



Packet Related Material

Memo
Agenda
Calendar

Notices and Agendas:

Special Session after Committee of the Whole on February 25th to take Final Action on **Ord 04-04** (Southern Indiana Medical Park II, LLC, PUD Proposal)

Reports

Disclosure of Conflict of Interest Form

- Councilmember Ruff

Legislation for Final Action at the Regular Session on Wednesday, February 18th:

App Ord 04-01 To Specially Appropriate from the Parks General Fund and the General Fund Expenditures Not Otherwise Appropriated (Appropriating Funds from the Parks General Fund to Construct a Storage Facility and Appropriating a Grant from the General Fund – Police Department for Additional Traffic Enforcement)

(Please see the January 30th packet for legislation, summary and materials)

Contact: Susan Clark at 349-3416 or clarks@city.bloomington.in.us

Ord 04-02 To Amend the Bloomington Zoning Maps from CG and RM7 to PUD and to Amend the List of Uses for Parcel C of the Thomson PUD - Re: 405 - 407 West Patterson Drive (Randy Lloyd/McDoel Ventures, Petitioners)

(Please see the January 30th packet for legislation, summary and materials)

Contact: Eric Greulich at 349-3526 or greulice@city.bloomington.in.us

Ord 04-03 To Vacate a Public Parcel - Re: A Portion of West Grimes Lane Between South Rogers Street and South Madison Street, a Portion of the 12' Alley Running Approximately 65 feet South of the above Right-of-Way; and, a Portion of the West Side of Madison Street Between Grimes and Patterson Drive (Randy Lloyd/McDoel Grocery, Petitioner)

(Please see the January 30th packet for legislation, summary and materials)

Contact: Eric Greulich at 349-3526 or greulice@city.bloomington.in.us

Res 04-01 To Designate an Economic Revitalization Area, Approve a Statement of Benefits, and Authorize a Period of Tax Abatement - Re: The Woolery Stone Mill Building Located at 2200 West Tapp Road (Woolery Ventures LLC, Petitioner)

Additional Memo from Ron Walker, Director of Economic Development (is forthcoming; *(Please see the January 30th packet for legislation, summary and initial materials)*)

Contact: Ron Walker at 349-3435 or walkerr@city.bloomington.in.us
Susan Failey at 349-3553 or faileys@city.bloomington.in.us

Ord 04-05 To Designate an Economic Development Target Area (EDTA) - Re: Woolery Stone Mill Building Located at 2200 West Tapp Road

(Please see the January 30th packet for legislation, summary and materials)

Contact: Ron Walker at 349-3435 or walker@city.bloomington.in.us
Susan Failey at 349-3553 or faileys@city.bloomington.in.us

Legislation and Background Material for Discussion at Committee of the Whole on Wednesday, February 25th:

Res 04-03 To Designate an Economic Revitalization Area, Approve a Statement of Benefits, and Authorize a Period of Tax Abatement - Re: 1116 S. Walnut (Bloomington Paint and Wallpaper, Inc., Petitioner)

- EDC Res 04-01; Redev Com Res 04-08; Map and Photo of the Site; Memo from Ron Walker, Director of Economic Development; Statement of Benefits with Attachment; Tax Calculations; Estimated TIF Revenues With and Without the Project; Application; Site Plan and Elevations; Bynum-Fanyo Memo; Storm Water Site Plans

Contact: Ron Walker at 349-3435 or walker@city.bloomington.in.us

Ord 04-06 To Designate an Economic Development Target Area (EDTA) - Re: Bloomington Paint and Wallpaper, Inc., Located at 1116 S. Walnut Street

- Site Map; EDC Res 04-02; Memo from Susan Failey, Assistant City Attorney

Contact: Ron Walker at 349-3435 or walker@city.bloomington.in.us

Note: *This item will be introduced at the Regular Session on February 18th*

Minutes from Regular Session:

December 3, 2003

January 21, 2004

February 4, 2004

Memo

A Conflict of Interest Disclosure Form and Five Items Ready for Final Action and One Ordinance Ready to be Introduced at the Regular Session on February 18th

There is one Conflict of Interest Disclosure form and five items ready for final action and one item ready for first reading at your Regular Session on February 18th. The disclosure of financial interest was mentioned by Councilmember Ruff last week and is noted below.

The five items ready for final action were discussed at a Special Committee of the Whole on February 4th and can be found in the January 30th packet. Please note that Ron Walker, Director of Economic Development will provide an additional memo regarding **Res 04-01** (proposing a 10-year tax abatement for the renovation and reuse of the Woolery Stone Mill building) later this week.

