

**City of
Bloomington
Indiana**



City Hall
401 N. Morton St.
Post Office Box 100
Bloomington, Indiana 47402

Office of the Common Council
(812) 349-3409
Fax: (812) 349-3570
email: council@bloomington.in.gov

To: Council Members
From: Council Office
Re: Weekly Packet Memo
Date: April 23, 2004

Packet Related Material

Memo

Agenda

Calendar

Other Notices and Agendas:

None

Legislation for Final Action:

None

Legislation and Background Material for First Reading (Regular Session) and Discussion (Committee of the Whole) on Wednesday, April 28th:

Ord 04-08 To Amend the Bloomington Zoning Maps from Q to PUD and to Adopt the Preliminary Plan for the Southern Indiana Medical Park II Planned Unit Development - Re: 2401 West Tapp Road (Southern Indiana Medical Park II, LLC, Petitioners)

- Certification (No Action at April 12th Plan Commission Meeting); Site Map; Memo from James Roach, Senior Zoning Planner; Staff Report to the Plan Commission; Environmental Commission Memo to the Plan Commission; Outline Plan Statement; Petitioner Letter Regarding "Outpatient Care Facility"; I.C. 16-18-2-14 (Definition of "Ambulatory Outpatient Surgical Center"); Site Plan; Bloomington Hospital's Proposed Definitions of "Hospital" and "Outpatient Care Facility"; Letter from Department of Health and Human Services Clarifying Medicare Rule Against Overnight Stays in Outpatient Care Facilities for Medicare Clients); Memo to Plan Commission from Councilmember Mayer; Memo to Plan Commission from Council Administrator/Attorney Excerpting Council Member Concerns

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

Minutes from Regular Session:

None

Memo

Chair of Committee of the Whole: Sabbagh

Two Meetings and One Item on Wednesday, April 28th

The Council will hold a Regular Session immediately followed by a Committee of the Whole on Wednesday, April 28th to introduce and then discuss the one ordinance on these agendas. That ordinance is the next version of the Southern Indiana Medical Park II PUD which is included in this packet and covered in the rest of this memo.

Ord 04-08 Proposing Third Version of PUD for Southern Indiana Medical Park II, LLC at 2401 West Tapp Road

Ord 04-08 brings forward the third version of the Southern Indiana Medical Park II Planned Unit Development (PUD) to appear on the Council's agenda since last December. As you recall, this proposal rezones approximately 101 acres of land on Tapp Road from Quarry to PUD and adopts a Preliminary Plan, which provides for a mix of office, commercial, industrial, and medical uses (including outpatient, but excluding inpatient care facilities) and preserves roughly two-thirds of the property (64 acres) from further private development. The previous versions were denied by the Council at the request of the petitioner.

The packet materials for those previous actions can be found online in the City Council Legislative Center/City Council Packets under the following titles:

[December 3, 2003: Common Council Legislative Packet \(pdf\)](#)

[February 4, 2004: Common Council Legislative Packet \(pdf\)](#)

The first petition denial occurred in December after the Plan Commission had recommended approval of the petition by a vote of 6 – 4. The petitioner, however, had met with Councilmember Rollo and staff, and decided to refile another more acceptable proposal with the Plan Commission to consider in January. The primary change in the proposal entailed the dedication of approximately 64 acres of environmentally sensitive land south of the creek known as Phase 2. Under the previous proposal, the petitioner would have developed portions of that parcel and was obligated to construct a frontage road up to the southern property line.

As a result of discussions with staff and others, the petitioner proposed to preserve those acres from further development and dedicate the right-of-way for the road, but not be responsible for constructing it. His representatives have indicated that it was

not feasible for him to both donate two-thirds of the site and build a road through the lower half of it. The City would then be responsible for building it at a cost of \$640,000 (present value) which, according to the most recent Plan memo to the Council, could be generated with revenues from the development of this property by 2011, if the site was added to the Tapp Road TIF. Please note that even with those new revenues, there are some council members who question the wisdom of shifting the cost of constructing the road from the private to the public sector, and still others who want the frontage road moved farther east, but are willing to defer that discussion to a later date.

The second denial occurred in February after the Plan Commission brought the petition forward in January without a recommendation. The lack of a recommendation was largely the result of the Bloomington Hospital raising new concerns (albeit rather late in the process) about certain uses of land that would be permitted at this site. Ultimately the hospital opposed inpatient care as a permitted use here because it would jeopardize the hospital's non-profit mission and ability to provide ambulance service and indigent care for the community. After hearing from the public and members of the Council over one very long evening early in February, the petitioner requested later that month that this petition be denied in order for him to resubmit one which removed inpatient care as a permitted use.

Current Petition and Its Treatment in this Memo. The Council is now seeing the third petition by Dr. Tiwari for this site. It comes forward from the April 12th Plan Commission meeting without a recommendation and with news that the petitioner will be pursuing an inpatient facility at Fullerton Pike and South SR 37, where this use is permitted under the county zoning map.

Because of the recent history of this project and your familiarity with it, the remainder of this memo will focus on:

- the main differences between this and the previous petition; and
- the lack of a recommendation and its effect on the proposal and Council action.

Primary Change – No Inpatient Use, Just Outpatient Care Facility. The primary change in this petition is the removal of “inpatient care facilities” and medical clinics from the list of permitted uses and the introduction of a definition of “outpatient care facilities.” This definition was acceptable to the planning staff and petitioner and reads as follows:

A facility licensed as an ambulatory outpatient surgery center by the State of Indiana, as defined by Indiana Code 16-18-2-14, and that does not provide for patient stays of longer than 24 hours.

The Plan staff found this definition acceptable because:

- the statute prohibits “accommodations for patient stays of longer than ... 24 hours” along with other restrictions which would all be enforced by the State Board of Health (see staff materials for the entire definition);
- the costs for continuously staffing a 24-hour facility would be prohibitive; and
- the five other existing ambulatory outpatient centers in Bloomington close at night and do so without further zoning regulations.

At about the same time, the Bloomington Hospital offered definitions of “Outpatient Care Facilities” and “Hospital” that it wanted applied to all such facilities. The definition of “Outpatient Care Facilities” was based on “local practice” and would have restricted operations between midnight and 5:00 a.m. However, any new definition of "outpatient care facility" (or any other change in zoning) would not apply to pre-existing uses. Those uses would become legal, non-conforming uses (otherwise known as “grandfathered uses”), and could continue to operate until they or the structures they occupy were expanded, enlarged, or relocated (see BMC 20.08.02.01). So, in short, the City could define "outpatient care facility" and codify the existing practice (i.e. hours of operation), but it would not apply to the facilities which now practice it.

The petitioner opposed any revisions to the definition presented in the plan report saying in an e-mail: “The petitioner simply will not accept being treated uniquely from all the other licensed Ambulatory Outpatient Surgery facilities he must compete with here in Bloomington.”

Memo to Plan Commission. As you know, I gave council members an opportunity to have your comments on this issue forwarded to the Plan Commission before it took up this petition on April 12th. Those comments were placed in a memo to the Commission, which is included in this packet. The memo concluded that the eight who responded “split evenly in regard to the definition of ‘outpatient care facility,’ with four being comfortable with the plan staff’s proposal and four preferring further restrictions regarding the hours of its operation.” It also noted that “two (council members) weighed in on the frontage road, with one wanting the developer to construct it and (the other) being satisfied with the

dedication of the right-of-way, but wanting to defer discussion of its eventual alignment until a later date and separate planning process.”

Plan Commission Action – No Recommendation. The Plan Commission considered two motions regarding this petition before it was forwarded to the Council without a recommendation.

The first motion would have approved the PUD with three conditions proposed by staff and one condition proposed by the Commission. That motion failed by a vote of 3 – 5. The second motion would have continued the PUD to the next meeting of the Commission and failed by a vote of 5 – 3.

Effect of No Recommendation on Proposal: There are two important statutory consequences that flow from the failure of the Plan Commission to reach a majority decision on this proposal.

First, the proposal will be deemed denied 90 days after the date we received the certification of the Plan Commission action, in the event the Council is unable to reach a majority decision on the petition by that time. (Please note that we received the certification on April 14th.)

Second, the petition you are considering only includes what the petitioner has proposed and does not include any conditions that might have been imposed by the Plan Commission. My conversations with Plan staff suggest that there are two conditions with benefits that may have been lost as a result of the lack of a recommendation. The conditions were that the petitioner:

- work with the City and the neighbor (Duncan Campbell) to construct and pay for a bridge over the creek on his property. (Please note that the petitioner did not oppose this condition, but is not obligated to carry it out at this point.); and
- dedicate all the right-of-way needed for the construction of the new intersection at Tapp and the new frontage road. (The City is exploring a roundabout for this intersection and might need to purchase land from the petitioner if he does not agree to dedicate it.)

No Amendments by the Council. Although authorized by statute to do so, it appears that the Council has not reserved its power to amend a PUD. For that reason, your alternatives here are to approve, reject, or fail to act on this proposal (which, in the latter case, will eventually result in denial).

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL
REGULAR SESSION AND COMMITTEE OF THE WHOLE
7:30 P.M., WEDNESDAY, APRIL 28, 2004
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON**

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. Ordinance 04-08 To Amend the Bloomington Zoning Maps from Q to PUD and to Adopt the Preliminary Plan for the Southern Indiana Medical Park II Planned Unit Development – Re: 2401 West Tapp Road (Southern Indiana Medical Park II, LLC, 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 the following meeting*)

Committee of the Whole

Chair: David Sabbagh

1. Ordinance 04-08 To Amend the Bloomington Zoning Maps from Q to PUD and to Adopt the Preliminary Plan for the Southern Indiana Medical Park II Planned Unit Development – Re: 2401 West Tapp Road (Southern Indiana Medical Park II, LLC, Petitioners)

Asked to Attend: James Roach, Senior Zoning Planner, Planning Department
Tom Micuda, Director, Planning Department
Representative of Petitioner

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Bloomington, Indiana 47402



Office of the Common Council
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To: Council Members
From: Council Office
Re: Calendar for the Week of
April 26, 2004 – April 30, 2004
Date: April 23, 2004

Monday, April 26, 2004

5:30 pm Bloomington Human Rights Commission, McCloskey

Tuesday, April 27, 2004

4:00 pm Board of Park Commissioners, Council Chambers

5:30 pm Public Transportation Corporation Board, Transportation Center – 130 W. Grimes

Wednesday, April 28, 2004

2:00 pm Hearing Officer, Kelly

5:30 pm Traffic Commission, Council Chambers

6:30 pm Metropolitan Planning Organization – Citizen Advisory Committee, McCloskey

7:30 pm Common Council – Regular Session, Chambers

immediately followed by

Committee of the Whole, Chambers

Thursday, April 29, 2004

4 to 9 pm Accessibility Awareness Film Fest, Monroe County Public Library

Friday, April 30, 2004

There are no meetings scheduled for today.

