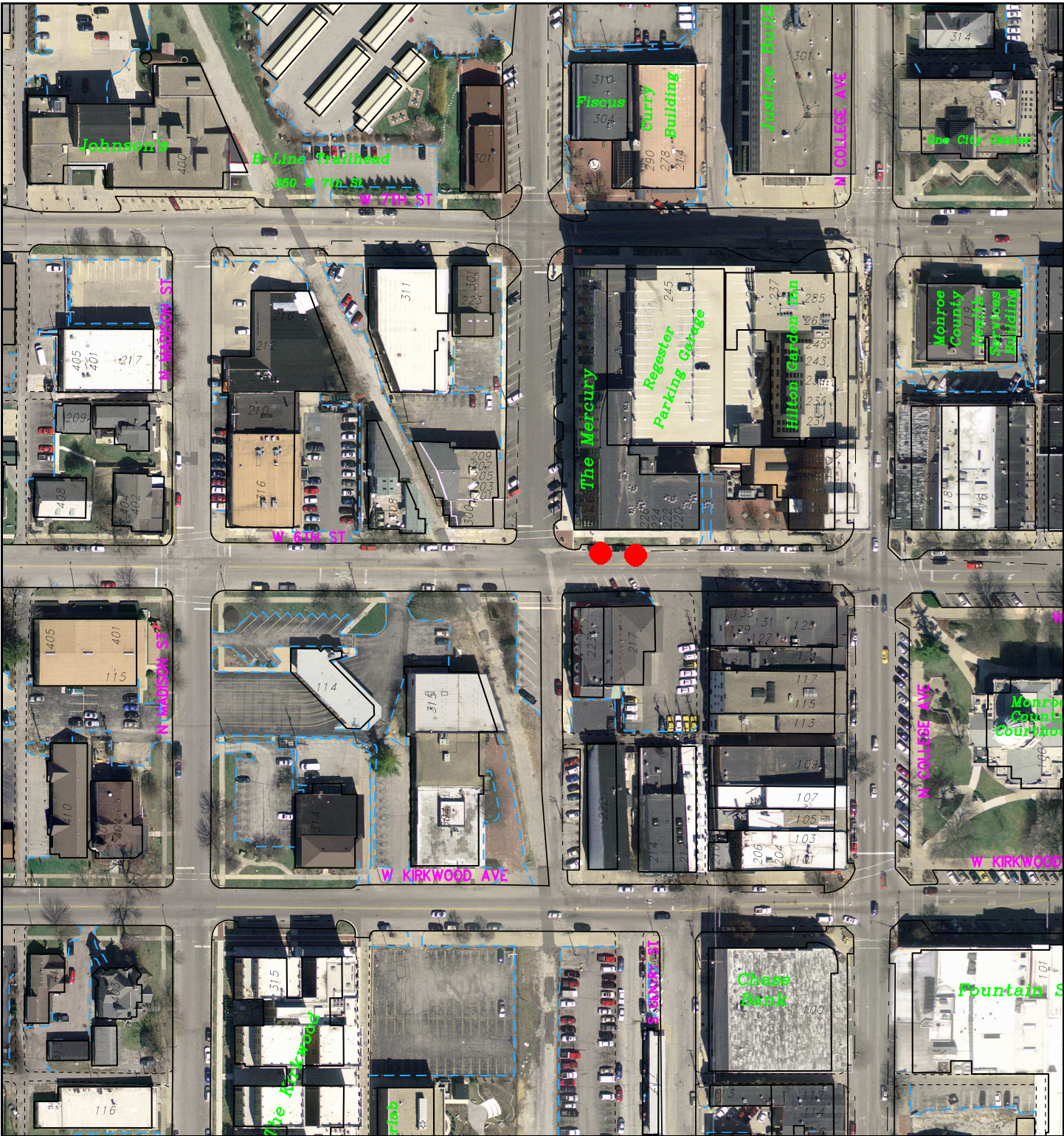
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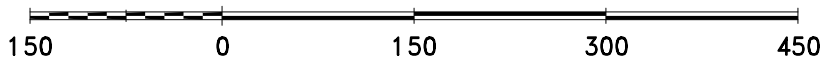