Along with those items, there is also one ordinance ready to be introduced next week. This ordinance and a companion resolution are included in this packet and comprise the only new legislation being considered for the second legislative cycle in February. Together, they propose a tax abatement for Bloomington Paint and Wallpaper for a new building at 1116 South Walnut and can be found in this packet.

Reminder: Committee of the Whole Followed by Special Session on February 25th

The Council has scheduled a Special Session on February 25th to take final action on **Ord 04-04** (Southern Indiana Medical Park II, LLC). Unless you decide otherwise next week, it will follow a regularly scheduled Committee of the Whole, where the tax abatement for Bloomington Paint and Wallpaper will be discussed. Please talk among yourselves over the next few days about how you want approach that Special Session and, hopefully, consider ways that we can move the discussion forward and avoid unnecessary repetition.

February 18th Regular Session – Reports

Disclosure of Potential Conflict of Interest

Councilmember Ruff wishes to disclose that the mother of his daughter, Anna, has worked for Bloomington Hospital for

approximately 20 years and provides support for her through the wages she earns at the hospital. He also notes that his father is a physician, who is retired but was formerly affiliated with Bloomington Hospital. Our local code requires council members to announce financial interests related to matters that come before the Council when they are more than nominal and are distinct from those of the general public. When that occurs, council members can participate in the deliberations after announcing the financial interest and also declaring that they can perform their duties fairly, objectively and in the public interest despite the financial interest. Andy did that at the Committee of the Whole. Also, although not strictly required by state law, he has submitted a disclosure form for you to accept and for him to file with the Monroe County Clerk and State Board of Accounts. He will ask for your acceptance of this disclosure during his report on Wednesday night. (Please see a copy of the disclosure in this packet.)

February 18th Regular Session - Items for Final Action

App Ord 04-01 Appropriating \$150,000 from Parks General Fund to Construct a Storage Facility and a \$25,000 Traffic Safety Grant from General Fund (Police Department)

Note: The Public Comment on this Legislation will Serve as the Legally Advertised Public Hearing Required for this Ordinance.

Ord 04-02 Bringing Half Acre of CG and RM7 Land into Parcel C of the Thomson Area PUD and Amending the Preliminary Plan to Allow Residential Units on Second Floor (Randy Lloyd/McDoel Grocery)

Ord 04-03 Vacating Portions of West Grimes and Adjacent Right-of-Ways for the McDoel Grocery Project

Note: The Public Comment on this Legislation will Serve as the Legally Advertised Public Hearing Required for this Ordinance.

Res 04-01 Designating an Economic Revitalization Area (ERA), Approving a Statement of Benefits, and Authorizing a 10-Year Tax

Abatement - Re: The Woolery Stone Mill Building Located at 2200 West Tapp Road (Woolery Ventures LLC, Petitioner)

Note: Ron Walker will provide another memo in response to Councilmember Ruff's request for more concise rationale for supporting this tax abatement.

Ord 04-05 Designating the Woolery Stone Mill Building as an EDTA (Woolery Ventures, LLC – Randy Cassady – Petitioner)

February 18th Regular Session - Items for Introduction

Ord 04-06 Designating 116 South Walnut Avenue as an Economic Development Target Area (EDTA) (Bloomington Paint and Wallpaper)

Note: This ordinance will be considered with Res 04-03 which is included in this packet and designates an ERA, approves a Statement of Benefits, and authorizes a 5-year Tax Abatement for the construction of a 2-story, mixed use building at 1116 South Walnut (Bloomington Paint and Wallpaper, Petitioner)

**One Ordinance for First Reading and Companion Resolution
Covered in this Packet**

Tax Abatement for the Construction of New Building with Bloomington Paint and Wallpaper and Another Retail Use on First Floor and Apartments on the Second Floor

**Located at 1116 South Walnut (Bloomington Paint and Wallpaper, Inc.,
Petitioner)**

Initial Resolution (Res 04-03)

Designating an Economic Revitalization Area (ERA), Approving a Statement of Benefits, and Authorizing a 5-Year Tax Abatement

and

Ordinance (Ord 04-06)

Designating an Economic Development Target Area Designations (EDTA)

The next two items of legislation offer two of the three pieces of legislation necessary to grant a tax abatement for the construction of a building on the northwest corner of

South Walnut and Grimes Lane which will hold Bloomington Paint and Wallpaper and another retail use on the first floor and apartments on the second floor. *Please note that these items will be discussed at the Committee of the Whole on February 25th and are scheduled for final action on Wednesday, March 3rd.*

Three Pieces of Legislation Required Over Two Cycles of the Council

This tax abatement will require three pieces of legislation to be heard over two legislative cycles. The first item in this tax abatement package is a resolution, which gives the initial tax abatement approval for the proposal. It designates the property as an Economic Revitalization Area (ERA), approves the statement of benefits, and authorizes a 5-year tax abatement for improvements on real estate.