Saturday, May 1, 2004

7:00 am Bloomington Community Farmers' Market, Showers Common

ORDINANCE 04-08

**TO AMEND THE BLOOMINGTON ZONING MAPS FROM Q TO PUD
AND TO ADOPT THE PRELIMINARY PLAN FOR
THE SOUTHERN INDIANA MEDICAL PARK II PLANNED UNIT DEVELOPMENT
RE: 2401 West Tapp Road
(Southern Indiana Medical Park II, LLC, Petitioners)**

WHEREAS, on May 1, 1995 the Common Council adopted Ordinance 95-21, which repealed and replaced Title 20 of the Bloomington Municipal Code entitled “Zoning”, including the incorporated zoning maps, and Title 21, entitled “Land Use and Development;” and

WHEREAS, the Plan Commission has considered this case, PUD-05-04, and made no recommendation regarding the request made by the petitioners, Southern Indiana Medical Park II, LLC, to rezone the property located at 2401 West Tapp Road from Quarry (Q) to Planned Unit Development (PUD) and approve a preliminary plan for the Southern Indiana Medical Park II PUD. The Plan Commission thereby requests that the Common Council consider this petition without recommendation;

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 IC 36-7-4 and pursuant to Chapter 20.05.09 of the Bloomington Municipal Code the property located at 2401 West Tapp Road shall be rezoned from Quarry (Q) to Planned Unit Development (PUD), the Preliminary Plan for the PUD shall be approved, and the list of permitted uses shall be amended. The property is further described as follows:

The following described real estate in Monroe County, State of Indiana, to-wit: The Northwest quarter of Section 18, Township 8 North, Range 1 West, also the West half of the Northwest quarter of the Northeast quarter of Section 18, Township 8 North, Range 1 West, except the following described part thereof, to-wit: Beginning at the Northeast corner of said tract of land, running thence South 40 rods; thence West 36 feet; thence northeast to a point on the North line of said described real estate one rod West of the place of beginning; thence east one rod to the place of beginning.

ALSO, the West half of the Southwest quarter of the Northeast quarter of said Section 18, Township 8 North Range 1 West.

ALSO, a part of the East half of the Northwest quarter of the Northeast quarter of Section 18, Township 8 North, Range 1 West, described as follows, to-wit: Beginning at the Southwest corner of said tract of land; thence running North 40 rods; thence East 36 feet; thence Southwest to a point on the South line of said tract of land, 1 rod East of the place of beginning; thence West 1 rod to the place of beginning.

EXCEPTING THEREFROM: a part of the Northwest quarter of Section 18, Township 8 North, Range 1 West, Monroe County, Indiana, described as follows: Beginning at the Southwest corner of said quarter section; thence North 00 degrees 18 minutes 31 seconds West 2640.94 feet along the west line of said quarter section to a Southern boundary of Tapp Road; thence Northeasterly 32.93 feet along said Southern boundary to the North line of said quarter section; thence South 89 degrees 52 minutes 00 seconds East 267.53 feet along said North line to a South boundary of Tapp Road; thence Easterly 134.93 feet along said South boundary to a Southern boundary of Tapp Road; thence Southeasterly 99.33 feet along said Southern boundary to a South boundary of Tapp Road; thence Easterly 75.24 feet along said South boundary; thence South 77 degrees 38 minutes 45 seconds West 238.18 feet; thence South 50 degrees 23 minutes 08 seconds West 124.40 feet; thence South 00 degrees 12 minutes 00 seconds East 250 feet; thence South 07 degrees 47 minutes 41 seconds East 151.33 feet; thence South 00 degrees 12 minutes 00 seconds East 1150 feet; thence South 05 degrees 54 minutes 38 seconds East 251.25 feet; thence South 04 degrees 33 minutes 49 seconds West 301.04 feet; thence South 00 degrees 12 minutes 00 seconds East 406.69 feet to the South line of said quarter section; thence North 89 degrees 16 minutes 00 seconds West 295.02 feet along said South line to the point of beginning.

ALSO EXCEPTING THEREFROM: Lot Number One of 2300 Tapp Road Subdivision, being a part of Section 18, Township 8 North, Range 1 West, in Monroe County, Indiana, as shown by the plat thereof recorded in Plat Cabinet “B”, Envelope 325, in the office of the Recorder of Monroe County, Indiana.

ALSO EXCEPTING THEREFROM: A part of the Northwest quarter of Section 18, Township 8 North,

Range 1 West, Monroe County, Indiana described as follows: Beginning at a point that is 609.61 feet South 88 degrees 38 minutes 01 second East of the Northwest corner of said Northwest quarter, said point being on the North line of said Northwest quarter and in Tapp Road; thence South 88 degrees 38 minutes 01 second East over and along said North line for a distance of 1136.44 feet; thence South 01 degree 49 minutes 58 seconds East for a distance of 1108.71 feet; thence North 88 degrees 38 minutes 01 second West for a distance of 1177.49 feet to the East right of way of Indiana State Road #37; thence Northerly over and along said right of way by the following courses and distances: North 00 degrees 12 minutes 00 seconds West 571.61 feet; thence North 07 degrees 47 minutes 41 seconds West; 151.33 feet; thence North 00 degrees 12 minutes 00 seconds West 250.00 feet; thence North 50 degrees 23 minutes 08 seconds East 124.40 feet; thence North 78 degrees 05 minutes 33 seconds East 238.18 feet to the point of beginning.

ALSO EXCEPTING THEREFROM: A part of the southwest quarter of the Northwest quarter and a part of the West half of the Southwest quarter of the Northeast quarter of Section 18, Township 8 North, Range 1 West, Monroe County, Indiana described as follows: Beginning at a point on the East line of said West half of the Southwest quarter of the Northeast quarter of said Section 18, said point being 583.86 feet South 01 degree 07 minutes 12 seconds East of the Northeast corner of said half quarter quarter; thence South 01 degree 07 minutes 12 seconds East for a distance of 723.29 feet to the Southeast corner of said half quarter quarter; thence North 89 degrees 04 minutes 15 seconds West over and along the East-West half section line of said Section 18 for a distance of 1713.54 feet; thence North 00 degree 55 minutes 45 seconds East for a distance of 728.23 feet; thence North 89 degrees 32 minutes 56 seconds East for a distance of 762.29 feet; thence North for a distance of 401.89 feet; thence East for a distance of 259.31 feet; thence South 00 degrees 26 minutes 13 seconds East for a distance of 494.67 feet; thence East for a distance of 661.15 feet to the point of beginning. Containing after all exceptions 100.94 acres more or less.

SECTION II. The Preliminary Plan shall be attached hereto and made a part thereof.

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

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2004.

MIKE DIEKHOFF, 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 _____, 2004.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2004.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance rezones 101 acres on West Tapp Road from Quarry to Planned Unit Development and approves a preliminary plan for the Southern Indiana Medical Park II. This PUD comes forward without recommendation from the Plan Commission and would allow for a mix of office, medical, and industrial uses as well as accessory commercial uses and preserves 63 acres of forested land.

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 04-08 is a true and complete copy of Plan Commission Case Number PUD-05-04 which was given NO RECOMMENDATION by the Bloomington City Plan Commission at a public hearing held on April 12, 2004.

Date: April 14, 2004

Thomas B. Micuda, Secretary
Plan Commission

Received by the Common Council Office this ___ day of _____, 2004.

Regina Moore, City Clerk

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

Appropriation Budget Transfer Salary Change Zoning Change New Fees	End of Program New Program Bonding Investments Annexation	Penal Ordinance Grant Approval Administrative Change Short-Term Borrowing Other
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If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure _____	Emergency _____
Unforeseen Need _____	Other _____

Funds Affected by Request:

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

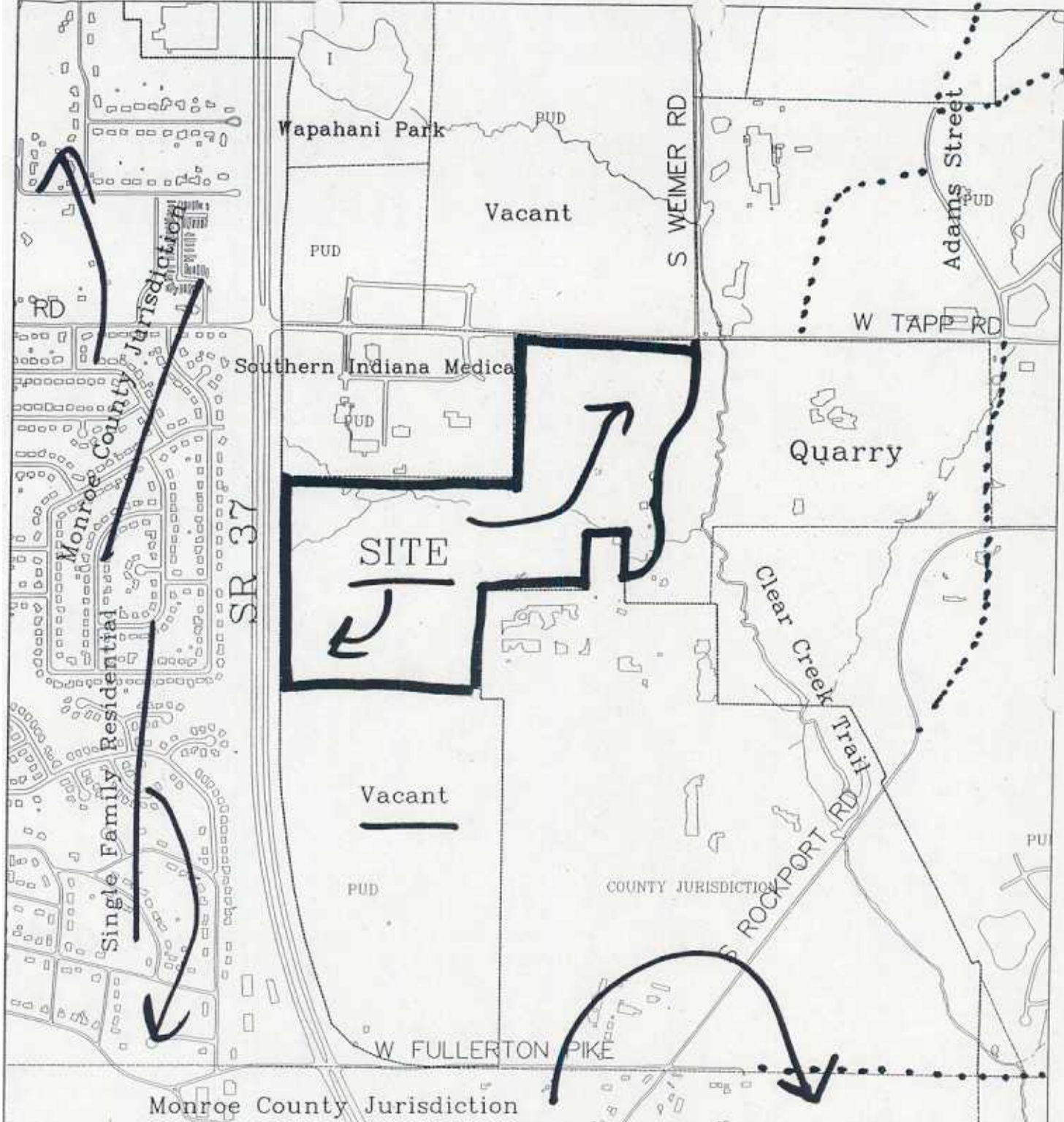
Signature of Controller

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

Yes _____ No _____

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

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



PUD- 5 -04
 Southern Indiana Medical Park II
 Location, Zoning and Land Use Map

By: roachja
 5 Aug 03



City of Bloomington
 Planning



Scale: 1" = 1000'

For reference only; map information NOT warranted.

Interdepartmental Memo

To: Members of the Common Council
From: James Roach, Senior Zoning Planner
Subject: Case # PUD-05-04
Date: April 14, 2004

Attached are the staff report, petitioners' statement, and map exhibits which pertain to Plan Commission Case # PUD-05-04. The Plan Commission heard this petition at its April 12, 2004 meeting and made no recommendation to the Common Council.

REQUEST: The petitioners are requesting a rezoning of approximately 102 acres from Quarry (Q) to Planned Unit Development (PUD) and preliminary plan approval for office and industrial uses, as well as accessory commercial uses.