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Map 6

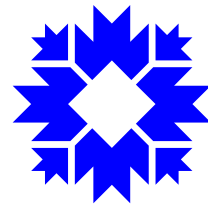
By: ecclese
23 Mar 09



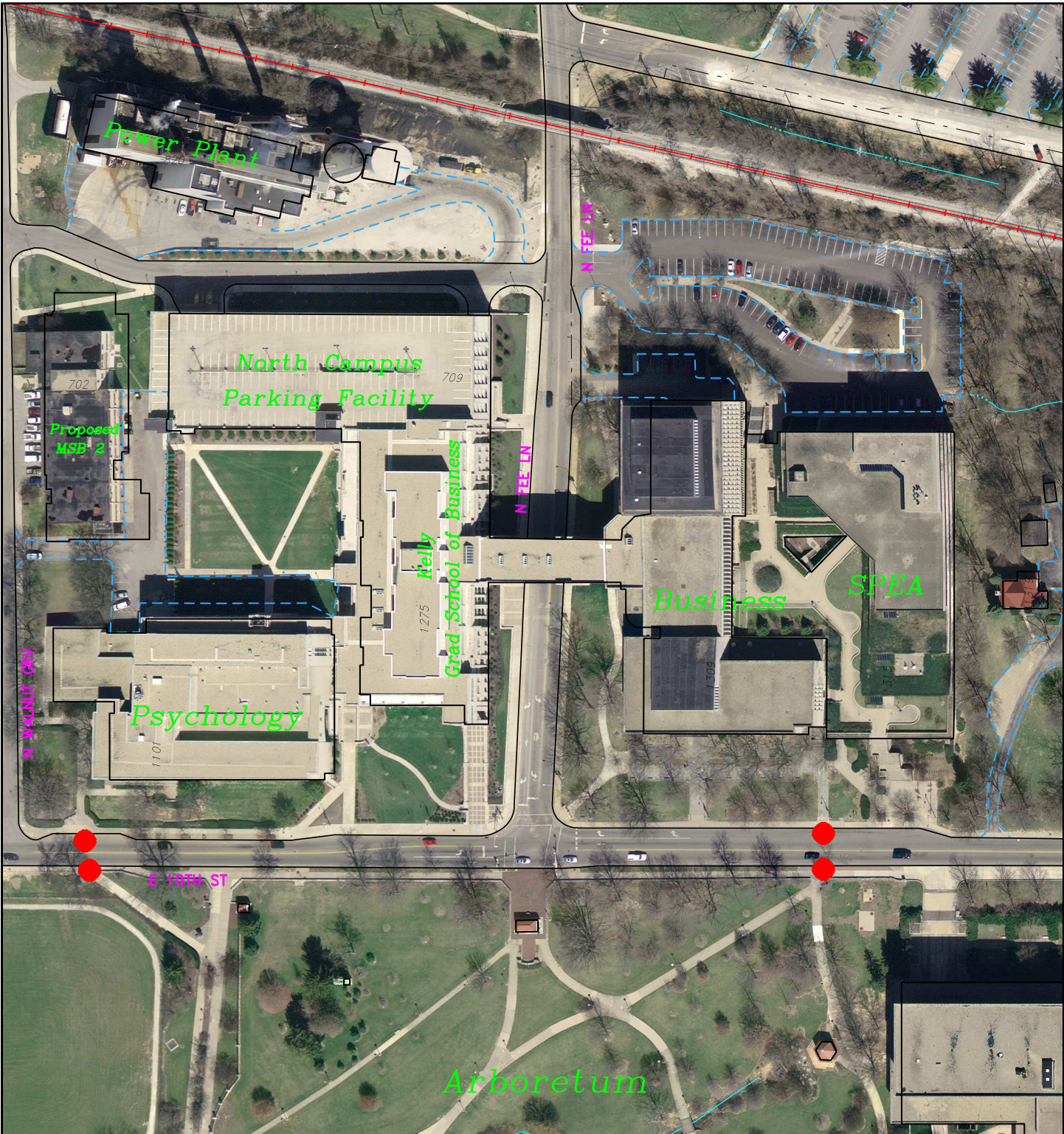
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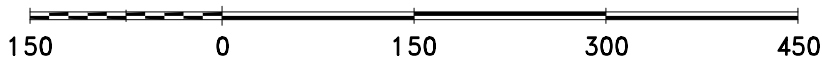


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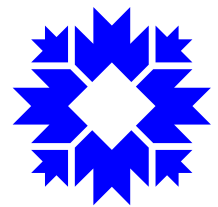