The second item in this package is an ordinance that will be considered at the same time as the resolution and establishes this site as an Economic Development Target Area (EDTA). This designation is necessary in order to grant a tax abatement for uses that would not otherwise be eligible for them. In this case, it would allow a tax abatement for the retail uses as well as the multifamily use without requiring that 20% of the units be set aside for affordable housing.

And, the third piece of legislation needed for these abatements is another resolution confirming the first one. *It is scheduled for action at a Special Session on March 24th.*

Relocation of Bloomington Paint and Wallpaper from the Courthouse Square to New Building at South Walnut and Grimes Lane

The owner of Bloomington Paint and Wallpaper, Brad Night, wishes to move his business from the courthouse square to a two-story building he intends to construct on three parcels located at the northwest corner of South Walnut and Grimes Lane. After 75 years on the square, he plans to move this family-owned business to a place with more convenient access for customers and vendors and, where hopefully, he can expand his operations. According to his comments to the EDC, the building he leaves behind will be acquired and renovated by another business currently operating just off the square.

According to the memo from Ron Walker, Director of Economic Development, the new building will face South Walnut, be surfaced with brick and limestone, and have 30 parking spaces in back. It will be worth about \$1.01 million and consist of 9,000 s.f. on the first floor and a 7,000 s.f. on the second floor. The paint store will take up 75% of the first floor and another retail use (a carpet store) will take up the remaining

25%. At the recommendation of the Plan department, six market-rate apartments will take up the second floor. And, after acquiring an additional parcel, the petitioner will place a one-way entrance off South Walnut as well as a second entrance onto Grimes Lane.

BZA approval. Petitioner obtained approval from the BZA to place fill in the floodway, locate the building toward the street (bringing it 15' closer than otherwise allowed at the request, I believe, of the Plan staff), and reduce the number of parking spaces from 39 to 30. (see CU/V-60-03). As part of the approval, the petitioner must:

- Receive a Certificate of Approval for placing fill in the floodway from the DNR prior to issuance of the grading permit (Note: the staff report indicates that amount of fill is less than what is necessary for the petitioner to prepare a more extensive analysis of the project's impact upon the floodway (e.g. hydraulic modeling) (Please also note that Ron Walker has provided materials indicating that the storm water will flow through filtering devices - known as stormceptors - before leaving the site);
- Install a 2-space bicycle rack near the front of the building prior to gaining occupancy of the building; and
- Provide a 5' wide sidewalk along Walnut and Grimes that runs from property line to property line and complies with ADA standards.

Item 4 - Resolution Designating the ERA, Approving the Statement of Benefits & Authorizing a 5-Year Abatement

As mentioned above, **Res 04-03** makes three statutory determinations regarding the construction of a building on the northwest corner of South Walnut and Grimes Lane by Brad Night, owner of Bloomington Paint and Wallpaper. First, it designates the property as an Economic Revitalization Area, which entails a finding that the property is not susceptible to normal growth and development. This designation is required for all tax abatements. In this case, the application and summary support this designation by noting that the site:

- “is underutilized, contains three vacant structures, ...and is mostly concrete and asphalt”;
- was formerly occupied by a gas station which deterred development due to concerns about the condition of property after this use.

Second, the resolution approves the Statement of Benefits. In so doing, it finds that the stated benefits are a reasonable and probable outcome of the development. Those benefits include:

- constructing a 16,000 s.f. building at a cost of about \$1.01 million;

- the building will have the retail use on the first floor, apartments on the second floor, a 30-space parking area at the rear in conformance with the Growth Policies Plan;
- the relocation and expansion of the store will retain 7 employees with a payroll of \$190,000 (no benefits) and provide for 2 to 4 new jobs with salaries ranging from \$10,000 to \$40,000;
- as the result of discussions at the EDC, the petitioner has agreed to use brick and limestone exterior rather than other less durable materials (Please see the SB-1 Attachment); and
- after subsequent conversations, the Petitioner also clarified that the additional retail use on the first floor will “be complementary with” the paint store and “compatible with the residential units on the second floor” (Please see the SB-1 Attachment).