BACKGROUND:

Area:	102 acres
Current Zoning:	Quarry (Q)
GPP Designation:	Employment Center & State Road 37/Tapp Road Subarea
Existing Land Use:	vacant, mostly wooded, abandoned quarries
Proposed Land Use:	Medical offices, professional offices, light industrial, accessory commercial and 65 acres of preserved woods
Surrounding Uses:	North, South – vacant, mostly wooded, industrial land West – Single family residential (Across SR 37) East – Single family residence, Clear Creek Trail Northwest – Medical offices (Southern Indiana Medical Park)

REPORT SUMMARY: The property in question is an approximately 102 acre parcel located immediately east and south of the existing Southern Indiana Medical Park. It is bounded by W. Tapp Road to the north, State Road 37 to the west, undeveloped industrial PUDs to the north and south, and a single family house and the Clear Creek floodplain to the east. Parts of this Quarry (Q) zoned land have been logged and quarried in the past. The majority of the property along Tapp Road has been cleared, but approximately 80 acres of the site remain wooded.

The petitioners, Southern Indiana Medical Park II, LLC, propose to rezone the property from Q to Planned Unit Development (PUD) and have presented a proposed preliminary plan for approval. This PUD would include a mix of office and industrial uses, several new roads and preservation of approximately 65% of the property.

PETITION HISTORY: The Plan Commission first reviewed a proposal for this property in this fall of 2003. The Plan Commission made a positive recommendation for that petition, PUD-35-03, with a vote of 6-4. Prior to review by the Common Council, the petitioners requested that the Council deny the petition. The petitioners believed that the project would not be approved by the Council. They planned to make changes and bring the petition back to the Plan Commission. The Council granted this request and denied the petition.

The Plan Commission reviewed a revised version of the petition in January. This petition, PUD-50-03, included an enlarged preservation area south of the creek based on comments received from the Council. Because no motion on this petition could garner a majority vote, the Plan Commission was forced to forward the petition to the Council with no recommendation. During the subsequent Common Council meetings, as at the Plan Commission, there was considerable debate about the proposed “inpatient care facility” use. Once again the petitioners requested that the Council deny the petition and pledged to resubmit to the Plan Commission a petition that eliminated the “inpatient care facility” use.

The current petition is a result of the comments and commitments made at the Common Council hearings. The major change in the petition is the removal of “inpatient care facility” from the list of permitted uses and the creation of a definition for “outpatient care facility.” This petition was reviewed by the Plan Commission at its April 12, 2004 hearing. At that hearing, the Plan Commission could not garner enough votes to approve or continue the petition. There was no action on the request and therefore this petition is being forwarded to the Council with no recommendation from the Plan Commission.

GROWTH POLICIES PLAN ANALYSIS: The GPP designates this 102 acre site as an “employment center.” This designation was placed on the property because of its location adjacent to the Southern Indiana Medical Park and its access to State Road 37. Specifically, staff notes the following passages:

- The Employment Center district should contain a mix of office and industrial uses providing large-scale employment opportunities for the Bloomington community and surrounding region.
- Employment Center land uses should focus on corporate headquarters and industrial uses, which will provide a stable employment base for the greater Bloomington community.
- Development phasing must emphasize the creation of the office and industrial base before the commercial areas are developed to serve them.

In addition to these general policies toward employment areas, the GPP offers specific guidance for the development of this property. The *State Road 37/Tapp Road Subarea* provides specific policy guidance for the development of this property and the property to the south. The subarea includes recommendations

concerning land use, urban services and site design. Specifically, staff notes the following passages:

- Medical and corporate office land uses are recommended with light manufacturing and site-serving retail also being permitted. Medical offices are particularly desired east of the Southern Indiana Medical Park, while corporate offices should be considered along the State Road 37 frontage near Fullerton Pike.
- The Master Thoroughfare Plan designates a new north-south Secondary Collector through this Subarea to form a realigned four-way intersection at Weimer Road. This roadway should not negatively impact or intrude on high quality and environmentally sensitive areas on this property.
- If State Road 37 is designated a limited access highway, then further planning should consider the closure of the Tapp Road intersection with State Road 37, along with a full interchange developing at the Fullerton Pike intersection.
- For property fronting State Road 37, site planning controls should be emphasized, including a 360 degree building profile along the highway. The presence of parking lots should be limited along SR 37.
- Maintenance of the existing woodland buffer along sections of State Road 37 is critical. The preferred width of this buffer should be at least 100 feet.
- Site design should take into account and reflect the sensitive nature of the Subarea, especially areas with heavy woodland, steep slopes, and karst. Conservation of these areas as greenspace is a required feature, and can significantly enhance the attractiveness of business park development.

The site is adjacent to the existing Southern Indiana Medical Park and has good access to State Road 37. This proposal meets GPP goals of “providing a mix of office and industrial uses providing large-scale employment opportunities for the Bloomington community and surrounding region.” Medical offices are the prime focus of this development. The proposed commercial uses will be “at a scale that serves the employment center but does not generate significant additional business from the community at large.” Specific site planning commitments have been made, including gifting of 65 acres to preserve environmentally sensitive areas and committing to stormwater best management practices (BMPs).

Review of this development has centered much around the appropriate balance between development, environmental sensitivities, and traffic issues. The *GPP* gives us guidance on these issues, mainly through the Guiding Principles of “Nurture Environmental Integrity” and “Mitigate Traffic”. With the original plan, the conflict between these competing goals became very evident.

The *Growth Policies Plan (GPP)* and the associated *Master Thoroughfare Plan (MTP)* call out for a vehicular connection linking W. Fullerton Pike to W Tapp Rd. and further north to Bloomfield Rd. The Planning Department recognizes the desire and need to protect, enhance, and maintain environmentally sensitive

areas found within our jurisdiction. The Environmental Commission's *City of Bloomington Environmental Resources Inventory (COBERI)* identifies this site as highly sensitive to development. The *COBERI* report identified many areas on this property with high levels of environmental sensitivity, while the *MTP* requires a road to be placed through this site serve as a frontage road.

The petitioners have committed to deeding all of the land south of the creek, Lots 2 and 3, to a "preservation group." With this gift, no additional development other than a publicly funded future roadway would be permitted in this area. By allowing the roadway, the *MTP*'s vision of a frontage road can be achieved at such a time in the future that the City deems it necessary and implements a funding source.

Staff found that this an appropriate compromise that helps to achieve the goals of both the "Mitigate Traffic" and "Nurture Environmental Integrity" principles of the *GPP*. Staff also found that with the commitments provided in the Preliminary Plan, that this PUD will satisfy the recommendations of the *Growth Policies Plan*.

PUD REVIEW ISSUES:

Land Use: The proposed list of uses is essentially the same as the last proposal for this property. Uses include a wide range of medical and professional offices, light industrial and ancillary commercial uses. The proposed uses are as follows:

- Medical Offices
- Professional Offices
- Light Manufacturing
- Warehousing (Consumer oriented mini-warehouses shall not be permitted)
- Business Service
- Wholesale Trade
- Personal Services, Restaurants and Business Park supporting retail uses, 5000 sq. ft. maximum per user, 30,000 sq. ft. total (Drive-through commercial uses shall not be permitted)
- Rehabilitative Facilities
- Residential Care Homes
- Convalescent, nursing and rest homes
- Research Laboratories
- Mental Health Facilities
- Outpatient Care Facilities
- Day Care Facility
- Hotel (limit of one)
- Fire and Police Stations

Two uses have been deleted from the list since the proposal; "Outpatient Care Facility" and "Medical Clinics." At the last series of hearings before the Council, Council Members requested that the petitioners and Staff develop a definition for the proposed "Outpatient Care Facility." The definition presented to the Plan Commission was based on the State of Indiana definition for an ambulatory outpatient surgery center. The proposed definition was as follows:

"A facility licensed as an ambulatory outpatient surgery center by the State of Indiana, as defined by Indiana Code 16-18-2-14, and that does not provide for patient stays of longer than 24 hours."

The full State of Indiana definition of an "ambulatory outpatient surgery center" is included in your packet. The following items are excerpts from that definition:

- Are operated primarily for the purpose of performing surgical procedures and services;
- Are operated under the supervision of at least one (1) licensed physician;
- Provides at least one (1) operating room and, if anesthetics other than local infiltration anesthetics are administered, at least one (1) post-anesthesia recovery room;
- Does not provide accommodations for patient stays of longer than twenty-four (24) hours;
- Provides full-time services of registered and licensed nurses for the professional care of the patients in the post-anesthesia recovery room;
- Has available the necessary equipment and trained personnel to handle foreseeable emergencies; and
- Maintains a written agreement with at least one (1) hospital for immediate acceptance of patients who develop complications or require postoperative confinement.

The Planning staff found that this definition, as well as the State licensing and inspection process, will ensure the outpatient focus of any future facilities. However, Bloomington Hospital has questioned whether having no limitations on hours of operation might allow an outpatient care facility to operate 24 hours per day, 7 days a week, by admitting patients in the evening and allowing them to recover overnight. Prohibiting outpatient care facilities from being open during certain hours, namely Midnight till 5:00AM, may eliminate this possibility. The definition proposed by the Bloomington Hospital was as follows:

A healthcare establishment providing medical services and facilities for persons suffering from illness, injury or conditions requiring outpatient medical services. An Outpatient Facility shall not operate on a continuous twenty-four hour basis, nor shall it have overnight (meaning between 12:00 a.m. and 5:00am) beds and services. Outpatient Facilities shall not include hospitals or facilities on a hospital campus.

The Planning Staff found that while such an operation might be theoretically

possible, this would require continuous staffing of the facility with the necessary doctors, nurses and emergency personnel. Also, there are five existing ambulatory outpatient surgery centers in Bloomington, including three in the existing Southern Indiana Medical Park, whose hours of operation are not restricted at all. Finally, the zoning ordinance does not regulate the hours of operation for any permitted use.

Fire Station Dedication: This petition includes the dedication of a maximum of 2 acres to the City of Bloomington for use in developing a future fire station. The parcel should have direct access to the frontage road. The Bloomington Fire Department has indicated that this is a desirable location for a fire station even if there is not access to SR 37 from Tapp Road in the future. A station here can access neighborhoods west of SR 37, future neighborhoods to the east and still gain access to SR 37 from the frontage road.

Preservation Areas/Land Gift: Approximately 80 acres of the 102 acre site are wooded. The property also contains steeply wooded ravines, a stream with a wooded riparian corridor, an identified wetland area, and several scattered karst features. All steep slopes, wetland areas and karst features will be protected with this petition.

The petitioners have committed to gifting all of Lots 2 and 3 south of the creek, approximately 65 acres, to a “preservation group” so that it may be preserved in its entirety. This is a similar arrangement as used to preserve land in other recent developments, such as the “Latimer Woods” and Lots 2 & 4 of the Canterbury Park subdivision, all of which were gifted to the Community Foundation of Bloomington. The petitioners are in discussion with the Bloomington Parks Foundation and the Community Foundation concerning their willingness to accept this land, but to date nothing has been finalized.

Setbacks: Height, setback and bulk standards are proposed to be the same as the Business Park (BP) zoning district. This is an effort to cluster buildings and keep the development as compact as possible.

Frontage Road Alignment: With the previous petition, the Plan Commission indicated a strong preference for a frontage road location as currently proposed. This location places the road as far as possible from the neighboring historic house and makes it possible to realign Weimer Road and move it out of the Clear Creek floodplain. The City Engineering Department is continuing discussions with the property owner to the north (Public Investment Corp.) and has received verbal agreement for right-of-way dedication for this new location for Weimer.

This alignment places the road west (upstream) of the delineated wetland on the property. This was an issue of considerable debate at the last series of Plan Commission hearings and was previously opposed by the Environmental

Commission. The Environmental Commission no longer opposes this location because of the larger benefits the project offers with its preserved 65 acres.

Finally, since the petitioners will receive no direct benefit from the road through Lot 2, they propose to dedicate right-of-way in lieu of construction. The cost of this road would be borne by the City, most likely through the expansion of the Tapp Road Tax Increment Finance district, although this is not guaranteed.