Map 7

By: ecclese
23 Mar 09

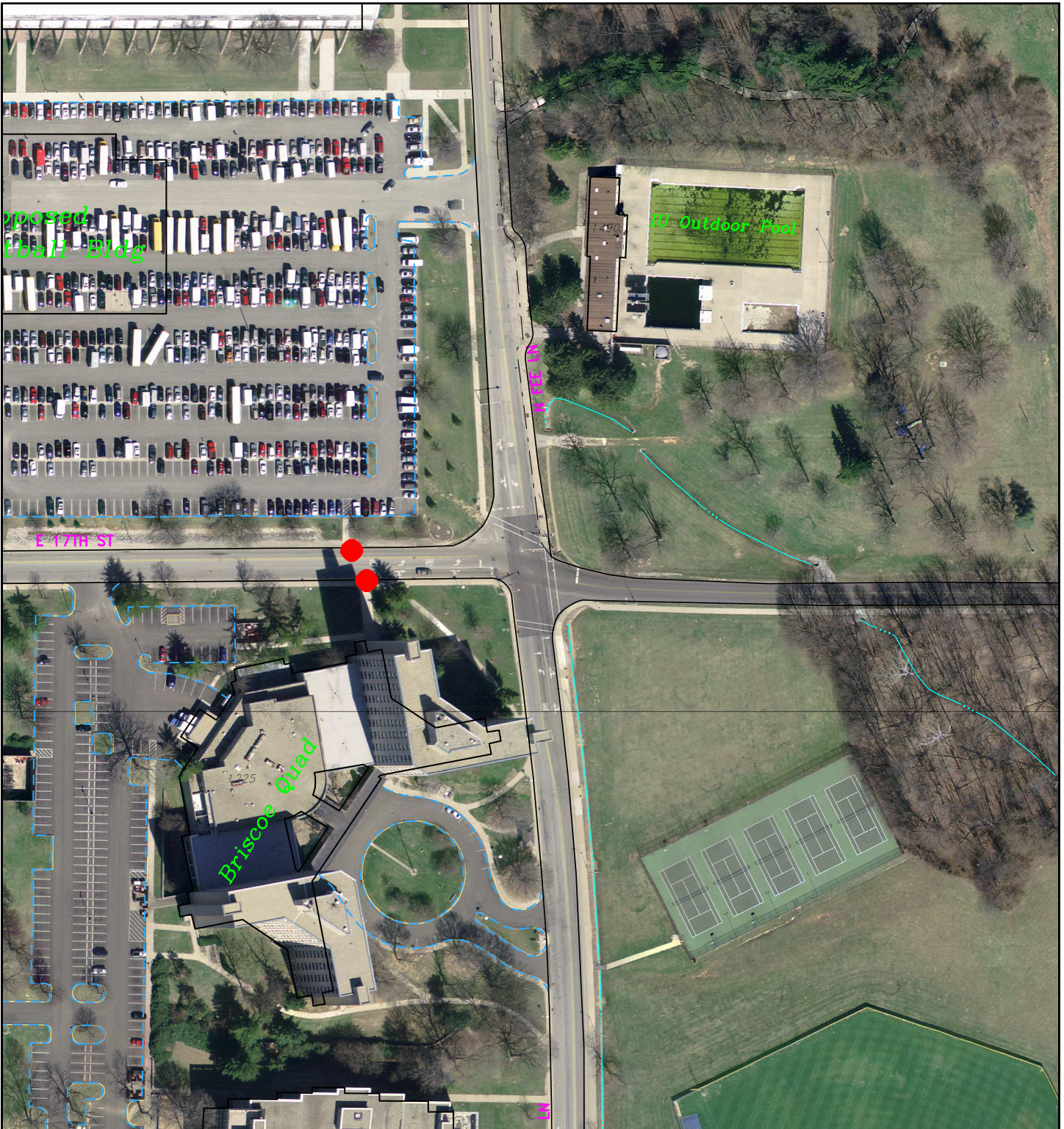


City of Bloomington
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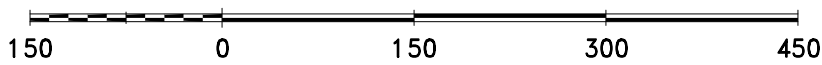
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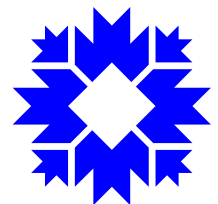


Map 8

By: ecclese
23 Mar 09



City of Bloomington
Engineering



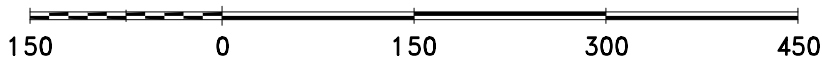
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For reference only; map information NOT warranted.



Map 9

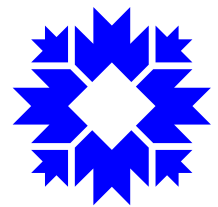
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23 Mar 09



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City of Bloomington
Engineering



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