Third, the resolution proposes a 5-year period of tax abatement for this project. Please note that the state legislature provides for a 1 to 10 year period of abatement and that the City of Bloomington has established local guidelines to help determine whether the project should receive a tax abatement and, if so, the number of years it should be abated. These guidelines, however, are about 10 years old, do not reflect current land use and other city policies, and if strictly applied to this project would result in no tax abatement.

Ron Walker has provided an extensive memo which describes both the evolution of the project and the recommendations regarding the period of abatement. In it, he explains the thinking behind the initial recommendation of 3 years and the change at the Economic Development Commission to make it 5 years. From this memo one sees a project that almost doubled in value as it took on features requested by the City. It acknowledges the current guidelines, weighs the proposal’s positive and negative aspects, and explains the ultimate conclusion to support a 5-year abatement.

In summary, on the positive side this project would:

- eliminate environmental concerns associated with the site’s prior use as a gas station;
- provide a mixed use development along a major corridor (in conformance with the growth policies plan);
- be located in areas targeted for redevelopment (Urban Enterprise Zone and the Thomson - Walnut - Winslow TIF district); and

- allow a locally owned business that has operated in the downtown for 75 years to expand in a more suitable location and improve traffic flow at its former location.

And, on the negative side, this project:

- requires the special EDTA designation for the retail and market rate multifamily uses to be eligible for a tax abatement; and
- is located outside the downtown area where the guidelines support tax abatements for these uses.

Tax Calculations Ron Walker, Director of Economic Development, has provided estimates of the tax consequences of granting this abatement. Those calculations indicate that the property owner would pay approximately \$36,576 and would forego approximately \$54,864 over the five-year abatement.

Parcel in Thomson-Walnut-Winslow TIF District – Need for Redevelopment Commission Approval of Tax Abatement The Redevelopment Commission is required by statute (I.C. 6 -1.1-12.1-2(l)) to approve tax abatements for properties within a Tax Increment Finance (TIF) district. This property is located within the Thomson - Walnut - Winslow TIF district and the Commission approved a tax abatement for this project at its February 2nd meeting. (See Redev Com Res 04-08) Ron estimates that this project will generate approximately \$76,130 more in TIF revenues through the year 2018 after accounting for the abatement. (Please see TIF Revenue Calculations)

Ordinance Establishing EDTA for the 1116 South Walnut Street Site

Ord 04-06 designates the property at 1116 South Walnut as an Economic Development Target Area (EDTA). The EDTA is a statutory designation that can only be applied to 15 % of the City’s jurisdiction and allows tax abatements for uses that would not otherwise be eligible for them. In this case the designation would allow a retail use to receive a tax abatement as well as a residential use without requiring that at least 20% of the units be set aside for affordable housing.

In order to grant this designation, state law requires that the Common Council find the property eligible either because of its historic character or because it has “become undesirable or impossible for normal growth and development.” Given the lack of historic character of this site, the support for this designation would depend upon its susceptibility to normal growth and development.

The Economic Development Commission has, in accordance with state law, made a favorable recommendation on the designation. A copy of its resolution is included in the packet.

Please note that the property encompasses three addresses (1106, 1108, and 1116 South Walnut) which will all be combined under the address of 1116 South Walnut. The tax ID numbers and location of these parcels are listed in the 3rd whereas clause of the ordinance.

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, FEBRUARY 18, 2004
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON**

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: Regular Session, December 3, 2003
Regular Session, January 21, 2004
Regular Session, February 4, 2004

IV. REPORTS FROM:

- 1. Councilmembers**
 - Conflict of Interest Form (Ruff)
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public**

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

*1. Appropriation Ordinance 04-01 To Specially Appropriate from the Parks General Fund and the General Fund Expenditures Not Otherwise Appropriated (Appropriating Funds from the Parks General Fund to Construct a Storage Facility and Appropriating a Grant from the General Fund – Police Department for Additional Traffic Enforcement)

Committee Recommendation: Do Pass 7 – 0

2. Ordinance 04-02 To Amend the Bloomington Zoning Maps from CG and RM7 to PUD and to Amend the List of Uses for Parcel C of the Thomson PUD – Re: 405-407 W. Patterson Drive (Randy Lloyd/McDoel Ventures, Petitioners)