The petitioners estimate that the cost of building the frontage road between Lots 2 and 3 would be approximately \$640,000. This estimate was based on clearing, common excavation, curbs, sidewalks, pavement, street trees, storm drainage and water and sanitary sewers, but does not include the cost of rock removal. There is not enough data at this time to determine the extent of rock removal that will be necessary.

Based on analysis conducted by the City Controller's office, and assuming a slow build-out of this property, the development of Lot 1 would create sufficient tax increment as part of a TIF district to pay for the cost of the road. Assuming 50% medical and 50% industrial in the development, and a build out period of 20 years, the tax increment that could be captured would be approximately \$2.6 million dollars by 2018, the year the Tapp Road TIF expires. The estimated cost of the road could be captured by 2011. Staff notes that this is assuming no additional build out of other parts of the TIF. Any additional development on the PIC property to the north or in the existing Southern Indiana Medical Park would create additional TIF revenue for new infrastructure projects.

Stormwater: Stormwater detention for this project will mostly be handled with a detention pond just north of the delineated wetland, on Lot 1. This detention will not take place "in stream." Smaller detention and water quality basins may be necessary closer to development. Finally, in the area where development interfaces with the preserved Lots 2 and 3, proven stormwater quality best management practices will be incorporated in the final plan.

The petitioners also incorporated a condition of approval from the previous petition into this plan that requires them to analyze the pre/post development stormwater run-off of the existing Southern Indiana Medical Park. Necessary upgrades and additions to ensure that the current development does not exceed the pre-development runoff conditions shall be made by the petitioner during Final Plan review.

Impacts to Adjacent Property: The property to the east contains an owner occupied historic house. The owner is in the process of having this property listed on the National Registry of Historic Places. No areas slated for development are closer than 500 feet from the house. Additionally, the approved road alignment will place the road nearly a quarter mile from the house. Large

piles of limestone block, a 100 foot vegetative buffer, additional evergreen screening, lighting restrictions and stormwater commitments were designed to ensure that negative impacts to the adjacent property are minimized.

One condition of approval from the previous petition was not incorporated into this revised petition. The Plan Commission required the petitioner coordinate with the downstream property owner, in conjunction with city officials, to construct an appropriate driveway crossing for the downstream property owner. They also required that all costs be borne by the petitioner. This was an attempt by the Plan Commission to limit any negative impacts of increased runoff caused by the development of this property.

Preliminary Plat: Apart from the request to rezone the property, the petitioners also requested preliminary plat approval of a three lot subdivision. This plat would create a lot for development and two lots to be gifted to a “preservation group.” Lots 2 and 3 would be split by the right-of-way for the future frontage road. Staff recommended a condition of approval which would require that this right-of-way to be delineated and dedicated with the first final plan/plat for this development. The petitioners also depicted 20 additional feet of temporary right-of-way, on both sides of the road, to accommodate road construction and grading. This request was also not acted on.

PLAN COMMISSION DISCUSSION AND CONCLUSIONS: At the April 12, 2004, meeting, the Plan Commission heard testimony from the petitioners and citizens both in favor of and opposed to the petition.

In general, the Plan Commission found that this proposal met the goals and objectives of the GPP. The proposed medical and professional offices, light industrial and accessory commercial uses are consistent with the “employment” designation of the property. The proposed location of the frontage road and crossing of the creek will improve vehicular circulation in the area while limiting impacts to the sensitive wetland on the property. Finally, the proposed site planning restrictions and commitment to dedicating land for a future City fire station are also positive benefits.

In general, the Plan Commission also believed that the preservation of the 65 acres in Lots 2 and 3 was an important component of the development. This proposal allows for preservation of not just the environmentally sensitive area, but also the adjacent, connecting forested ridge tops. This proposal also delayed construction of the creek crossing and the frontage road until such time as it is needed.

However, the Plan Commission could not reconcile two concerns about the project. The first was the proposed definition of “Outpatient care facility.” Some Plan Commissioners believed that a stricter definition, limiting the hours of operation of the facility, was needed to ensure its outpatient focus.

The second concern centered around the public construction of the frontage road between Lots 2 and 3. Some Plan Commissioners believed that it was not appropriate to place the burden on the public sector to construct the required collector roadway through this property. Other Plan Commissioners questioned whether this road should be built at all and thought additional study and discussion was warranted.

The Plan Commission entertained two motions concerning this petition. Neither of these motions received the required 6 vote majority needed to pass. It should be noted that only 8 of the 11 Plan Commissioners were in attendance due to one vacant position and two absences. The first motion was to approve the petition with the conditions put forward by the Planning Department and with an additional condition that the petitioners repair the driveway of an adjacent property owner. The full wording of these conditions is as follows:

1. Right-of-way for the frontage road through Lot 2 must be delineated and dedicated with the first final plan/plat for this development. This shall include a 65 foot right-of-way and an additional 20 feet of temporary right-of-way, on both sides of the road, to accommodate construction.
2. All right-of-way necessary for construction of the intersection of Tapp and the new frontage road shall be dedicated with the first final plan/plat for development.
3. Lots 2 & 3 shall be gifted to a "preservation group", as proposed in the preliminary plan, prior to the first final plan approval for this development.
4. The petitioner shall coordinate with the downstream property owner in conjunction with city officials to construct an appropriate driveway crossing for the downstream property owner. All costs shall be borne by the petitioner.

This motion received a 3-5 vote and was not acted upon. The second motion, to continue the petition until the May 10, 2004, Plan Commission meeting received a vote of 5-3 and thus was not acted upon. Because neither motion could garner a vote by the majority of the members, the Plan Commission was forced to forward this petition to the Council without a recommendation.

Recommendation: The Plan Commission made no recommendation on this petition.

**BLOOMINGTON PLAN COMMISSION
STAFF REPORT
LOCATION: 2401 West Tapp Road**

**CASE NO: PUD-05-04
DATE: April 12, 2004**

PETITIONER: Southern Indiana Medical Park II, LLC
2920 McIntyre Dr., Bloomington

COUNSEL: Smith Neubecker and Associates, Inc.
453 S. Clarizz Blvd., Bloomington

REQUEST: The petitioners are requesting a rezoning of approximately 102 acres from Quarry (Q) to Planned Unit Development (PUD) and preliminary plan approval for office and industrial uses, as well as accessory commercial uses. A waiver of the required second hearing has been requested. Also requested is a preliminary plat for a three lot subdivision.

BACKGROUND:

Area: 102 acres
Current Zoning: Quarry (Q)
GPP Designation: Employment Center & State Road 37/Tapp Road Subarea
Existing Land Use: Vacant, mostly wooded, abandoned quarries
Proposed Land Use: Medical offices, professional offices, light industrial, accessory commercial and 60 acres of preserved woods
Surrounding Uses: North, South – vacant, mostly wooded, industrial land
West – Single family residential (Across SR 37)
East – Single family residence, Clear Creek Trail
Northwest – Medical offices (Southern Indiana Medical Park)

REPORT SUMMARY: The Plan Commission first reviewed a proposal for this property in this fall of 2003. The Plan Commission made a positive recommendation to the Common Council for that petition, with a vote of 6-4. Prior to review by the Council, the petitioners requested that the Council deny the petition, because they believed that the project as approved would not be approved. They informed the Council that they intended to make changes and bring back a revised petition to the Plan Commission.

This Plan Commission reviewed a revised version of the petition at its January 12, 2004 hearing. This petition included an enlarged preservation area south of the creek based on comments received from the Council. Because no motion on this petition could garner a majority vote, the Plan Commission was forced to forward the petition to the Council without a recommendation. During the subsequent Common Council meetings, as at the Plan Commission, there was considerable debate about the proposed "inpatient care facility" use. Once again the petitioners requested that the Council deny

the petition and pledged to resubmit to the Plan Commission a petition that eliminated the “inpatient care facility” use.

The current petition is a result of the comments and commitments made at the February 11th and February 25th Common Council hearings. The major change in the petition is the removal of “inpatient care facility” from the list of permitted uses and the creation of a definition for “outpatient care facility”

GROWTH POLICIES PLAN ANALYSIS: The *GPP* designates this 102 acre site as an “employment center” and includes it in the *State Road 37/Tapp Road Subarea*. The site is adjacent to the existing Southern Indiana Medical Park and has good access to State Road 37. This proposal meets *GPP* goals of “providing a mix of office and industrial uses providing large-scale employment opportunities for the Bloomington community and surrounding region.” Medical offices are the prime focus of this development. The proposed commercial uses will be “at a scale that serves the employment center but does not generate significant additional business from the community at large.” Specific site planning commitments have been made including gifting of 65 acres to preserve environmentally sensitive areas and committing to stormwater best management practices (BMPs).

Review of this development has centered much around the appropriate balance between development, environmental sensitivities, and traffic issues. The *GPP* gives us guidance on these issues, mainly through the Guiding Principles of “Nurture Environmental Integrity” and “Mitigate Traffic”. With the original plan, the conflict between these competing goals became very evident.

Staff finds a necessity for a vehicular connection linking W. Fullerton Pike to W Tapp Rd. and further north to Bloomfield Rd. Staff also recognizes the desire and need to protect, enhance, and maintain environmentally sensitive areas found within our jurisdiction. Two supporting planning documents, the *City of Bloomington Environmental Resources Inventory (COBERI)* and the *Master Thoroughfare Plan (MTP)*, have identified this site as high priorities. The *COBERI* report identified many areas on this property with high levels of environmental sensitivity, while the *MTP* requires a road to be placed through this site to connect W Fullerton Pk. to W Tapp Rd to serve as a frontage road.

The petitioners have committed to deeding all of the land south of the creek, Lots 2 and 3, to a “preservation group.” With this gift, no additional development other than a publicly funded future roadway would be permitted in this area. By allowing the roadway, the *MTP*’s vision of a frontage road can be achieved at such a time in the future that the City deems it necessary and implements a funding source.

Staff finds this to be an appropriate compromise that helps to achieve the goals of both the “Mitigate Traffic” and “Nurture Environmental Integrity” principles of the *GPP*. Staff finds that with the commitments provided in the Preliminary Plan and with the conditions

of approval proposed in this report, that this PUD will satisfy the recommendations of the *Growth Policies Plan*.

PUD REVIEW ISSUES:

Land Uses: The proposed list of uses for this PUD has not changed since the last proposal except for the deletion of “Outpatient Care Facility” and “Medical Clinics.” The petitioners proposed that the “Outpatient Care Facility” use be defined based on the State of Indiana definition for an ambulatory outpatient surgery center. The proposed definition is as follows:

"A facility licensed as an ambulatory outpatient surgery center by the State of Indiana, as defined by Indiana Code 16-18-2-14, and that does not provide for patient stays of longer than 24 hours."

The full State of Indiana definition of an “ambulatory outpatient surgery center” is included in your packet. The following items are excerpts from that definition:

- Are operated primarily for the purpose of performing surgical procedures and services;
- Are operated under the supervision of at least one (1) licensed physician;
- Provides at least one (1) operating room and, if anesthetics other than local infiltration anesthetics are administered, at least one (1) post-anesthesia recovery room;
- Does not provide accommodations for patient stays of longer than twenty-four (24) hours;
- Provides full-time services of registered and licensed nurses for the professional care of the patients in the post-anesthesia recovery room;
- Has available the necessary equipment and trained personnel to handle foreseeable emergencies; and
- Maintains a written agreement with at least one (1) hospital for immediate acceptance of patients who develop complications or require postoperative confinement.

The Planning staff believes that this definition, as well as the State licensing and inspection process, will ensure the outpatient focus of any future facilities. However, the Bloomington Hospital has questioned whether having no limitations on hours of operation might allow an outpatient care facility to operate 24 hours per day, 7 days a week, by admitting patients in the evening and allowing them to recover overnight. The Hospital believes that prohibiting outpatient care facilities from being open during certain hours, namely Midnight till 5:00AM, would eliminate this possibility.

While such an operation might be theoretically possible, this would require continuous staffing of the facility with the necessary doctors, nurses and emergency personnel. Also, there are five existing ambulatory outpatient surgery centers in Bloomington, including three in the existing Southern Indiana Medical Park, whose hours of operation

are not restricted at all. Staff would note that the zoning ordinance does not regulate the hours of operation for any permitted use.

Frontage Road Alignment: With the previous petitions, the Plan Commission indicated a strong preference for a frontage road location as currently proposed. This location places the road as far as possible from the neighboring historic house and makes it possible to realign Weimer Road and move it out of the Clear Creek floodplain. The City Engineering Department is continuing discussions with the property owner to the north (Public Investment Corp.) and has received verbal agreement for right-of-way dedication for this new location for Weimer. Preliminary designs for this new alignment are already in the works.

This alignment places the road west (upstream) of the delineated wetland on the property. This was an issue of considerable debate in the first series of Plan Commission hearings and was previously opposed by the Environmental Commission. The Environmental Commission no longer opposes this location because of the larger benefits the project offers with its preserved 65 acres.

Finally, since the petitioners will receive no direct benefit from the road through Lot 2, they propose to dedicate land in lieu of construction. The cost of this road would be borne by the City, potentially through the expansion of the Tapp Road Tax Increment Finance District (TIF).

The petitioners estimate that the cost of building the frontage road between lots 2 and 3 would be approximately \$640,000. This estimate was based on clearing, common excavation, curbs, sidewalks, pavement, street trees, storm drainage and water and sanitary sewers, but does not include the cost of rock removal. There is not enough data at this time to determine the extent of rock removal that will be necessary.

Based on analysis conducted by the City Controller's office, and assuming a slow build-out of this property, the development of Lot 1 would create sufficient tax increment as part of a TIF district to pay for the cost of the road. Assuming 50% medical and 50% industrial in the development, and a build out period of 20 years, the tax increment that could be captured would be approximately \$2.6 million dollars by 2018, the year the Tapp & Weimer TIF expires. The estimated cost of the road could be captured by 2011. Staff notes that this is assuming no additional build out of other parts of the TIF. Any additional development on the PIC property to the north or in the existing Southern Indiana Medical Park would create additional TIF revenue for new infrastructure projects.

Preliminary Plat: Apart from the request to rezone the property, the petitioners have also requested preliminary plat approval of a three lot subdivision. This plat would create a lot for development and two lots to be gifted to a "preservation group." Lots 2 and 3 would be split by the right-of-way for the future frontage road. Staff recommends a condition of approval which would require that this right-of-way to be delineated and dedicated with the first final plan/plat for this development. The petitioners have also

depicted 20 additional feet of temporary right-of-way, on both sides of the road, to accommodate road construction and grading.

RECOMMENDATION: Staff recommends approval of PUD-05-04, including preliminary plat approval and waiver of second hearing, with the following conditions:

1. Right-of-way for the frontage road through Lot 2 must be delineated and dedicated with the first final plan/plat for this development. This shall include a 65 foot right-of-way and an additional 20 feet of temporary right-of-way, on both sides of the road, to accommodate construction.
2. All right-of-way necessary for construction of the intersection of Tapp and the new frontage road shall be dedicated with the first final plan/plat for development.
3. Lots 2 & 3 shall be gifted to a “preservation group”, as proposed in the preliminary plan, prior to the first final plan approval for this development.

MEMORANDUM

To: City of Bloomington Plan Commission
From: The Bloomington Environmental Commission
Date: January 12, 2004
Subject: PUD 35-03: Southern Indiana Medical Park II

The Bloomington Environmental Commission has reviewed the most recent version of the subject PUD, as presented to the Environmental Commission at its meeting of December 18, 2003. Due to the departure of the City's senior environmental planner over the Christmas holidays, the memo originally provided with the Plan Commission packet did not accurately reflect the conclusions of the Commission at the December meeting, so we are providing the following revised memo.

The site plan is similar to the plan previously approved by the Plan Commission in the northern part of the property, however all proposed development has been eliminated from the southern portion, which is proposed to be gifted for permanent preservation. This south area, which is forested with many sensitive environmental constraints, was the source of most of the Environmental Commission's concerns regarding the natural resource impacts of this project. Under the current plan the north-south road would be stubbed at approximately the previously approved location, and an easement would be provided to continue the road through the south part of the property. In summary, the current project has been considerably reduced in size and scope, however all the remaining features are essentially the same as the plan which was approved by the Plan Commission at its November 10, 2003 meeting.

The Environmental Commission supports the current proposal as a significant conservation effort for some of our most sensitive lands, as indicated by the City of Bloomington Environmental Resources Inventory, and hopefully a precedent for preserving more sensitive areas. We greatly appreciate the developer's willingness to compromise and to be open-minded in this regard. The Commission still has concerns about the potential for road development through the southern portion of the site, however we believe that the appropriate place to address that issue is in future review of the City's thoroughfare plan. The Environmental Commission does not have any recommendations regarding how the land is to be protected as long as the protection is permanent; it was our assumption that the word "gifted" on the plan provided in December indicated that the property ownership would be transferred.



March 12, 2004

Stephen L. Smith P.E., L.S.
Daniel Neubecker L.A.
Steven A. Brehob, B.S.Cn.T

City of Bloomington Plan Commission
C/O James Roach, Senior Zoning Planner
P. O. Box 100
Bloomington, IN 47402

RE: Southern Indiana Medical Park II

Dear Plan Commission members and staff,

On behalf of the petitioner, enclosed is our revised application for the Southern Indiana Medical Park II, an expansion of the existing Southern Indiana Medical Park. It is located south of Tapp Road and west of SR 37 and wraps around the existing medical park on two sides. It includes approximately 102 acres of hilly land, much of which is wooded, with a small east-west creek bisecting the middle of the site. On the following pages we will outline our plans for this project and address the issues that we believe are of greatest interest to the community and planners.

We are petitioning the Plan Commission for a Planned Unit Development Preliminary Plan Approval, and preliminary Plat approval. Included with our outline plan statement is an outline plan view exhibit to illustrate the discussion provided in the text. Also included is your standard application and application fee.

Of particular note is the removal of several uses from our use list. Removed from the prior use list is "inpatient and outpatient care facilities" and "Clinics for physicians, dentists, or other health care professionals". Our intent is to follow the accepted practice and tradition of how these types of facilities have been approved and developed in Bloomington in the past and in the adjacent medical park, rather than offer categories of use, undefined in the zoning ordinance. We do intend to build an Ambulatory Outpatient Surgical Center (ASC) in this development. This is how outpatient surgery centers are licensed and regulated by the state of Indiana. According to past Bloomington zoning practices, this use has been allowed under "medical offices", which is defined in the zoning code as "Facility from which and individual or group of doctors or other health care practitioners offers outpatient services". The definition for "medical office" use also allows what we had termed "clinics for physicians, dentists, or other healthcare professionals. This definition, however, clearly does not allow "inpatient facilities" and we specifically exclude that use.

These changes have been made to accommodate the concerns of the City Council, to simplify our request and to remove uses that are undefined in the City



Zoning Ordinance and have never been required for this type of development in the past. We understand that there are 5 licensed ASC's in Monroe County. Three of them operate in the current Southern Indiana Medical Park PUD and were allowed under the "medical office" use. One of these three is Dr. Tiwari's Pain Management Center. A fourth ASC is located in the Landmark PUD, which was also allowed under the "medical office" use. All the regulations that apply to those facilities will apply to ours.

We look forward to working with the staff and presenting this petition to the Plan Commission and Common Council.

Thank you for your attention.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Dan Neubecker', with a stylized flourish at the end.

Dan Neubecker
Smith Neubecker & Associates, Inc.

Cc file 3577

***Southern Indiana Medical Park II
Planned Unit Development
Outline Plan Statement (Revised)***

Prepared by:
Smith Neubecker and Associates, Inc.
Job # 3577
March 12, 2004

GPP Compliance

The Growth Policies Plan (GPP) gives us a set of fairly specific recommendations or guidance regarding the development of this site. The site makes up about half of the SR37/Tapp Road Subarea, as it is defined in the GPP. It is our intent to follow these recommendations as closely as possible.

Proposed is an expansion of the existing Southern Indiana Medical Park into approximately 37 acres out of this 102-acre site. Primary uses are proposed as medical and professional offices, uses that are listed as “recommended” by the GPP. In addition, we have added a number of additional uses to our list, at the encouragement of the Planning Department. These uses are delineated later in this document.

The entire southern portion of the property (Lots 2 & 3), approximately 62 acres, will be gifted to a preservation group such as the Community Foundation or the Sycamore Land Trust. An agreement for the gifted area and location of right-of-way, acceptable to the City of Bloomington Plan Commission, must be reached in conjunction with the first Final Plan for this development. Right-of-way for the road through the gifted area will be dedicated with the first plat for this development. Deeding of the gifted area to the preservation group will take place prior to the release of any permits."

The GPP also recommends consideration for inclusion of this subarea into the adjacent TIFF district. We support that recommendation.

Site Inventory

Soils

The site has a variety of soils common to Monroe County. They include Hagerstown silt loam, Wakeland silt loam, Crider silt loam, Caneyville silt loam, and Udorthents-Pits complex.

The Caneyville, Crider, and Hagerstown silt loams are predominant on the site. They are generally readily developed, are well drained, with constraints mostly due to steep slopes and potential bedrock depth.

Along the east-west creek there is a low flat bottom made up of primarily Wakeland silt loam. It is considered a poorly drained soil that is frequently flooded from January through May. Other significant limitations of this soil are wetness and potential for frost action.

Udorthents-Pitts complex is a designation given primarily to areas that have been strongly affected by limestone quarry operations in the past. It typically includes elements such as quarry pits, disturbed soils and limestone rubble, stones and boulders.

Slopes

We have prepared a slope analysis for this site based upon the 2' contour interval, City GIS maps. Our analysis indicates slopes in the following ranges: 0-8%, 8-12%, 12-18% and 18% and over. The steepest terrain exists in the southern portion of the site below and along the east-west creek. There are several ravines with side slopes in excess of 18% slope. All the wooded areas that exceed 18% slope are located in the gifted, southern section of the property.

Karst Features

A number of potential sinkholes are evident on the GIS contour mapping, but all appear only in the gifted, southern portion of the property.

Water/Drainage Features

There is a small creek that runs east and west across the site. At times it seems to disappear under limestone quarrying rubble and then reappears further downstream. We have defined its approximate course based on contour lines, Aerial Photography and field review.

There are also a couple water/drainage features that branch off from this creek. One drains a portion of the north half of the project, running through a secondary growth wooded area. The second branches off from the east west creek and runs southwest eventually excepting drainage from a section of the SR 37 and land west of SR 37. A major drainage swale, with quite steep side slopes, runs across the property from the middle of the south property line heading northeast. It connects with a minor swale that parallels it, both eventually ending up crossing the quarry area and joining the east-west creek just before it intersects Clear Creek.

A wetlands inventory of the east-west creek and bottomland area has been prepared by Earth-tech. There is jurisdictional wetland that has been identified along the main east-west creek. The wetland area is included in the gifted, southern section of the site, as is the wooded bottomlands along the creek. The proposed future frontage roadway has been routed immediately west of the wetlands to avoid disturbance of it.

Limestone mining features

A portion of this site has been encumbered by prior limestone mining operations. This area is located in the east-central portion of the site and covers approximately 5.3 acres. Bare bedrock, quarry pits and limestone mining rubble is predominant here. These mining operations are particularly evident in the 1961 aerial photograph. Some of the

quarry pits evident in 1961 have been filled in since that time. All the areas disturbed by mining are included in the gifted, southern section of the property (Lot 2).