Committee Recommendation: Do Pass 8 – 0

*3. Ordinance 04-03 To Vacate a Public Parcel – Re: A Portion of West Grimes Lane Between South Rogers Street and South Madison Street, a Portion of the 12' Alley Running Approximately 65 feet South of the above Right-of-Way; and, a Portion of the West Side of Madison Street Between Grimes and Patterson Drive (Randy Lloyd/McDoel Grocery, Petitioner)

Committee Recommendation: Do Pass 8 – 0

4. Resolution 04-01 To Designate an Economic Revitalization Area, Approve a Statement of Benefits, and Authorize a Period of Tax Abatement – Re: The Woolery Stone Mill Building Located at 2200 West Tapp Road (Woolery Ventures LLC, Petitioner)

Committee Recommendation: Do Pass 5 – 0 – 3

5. Ordinance 04-05 To Designate an Economic Development Target Area (EDTA) – Re: Woolery Stone Mill Building Located at 2200 West Tapp Road

Committee Recommendation: Do Pass 8 – 0

VII. LEGISLATION FOR FIRST READING

1. Ordinance 04-06 To Designate an Economic Development Target Area (EDTA) – Re: Bloomington Paint and Wallpaper, Inc., Located at 1116 South Walnut Street

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

IX. ADJOURNMENT

** Public comment on these items will serve as the legally advertised public hearing.*

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
e-mail: council@city.bloomington.in.us

To: Council Members
From: Council Office
Re: Calendar for the Week of
February 16, 2004 – February 22, 2004
Date: February 13, 2004

Monday, February 16, 2004

4:00 pm Council for Community Accessibility, McCloskey
5:00 pm Farmers' Market Advisory Committee, Parks Office – Room 250
5:30 pm Bicycle and Pedestrian Safety Commission, Hooker Room

Tuesday, February 17, 2004

12:00 pm Bloomington Industrial Development Advisory Commission, Hooker Room
4:00 pm Board of Public Safety, Police Station – 220 East Third Street
5:30 pm Public Transportation Corporation Board, Transit Center – 130 West Grimes Lane
6:30 pm Animal Control Commission, McCloskey

Wednesday, February 18, 2004

10:00 am Tree Commission, Rose Hill Cemetery Office – Fourth and Elm Streets
2:00 pm Hearing Officer, Kelly
7:00 pm Council of Neighborhood Associations, McCloskey
7:30 pm Common Council – Regular Session, Chambers

Thursday, February 19, 2004

7:30 am Domestic Violence Task Force, Hooker Room
8:00 am Housing Authority Board of Commissioners, HA Office – 1007 Summit Drive
3:30 pm Bloomington Municipal Facilities Corporation, Hooker Room
5:45 pm Martin Luther King, Jr. Birthday Commission, McCloskey

Friday, February 20, 2004

No meetings scheduled today

Happy Birthday, David Sabbagh!



City of Bloomington
Office of the Common Council

MEETING NOTICE

THE COMMON COUNCIL WILL HOLD A SPECIAL SESSION ON FEBRUARY 25, 2004 AT 7:30 PM.

THE SPECIAL SESSION WILL IMMEDIATELY FOLLOW A PREVIOUSLY SCHEDULED COMMITTEE OF THE WHOLE MEETING.

THE PURPOSE OF THE SPECIAL SESSION MEETING IS TO DISCUSS AND TAKE FINAL ACTION ON ORDINANCE 04-04/ PUD 50-03/SOUTHERN INDIANA MEDICAL PARK II, LLC PETITIONER.

BOTH MEETINGS WILL BE HELD IN THE COUNCIL CHAMBERS, LOCATED AT 401 NORTH MORTON STREET.

UNIFORM CONFLICT OF INTEREST DISCLOSURE STATEMENT
(Pursuant to and in compliance with Indiana Code 35-44-1-3)

A public servant who knowingly or intentionally has a pecuniary interest in or derives a profit from a contract or purchase connected with an action by the governmental entity served by the public servant has a conflict of interest subject to disclosure. A public servant has a pecuniary interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of the public servant or a dependent of the public servant. "Dependent" means any of the following: the spouse of the public servant, a child, stepchild, or adoptee (as defined in I.C.31-3-4-1) of a public servant who is unemancipated and less than eighteen (18) years of age; and any individual more than one-half (1/2) of whose support is provided during a year by the public servant.