Wooded areas

Approximately 75% of this site is currently covered with woodlands. According to aerial photographs of this area from 1961, it is evident that about 56% of the site was wooded at that time. Those areas that have re-vegetated since the 1961 photographs consist of generally lower quality vegetation with much cedar, tulip tree, cherry and other weed tree secondary growth. These younger and lower quality vegetated areas on the site are quite evident on 1998 aerial photographs, characterized by the existence of a substantial mix of evergreen species, such as cedar, which are often the first species to establish themselves on barren land.

There are two main areas where this secondary growth is predominant. One is along the west side of the north half of the property, adjacent to the COTA facility. This area showed only hints of vegetation along the drainage swale that runs through it in the 1961 photograph. A buffer of vegetation will be preserved along this drainage swale, except where connecting roadways cross this feature.

The second area evident on the 1961 photograph is a large area that showed no vegetation west of the quarried land.

In the northern portion of this site, there is also a substantial old fencerow of trees, running north and south, which splits the open fields. The tree line varies in size, type and thickness of materials along its length, but generally has some large canopy trees with thick understory along the edges. This tree line will be preserved except where roadways cross this feature to access the eastern most parcel.

The older, more mature vegetative areas on the site include a larger variety of hardwood trees with a few scattered large specimens, like Maple and Oak. Some have trunks as large as 30"- 42" in diameter. Further south along the main ridge, you move out of the large oaks and maples and begin to see predominantly larger tulip trees as scattered specimens. There is one exceptional tulip tree located in the southwest portion of the site that likely measures in the 48"- 60" caliper range. A portion of the southern half of the site, primarily the southeastern corner, has a thinner tree canopy. A few scattered large stumps were observed. We have been told that this area was logged within the past 5 years or so. As a result, the tree canopy is thinner here and secondary regrowth predominates. All of these features are located in the gifted, southern portion of the site, south of the east-west creek.

A more detailed tree community inventory has been prepared as requested by the planning staff, Environmental Commission and Plan Commission members.

Outline Plan

A critical issue delineated in the GPP was careful consideration for environmental impacts for any proposed development, particularly where areas of steep slopes, karst features, and/or woodland areas converge. All areas that are both naturally wooded and exceed a consistent slope of 18%, as well as all the karst features, have been included in the gifted, southern section (Lots 2 & 3).

The north portion of our site (Lot 1), above the east-west creek, is the least environmentally sensitive area on the site. It consists primarily of open fields with the flatter slopes and the lowest quality, secondary growth wooded areas. No karst features have been discovered. We propose to preserve a substantial old tree line that runs north-south through the eastern half of this portion of the site. The wooded area on the northwest side of the site, just east of the COTA facility, is a secondary growth area of lesser quality vegetation, most of which was open land 40 years ago. The 1961 aerial photograph and the mix of type, size and quality of vegetation that exists here demonstrate this. Proposed is a buffer in excess of at least 25' on each side of a shallow ravine that runs through this wooded area, while the remaining secondary growth area is slated for development.

The southern portion of the site (Lots 2 & 3), below and including the east-west creek and wooded bottomland area is generally the most environmentally sensitive area on the site and is included in the gifted area. There will be a need for some for utility infrastructure crossings and future construction of the frontage road through this area.

The site contains approximately 102 acres. Around 65 acres of woodlands, including the east-west creek and wooded bottomlands are in the gifted area. In addition, another 2.3 acres of tree-line buffers will be preserved in the northern portion of the site. The total gifted and/or preserved acreage of 67 acres represents 66% of the property. Remaining to be developed is approximately 35 acres, which also includes the proposed storm water detention area and the dedication of up to 2 acres of land for a fire/police station.

Use List

The following uses are allowed and are intended to fit the generally described uses represented in the GPP.

Medical Offices

Professional Offices

Light Manufacturing

Warehousing

Business Service

Wholesale Trade

Personal Services, Restaurants and Business park supporting retail uses, 5000 sq. ft. maximum for per user, 30,000 sq. ft. total

Rehabilitative Facilities

Residential Care Homes
Convalescent, nursing and rest homes
Research Laboratories
Mental Health Facilities
Day Care Facility
Hotel (limit of one)
Fire and Police Stations

Uses, which are specifically not allowed, are: Inpatient facilities.

Development Signage

A single project identification/monument sign will be allowed along Tapp Road. This sign will display the name of the development and individual business names and will have a maximum height of 20' and a maximum total area of 200 sq. ft. or 100 sq. ft. per side of a double-sided sign.

Individual sites are allowed to have signage that meets the Scenic/Gateway Corridor regulations for individual nonresidential uses. Directional signage will be utilized to help customers and patients locate specific offices.

Roadway connectivity

The master thoroughfare plan calls for a secondary collector street to be extended from a 4-way intersection at Weimar Road across our site to our south property line. The GPP supports this. However after feedback we have received during our initial proposal from the Plan Commission and at the direction of City Planning staff, we propose to construct a frontage road across the northern, developed portion of our site that connects to Tapp Road at a single new location, approximately halfway between Weimar Road and Deborah Drive. It will be at a high point in Tapp Road for the best sight distance and is also opposite the connection originally proposed in the Mill Creek Village petition for the Public Investment Corporation (PIC) property. The eventual continuation of this frontage road across the PIC property will allow the existing Weimar Road to be abandoned in favor of the new location. This will accomplish the replacement of a substandard section of Weimar Road that is now in the 100-year floodplain, has two substandard curves and a substandard bridge.

We will dedicate and construct a public street across our developable area (Lot 1) to the northern edge of the gifted areas. The gifted, southern section of the site (Lots 2 & 3) will be divided by a R.O.W., dedicated with the first plat approval for this project, as needed for construction of the proposed frontage road. Also, dedication of utility easements as needed to construct new, or repair existing utility lines to serve the developable area (Lot 1) will be made at that time. The R.O.W. dedication will enable the City of Bloomington or it's assignees to complete the construction of the frontage road at some point in the future, should they elect to.

We propose to continue the road stubbed from the original medical park development (Deborah Drive) to the east, across our site and connecting to the frontage road. This connection will provide for interconnectivity between the two medical park developments and access from the existing medical park to the frontage road.

Finally, since there is no longer a roadway connection from our development to the Tapp Road/ Weimer Road intersection, any impact of such a connection on the adjacent private drive and entry to our east has been avoided completely.

The specific design configuration of our new intersection with Tapp Road will be addressed in greater detail at the development plan stage, when more specific survey and design information is available. It will be coordinated with the design for future Tapp Road reconstruction efforts that is currently underway.

Setbacks and R.O.W. and Roadway Standards

The right-of-way for the north-south frontage road shall be 65', in accordance with the Master Thoroughfare Plan. Eight-foot wide asphalt side paths are proposed for each side of the road with a 22' wide pavement configuration. There will be a tree plot of at least 8' in width.

Other proposed roadways will have 50' right-of-ways with a 5' sidewalk on each side; a 22' pavement width and a tree plot of at least 6' in width.

Street setbacks shall be a minimum of 20' from the R.O.W. for buildings and 30' for parking.

Site Lighting

In order to control the amount of disturbance to the area due to site lighting, we propose to control it in several ways. First, lighting shall be directional in nature and parking lot lighting shall have a 15' maximum pole height. Second, parking lot lighting will be switched and shall be turned off during non-working hours. Building security lighting, however, shall be allowed during closing hours.

Utility Infrastructure

We have been reviewing the utility service infrastructure in this area with City Utilities, and believe we have proposed a "master utility plan" that addresses service to the entire subarea, as recommended in the GPP.

Stormwater Management

The site is located in a large drainage basin with a tributary of Clear Creek bisecting the site from east to west. The majority of the drainage basin of this tributary is located west of the site and west of SR 37. There are two existing culverts that convey runoff under SR 37 and to the tributary that bisects the site.

The plan requires construction of detention and water quality basin at the southeast corner of the project. This basin will be constructed outside of the limits of the streambed and wetland area in the low-lying property on site. The basin will be sized to accommodate the storm water detention needs of the site as well as provide additional storage for the previously developed medical park upstream, if needed to hold runoff to pre-development rates.

Storm drainage systems on site will discharge to grassed waterways leading to the detention / water quality basin. Smaller water quality basins may be constructed in areas closer to developed portion of the site. Details of all basins will be reviewed and designed at the development plan stage.

Drainage plans shall include proven storm water best management practice alternatives for storm water filtration along the developed area (Lot 1) interface with the gifted area (Lots 2 & 3).

Sanitary Sewer

The existing 15" VCP sanitary sewer main that crosses the site is operating at capacity and is in need of repair. Additional flows generated by development of this site may require improvements and possible over sizing of the existing main. The extent of over sizing necessary and exact route of the proposed sanitary sewer connections to the existing system will be determined at the development plan stage. It is anticipated that the sanitary sewer within the development will generally follow the roadways, but may have to cross the gifted area bottomlands, to access the existing sewer that runs through this location.

Water Mains

Water service for the site will utilize connections to the existing 20" City main along Tapp Road and connections to the water main system within the existing medical park. A water main will also need to be stubbed to the south end of Lot 1 for future extension, should the frontage road be built. As with sanitary sewer, it is anticipated that the water main system will generally follow the internal roadways. Water modeling of the distribution network will need to be done to determine the exact sizes of the mains necessary with input from CBU on long range planning. Both of these items can be completed at the development plan stage.

Traffic Study

Executive Summary (see attached Traffic Impact Study for more detail)

Tapp and Weimer Roads currently operate at reasonable levels of service. The added traffic from this project, but mostly from background growth and other committed projects in the area will stress the roadways in their current configuration. Continued upgrades that are being planned using TIF District funding will accommodate the increasing traffic volumes.

Specific concerns and recommendations drawn from this study include:

Tapp Road

1. Continue to upgrade and widen Tapp Road to a five-lane configuration east of SR37.
2. A traffic signal should be planned at the entry to Tapp Road from this project to accommodate this project and the Public Investment development on the north side of Tapp Road.
3. Work closely with INDOT to maintain and upgrade the intersection/interchange of SR 37 and Tapp Road

Weimer Road

- 1 Construct Weimer Road as a good two-lane facility within this project and reconstruct Weimer Road on a new alignment through the Public Investment property to the north

SR 37 and Tapp Road

Access should continue to be provided to SR 37 at this location. If INDOT determines that the intersection is too close to the Fullerton Pike or SR 45 interchanges, then a system of collector distributor roadways paralleling SR 37 should be considered.

Other Specific conditions

1. The petitioner will dedicate a maximum of two acres for a Fire Station/Police Station Facility. This dedication shall be done in developable area (Lot 1) and shall be on a site of the owners choosing. However, the parcel must have direct access to the frontage road. The dedication shall take place with the first final plan/plat for this development.
2. The petitioner will coordinate with the city's consultant on the Tapp Road expansion project to better determine the location and configuration of our new intersection with Tapp Road prior to submitting a development plan for this site.
3. A 15' wide pedestrian easement shall be provided between the east property line and the frontage road, to facilitate a future connection to the Clear Creek Trail. The exact location of this easement shall be determined at final plan stage.

4. The petitioner shall evaluate the existing medical park to insure that its storm water detention system is operating effectively. If it is not, then it will be repaired or it's runoff will be included in the stormwater detention plans for the new development. The petitioner shall complete a pre/post-development stormwater analysis of the entire Southern Indiana Medical Park, including both the existing and proposed sites. The petitioner shall make necessary upgrades and additions, to ensure that the combined developments do not exceed the pre-development runoff conditions.
5. Drainage plans shall include proven storm water best management practice alternatives for storm water filtration at the gifted area interface during development plan stages.
6. The 65-acre southern area (Lots 2 & 3) shall be gifted to a preservation group, as delineated previously in this document.
7. Drive-through commercial uses are not permitted. Consumer oriented mini-warehouses will not be permitted.
8. All building facades that are visible from public streets shall have architecture of equal quality to, and be compatible with, the front façade of the building.
9. All final plans will include a lighting plan sufficient to demonstrate compliance with lighting commitments made in this petition.

Subject: RE: [Fwd: RE: Definition of "Outpatient Care Facility"]
Date: Mon, 29 Mar 2004 12:47:47 -0500
From: Dan Neubecker <dlneubec@snainc.com>
To: "James Roach" <roachja@bloomington.in.gov>
CC: Steve Smith <slsmith@snainc.com>

Hi Jim,

On behalf of Dr. Tiwari, we have decided to agree with the definition for "Outpatient Care Facility" as defined by the staff as follows:

"Outpatient Care Facilities" shall be defined as "A facility licensed as an ambulatory outpatient surgery center by the State of Indiana, as defined by Indiana Code 16-18-2-14, and that does not provide for patient stays of longer than 24 hours."

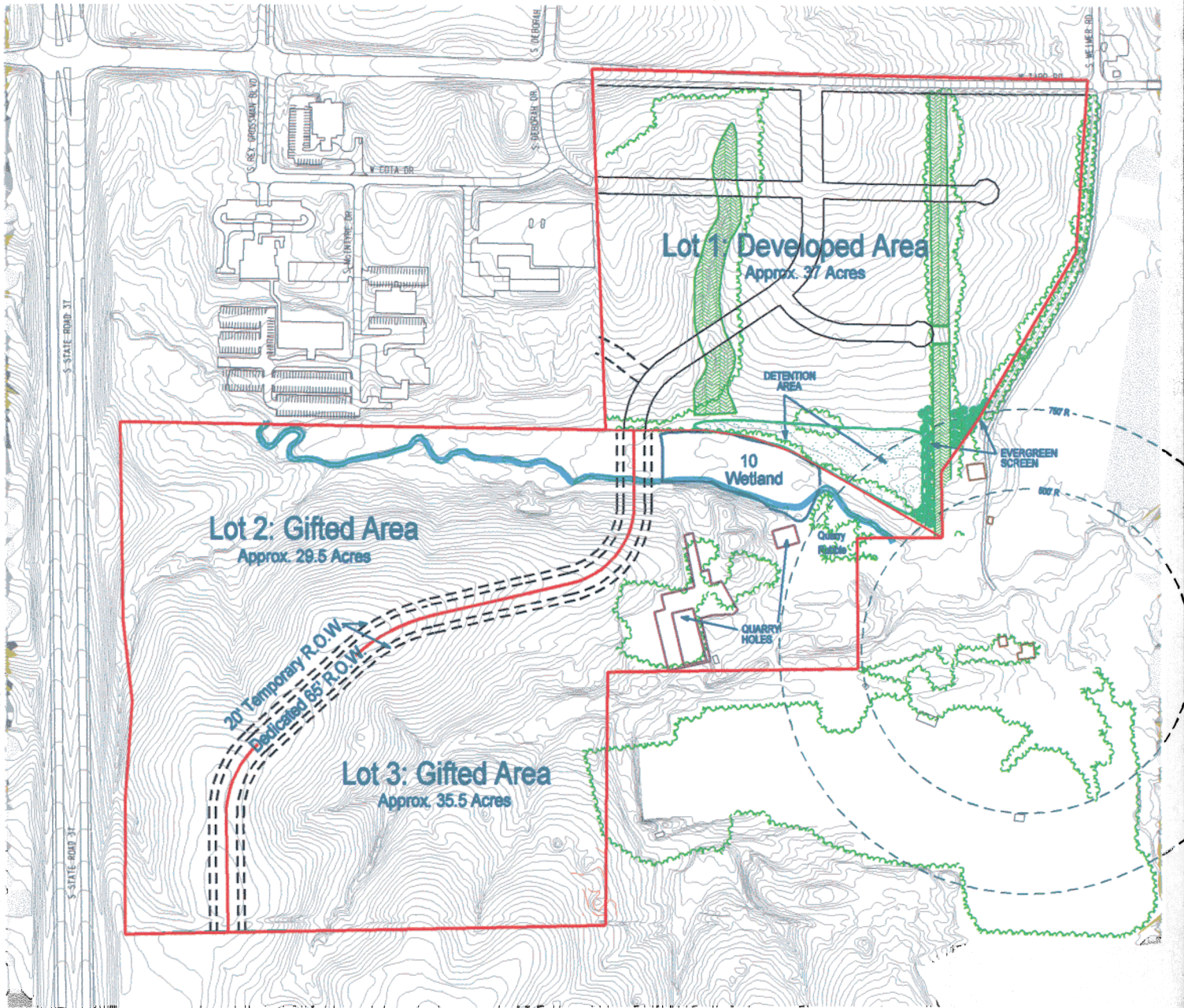
Please add "Outpatient Care Facilities" back onto our submitted list of uses. We will formally reject any revisions to this definition on the floor of the Plan Commission should they occur. The petitioner simply will not accept being treated uniquely from all the other licensed Ambulatory Outpatient Surgery facilities he must compete with here in Bloomington.

Thanks for your attention.


Dan Neubecker
dlneubec@snainc.com

"Ambulatory outpatient surgical center", for purposes of IC 16-21, means a public or private institution that meets the following conditions:

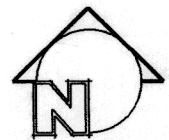
- (1) Is established, equipped, and operated primarily for the purpose of performing surgical procedures and services.
- (2) Is operated under the supervision of at least one (1) licensed physician or under the supervision of the governing board of the hospital if the center is affiliated with a hospital.
- (3) Permits a surgical procedure to be performed only by a physician, dentist, or podiatrist who meets the following conditions:
 - (A) Is qualified by education and training to perform the surgical procedure.
 - (B) Is legally authorized to perform the procedure.
 - (C) Is privileged to perform surgical procedures in at least one (1) hospital within the county or an Indiana county adjacent to the county in which the ambulatory outpatient surgical center is located.
 - (D) Is admitted to the open staff of the ambulatory outpatient surgical center.
- (4) Requires that a licensed physician with specialized training or experience in the administration of an anesthetic supervise the administration of the anesthetic to a patient and remain present in the facility during the surgical procedure, except when only a local infiltration anesthetic is administered.
- (5) Provides at least one (1) operating room and, if anesthetics other than local infiltration anesthetics are administered, at least one (1) post-anesthesia recovery room.
- (6) Is equipped to perform diagnostic x-ray and laboratory examinations required in connection with any surgery performed.
- (7) Does not provide accommodations for patient stays of longer than twenty-four (24) hours.
- (8) Provides full-time services of registered and licensed nurses for the professional care of the patients in the post-anesthesia recovery room.
- (9) Has available the necessary equipment and trained personnel to handle foreseeable emergencies such as a defibrillator for cardiac arrest, a tracheotomy set for airway obstructions, and a blood bank or other blood supply.
- (10) Maintains a written agreement with at least one (1) hospital for immediate acceptance of patients who develop complications or require postoperative confinement.
- (11) Provides for the periodic review of the center and the center's operations by a committee of at least three (3) licensed physicians having no financial connections with the center.
- (12) Maintains adequate medical records for each patient.
- (13) Meets all additional minimum requirements as established by the state department for building and equipment requirements.
- (14) Meets the rules and other requirements established by the state department for the health, safety, and welfare of the patients.



Protected Areas Legend

 Protected Tree Lines

Outline Plan



Smith Neubecker & Associates, Inc.



453 S. Clarix Blvd.
Bloomington, Indiana, 47401
Telephone: (812) 336-6536

Southern Indiana Medical Park II

PUD 504
Schematic Re plan
107

April 5, 2004

City of Bloomington Plan Commission
Mr. James Roach, Senior Zoning Planner
P.O. Box 100
Bloomington, IN 47402

RE: Response to Requests For Suggested Definitions of "Hospital" and "Outpatient Care Facility"

Dear Mr. Roach:

Some of the members of the City Council have requested for consideration a definition of 'Outpatient Care Facility' that reflects local community practice. The definitions below were developed in response to this request and are intended to work together to maximize understanding. They have been reviewed by, and are supported by, the Bloomington Hospital Medical Staff Executive Committee.

The portion most reflective of local community practice is the 'Outpatient Facility' language that states, "An Outpatient Facility shall not operate on a continuous twenty-four hour basis, nor shall it have overnight (meaning between 12:00 a.m. and 5:00 a.m.) beds and services."

The Center for Medicare & Medicaid Services (CMMS) provides guidance for state survey directors responsible for inspecting facilities that provide services to Medicare and Medicaid patients. Attached is notice Ref: S&C-04-22, dated March 11, 2004, from CMMS to state survey agency directors clarifying the issue of overnight stays with respect to Ambulatory Surgical Centers (ASC). Among the clarifications is that "There should be no planned overnight stays in an ASC for Medicare patients. Any overnight stay for a Medicare patient should only result from unanticipated conditions requiring continued observation or care within the capability of the ASC and should be neither a planned nor routine occurrence."

The suggested definition of 'Outpatient Facility' is consistent with this CMMS clarification. A copy of the CMS letter is attached.

If you have any questions, feel free to give us a call at 353-9757.

Respectfully,



Mark E. Moore
President & CEO
Bloomington Hospital & Healthcare System



Owen L. Slaughter, M.D.
Chief of Staff
Bloomington Hospital & Healthcare System

Enclosures

Proposed Definitions for Planning and Zoning Purposes

'Hospital': an acute care healthcare establishment providing accommodations, facilities and services on a continuous twenty-four hour basis with overnight (meaning between 12:00 a.m. and 5:00am) beds and services for persons suffering from illness, injury or conditions requiring medical services. Hospitals shall not include convalescent, nursing or rest homes.

'Outpatient Facility': a healthcare establishment providing medical services and facilities for persons suffering from illness, injury or conditions requiring outpatient medical services. An Outpatient Facility shall not operate on a continuous twenty-four hour basis, nor shall it have overnight (meaning between 12:00 a.m. and 5:00am) beds and services. Outpatient Facilities shall not include hospitals, facilities on a hospital campus, or urgent care facilities.

Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-04-22

DATE: March 11, 2004
TO: State Survey Agency Directors
FROM: Director
Survey and Certification Group
SUBJECT: Overnight Stays in Ambulatory Surgical Centers – Clarification Effective Immediately

Letter Summary

- This letter clarifies the issue of overnight stays and their impact with respect to the Medicare definition of an Ambulatory Surgical Center (ASC).
- There should be no planned overnight stays in an ASC for Medicare patients. Any overnight stay for a Medicare patient should only result from unanticipated conditions requiring continued observation or care within the capability of the ASC and should be neither a planned nor routine occurrence.

The purpose of this memorandum is to clarify policy regarding overnight stays in an ambulatory surgical center (ASC). Participation as a Medicare-certified ASC is limited to distinct entities that operate exclusively for the purpose of providing surgical services to patients not requiring hospitalization.

Procedures permitted in an ASC (42 CFR 416.65) are those that generally do not require extended lengths of stay or extensive recovery or convalescent time. Such procedures require the use of a dedicated operating room (or suite), and a post-operative recovery room, or short-term (not overnight) convalescent room. Regulations do not allow for planned overnight recoveries in an ASC for approved procedures performed on Medicare patients and ASC rules do not permit the performance of surgical procedures on Medicare patients that would require transfer to a hospital.

When it is determined in advance that a Medicare patient requires overnight recovery and care following a surgical procedure, the surgery should not be performed in an ASC even though the procedure may be on the list of Medicare approved ASC procedures. Overnight stays following surgery in an ASC should be infrequent and only occur in cases where an unanticipated medical condition requires medical observation or care within the capabilities of the ASC. In all other situations involving Medicare patients, it is expected that an ASC would transfer the patient to an appropriate facility if an overnight stay is required. An ASC that routinely provides overnight recovery stays, regardless of the payment source, may no longer meet the regulatory definition of an ASC and will jeopardize its Medicare certification.

To evaluate compliance with these requirements, the surveyor should verify that:

- The ASC has a written transfer agreement with a local hospital, or that all physicians performing surgery at the ASC have admitting privileges at a local hospital;
- Medicare patients are scheduled only for procedures on the CMS approved list and that no Medicare patients are being scheduled for planned overnight stays;
- Any overnight stay for a Medicare patient is the result of unanticipated conditions requiring continued observation or care within the capability of the ASC and is neither a planned nor routine occurrence.

With regard to non-Medicare patients, a Medicare-certified ASC may provide services to an individual who is expected to require an overnight stay if the ASC transfers the non-Medicare patients to overnight care facilities (such as skilled nursing facilities, recovery care centers, and other non-hospital, post-operative care facilities), on a routine or non-routine basis, without jeopardizing their Medicare certification. However, an ASC that routinely provides overnight recovery stays in the ASC itself, regardless of the payment source, may no longer meet the definition of an ASC, and will jeopardize its Medicare certification.

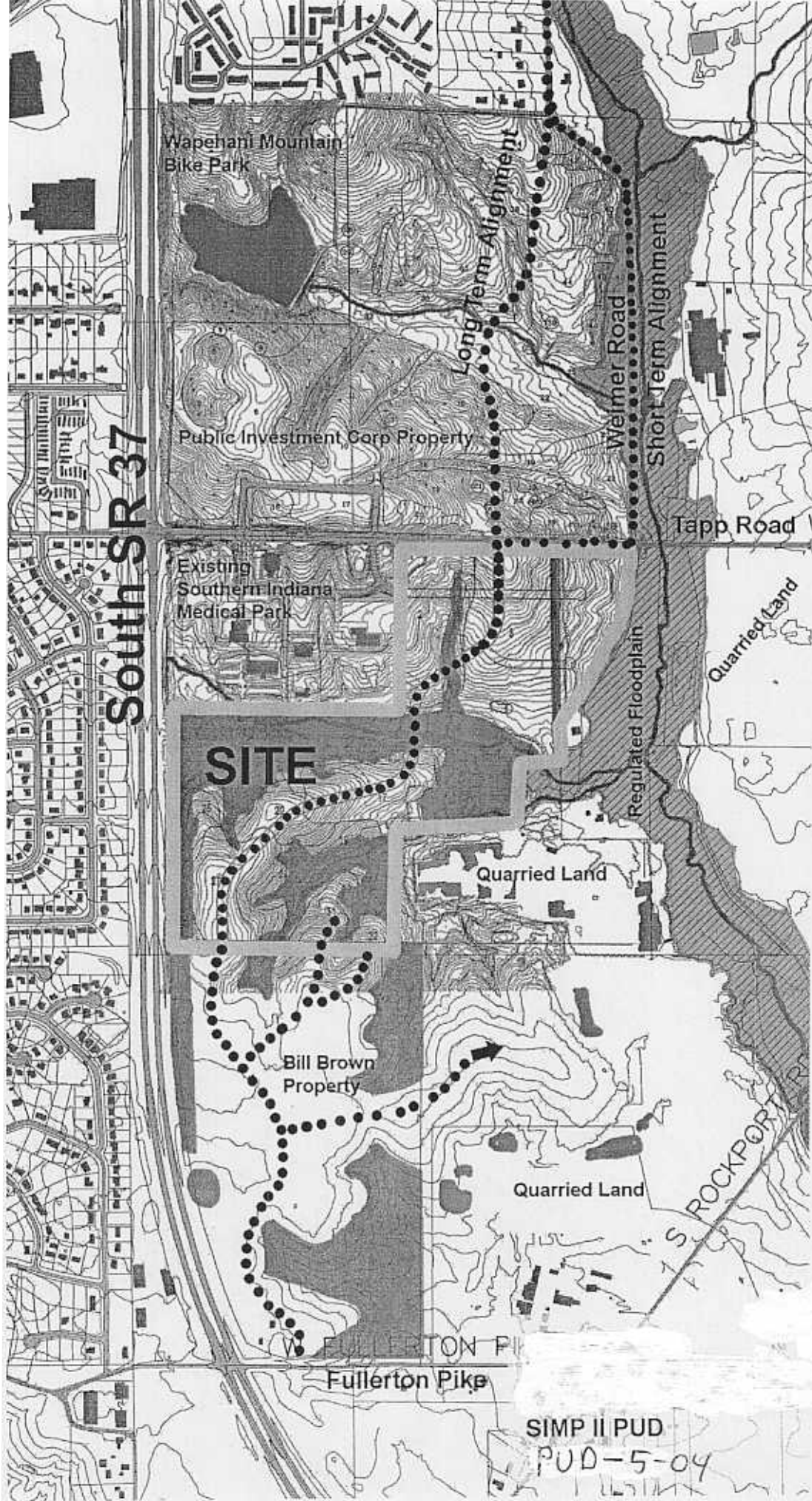
If you have further questions regarding this matter, please contact Mary Hayes at (410) 786-3507 or via E-mail at Mhayes@cms.hhs.gov.

Effective Date: The information contained in this memorandum is current policy and is in effect.

Training: This clarification should be shared with all survey and certification staff, surveyors, their managers, and the state/RO training coordinator.

/s/
Thomas E. Hamilton

cc: Survey and Certification Regional Office Management



Bloomington Plan Commission
RE: PUD 05-04
Tapp Road Medical Park frontage road

Commissioners,

As a member of the City Council and a citizen of Bloomington, I am very concerned about the frontage road issue in PUD 05-04. Please consider the following when making your decision for rezoning this petition.

The city recently annexed the property to the south of this petitioner's site (north/east corners of Fullerton Pike and SR 37) through an agreement with the County Planning Department and the County Commissioners. This agreement set forth a time line for the city to annex those areas in our planning jurisdiction. The city has been active in meeting this schedule. Annexation of this property was, in part, based on a future frontage road as called for in the current MPO.

Alternative frontage road routes further to the east appear to be compromised by physical constraints (quarries, mill operations, and sever terrain – especially Fullerton Pike between Rockport Road and SR 37.

The dedication of land for a city fire station on this site without connection via a frontage road to Fullerton Pike, in all probability, will not be developed by the city. Connectivity is paramount when locating emergency facilities. With a possible fly-over at Tapp/SR-37 the frontage road connection to Fullerton becomes essential.

Finally, shifting road construction costs from the developer to city taxpayer in an era of declining tax revenues and increased demand for infrastructure maintenance and improvements city-wide seems imprudent at best.

While I agree and support the preservation of our undisturbed natural spaces for this and future generations – I also think that we must look at each development in the context of the greater community.

Simply put, this is about money – the developer stands to make a great deal of it. Please work to accept his generous dedication of land – but please be realistic and require a frontage road paid for by the developer. The public should not subsidize this endeavor?

Thank you for your time, dedication and service to Bloomington.

Timothy Mayer
Bloomington City Council Member At-Large



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

To: Plan Commissioners and Staff
From: Dan Sherman, Council Administrator/Attorney
Re: Councilmember Comments on PUD-05-04 – Particularly the Definition of “Outpatient Facility”
Date: April 12, 2004

In their closing comments before denying the last SIMP II proposal on February 25, 2004, many members of the Common Council expressed concerns about the definition of “Outpatient Care Facility.” For that reason, I sent a summary of the issue to council members earlier today and promised to relay any of their responses to the Plan Commission and staff tonight before you began deliberating upon PUD-05-04. Here are the eight responses that I received by 7:30 p.m. this evening. They split evenly in regard to the definition of “outpatient care facility,” with four being comfortable with the plan staff’s proposal and four preferring further restrictions regarding the hours of its operation. On another matter, two weighed in on the frontage road, with one wanting the developer to construct it and another being satisfied with the dedication of the right-of-way, but wanting to defer discussion of its eventual alignment until a later date and separate planning process.

Chris Gaal (At-Large) and Timothy Mayer (At-Large) - (Written by Mayer)

I am writing on behalf of Council Member Christopher Gaal and myself in regards to establishing the hours of operation for the proposed outpatient clinic in PUD 05-04.

It is our opinion PUD 05-04 should follow the same hours of operation (5:00am till midnight with no operation of the outpatient facility from midnight till 5am) as established by local practice. While we understand that the established local clinic’s hours of operation are not governed by code – it is clear that a local “standard” has been established and is in practice at this time. Granting the statutory definition for outpatient clinic as defined by Indiana Code 16-18-2-14 gives this petitioner an unfair advantage and deviates from “local” practice – which we hold as important.

Please limit the hours of operation for PUD 05-04 to 5am to 12:00am.

Once again, thank you for your time, dedication and service to Bloomington.

Andy Ruff (At-Large)

I agree with Plan Staff Report and believe their definition of “Outpatient Care Facility” will adequately assure that we will not have an inpatient facility at this site. I believe the petitioner has been working in good faith and that it is unfair to impose this additional requirement at this time.

Chris Sturbaum (District 1)

I agree with the Plan Report and think that no additional requirements are necessary in order to assure that we don't get a second hospital at this site. The existing outpatient facilities are currently functioning under this definition and additional restrictions seem arbitrary and unnecessary. On another matter, although I believe the frontage road will harm the southern, environmentally sensitive parcel, I think it is acceptable to dedicate the right-of-way as part of this PUD and take up discussion of its eventual alignment at a later date as a part of separate planning decision.

Mike Diekhoff (District 3)

I have two concerns. First, who is building and paying for the road. I don't think the city should, I think the developer should. Second is defining outpatient. I think the hours should be limited say nothing between 10pm and 5 am.

Dave Rollo (District 4)

I agree with the planning staff that the definition, as stated and for the reasons stated, insures a fair and generally accepted definition. My understanding was that Bloomington Hospital's sole concern (having asked them repeatedly at both the Plan Commission and Council meetings) was elimination of in-patient care. I'm amazed that they are now proposing further constraints in contradiction of their original statements.

At any rate, if members would like to weigh in, we will probably reach the Tiwari petition sometime after 11pm.

David Sabbagh (District 5)

At the last Council meeting dealing with the Tiwari project, Tom Micuda asked us for direction. I made my position clear about what I thought the definition of 'in/out patient facility' should be. My position was to use prevailing local practice, which is NOT 'no longer than 24 hours.' Prevailing local practice is more like 8 to 6, or 7 to 7. I could live with the definition of 'restricting operations between midnight and 5:00a.m.'

This is a key issue for me and the final definition will determine how I will vote.

Steve Volan (District 6)

Why are we even considering letting the lobbyist write the law here?

The state statute is quite clear and acceptable to everyone but the one party that feels threatened by any kind of competition. The petitioner has followed all laws and procedures and has in fact bent over backwards to accommodate the requests of the community.

Bloomington Hospital, meanwhile, doesn't like this project because it doesn't have a direct say in its operation -- in other words, because it doesn't own it, even a piece of it. And so it is trying to legislate it away secondhand as best it can.

"Local practice" here is a euphemism for "tradition." The Petitioner is clearly not traditional, else he would have struck a deal with the Hospital. No evidence is presented now to show how the Hospital will be harmed if the petitioner does not choose to follow local practice. No harm is evident in simply letting the petitioner be subject to state statute, yet this request raises significant questions of precedent in codifying this particular piece of tradition. How much more will we be asked to do to legislate protections for Bloomington Hospital in the future? What other institutions will ask for special protection next? What kinds of genuine innovation might we be stifling by taking this extraordinary step?

Despite assurances it was satisfied with the removal of "inpatient facilities," Bloomington Hospital is once again asking us to take an extraordinary measure to protect them. They have sown fields full of fear, uncertainty and doubt, but have shown a dearth of independently verifiable hard evidence to demonstrate exactly how they will be harmed.

I am adamantly opposed to further restricting the petitioner in this manner.