1. Name and address of Public Servant Submitting Statement:

Andy Ruff
1414 East University Street
Bloomington, IN 47401

2. Title or Position with Governmental Agency: (Position)

3. a. Governmental Entity: City of Bloomington
b. County: Monroe

4. This statement is submitted (check one):

a. as a "single transaction" disclosure statement, as to my financial interest in a specific contract or purchase connected with the governmental entity which I serve, proposed to be made by the governmental entity with or from a particular contractor or vendor; or

b. as an "annual" disclosure statement, as to my financial interest connected with any contracts or purchases of the governmental entity which serve, which are made on an ongoing basis with or from particular contractors or vendors.

5. Names(s) of Contractor(s) or Vendor(s): Not applicable - see #6 and #7 below.

6. Description of Contract(s) or Purchase(s) (Describe the kind of contract involved, and the effective date and term of the contract or purchase if reasonably determinable. Dates are required if 4(a) is selected above. If "dependent" is involved, provide dependent's name and relationship):

The Common Council is scheduled to discuss Ordinance 04-04 at its Committee of the Whole on February 11, 2004 and take final action on this ordinance on February 25, 2004. This ordinance is being proposed by Southern Indiana Medical Park II, LLC. It would rezone about 101 acres of land at 2401 West Tapp Road from Quarry to PUD and approve a preliminary plan that would allow a mix of office, commercial, industrial, and medical uses (including "inpatient care facilities") and would preserve approximately 64 acres of environmentally sensitive land.

7. Description of My Financial Interest (Describe in what manner the public servant or "dependent"

expects to derive a profit or financial benefit from, or otherwise has a pecuniary interest in, the above contract(s) or purchase(s); If reasonably determinable, state the approximate dollar value of such profit or benefit.):

Bloomington Hospital is a non-profit entity that serves as the community's sole general hospital. It has argued against this rezoning petition largely on the grounds that the proposed "inpatient care facility" will take away future revenues and undermine its ability to provide ambulance service, pay for indigent care, and otherwise meet the needs of the community.

Councilmember Andy Ruff is the father and has joint legal custody of Anna, who is under the age of eighteen. She is supported, in part, from income of her mother who has worked as an R.N. at Bloomington Hospital for approximately 20 years. If the rezoning ordinance is approved and the new inpatient facility reduces future revenues of Bloomington Hospital, then it is possible that Anna's mother would lose her income and not provide as much support for her. This possibility is remote and the amount of any change of income is indeterminable.

Please also note that Councilmember Andy Ruff's father, Jerard G. Ruff, is a medical doctor, who has been affiliated with the hospital, but is now retired.

8. Approval of Appointing Officer or Body (To be completed if the public servant was appointed by an elected public servant or the board of trustees of a state-supported college or university):
Not applicable for Councilmembers or their appointees.

9. Effective Dates (Conflict of interest statements must be submitted to governmental entity prior to final action on the contract or purchase.):

Date Submitted: February 11, 2004

Date of Action: February 18, 2004

10. Affirmation of Public Servant: This disclosure was submitted to the governmental entity prior to final action on the contract or purchase. I affirm, under penalty of perjury, the truth and completeness of the statements made above, and that I am the above named public servant.

Signed: _____

Date: _____

Within 15 days following execution, copies of this statement must be filed with the State Board of Accounts, Room E418, 302 West Washington Street, Indianapolis, Indiana, 46204-2765, and the Clerk of the Circuit Court of the county in which the governmental entity executed the contract or purchase. A copy of this disclosure will be forwarded to the Indiana State Ethics Commission.

RESOLUTION 04-03

TO DESIGNATE AN ECONOMIC REVITALIZATION AREA, APPROVE A STATEMENT OF BENEFITS, AND AUTHORIZE A PERIOD OF TAX ABATEMENT

**Re: 1116 S. Walnut
(Bloomington Paint and Wallpaper, Inc., Petitioner)**

- WHEREAS, Bloomington Paint and Wallpaper, Inc. represented by R. Bradley Night (“Petitioner”) has filed an application for designation of three parcels owned by Petitioner at 1106, 1108 and 1116 S. Walnut, Bloomington, Indiana (which will be combined under the address of 1116 S. Walnut) as an “Economic Revitalization Area” (“ERA”) for construction of a new building pursuant to IC 6-1.1-12.1 et. seq. (the “Project”); and
- WHEREAS, the Petitioner has also submitted a statement of benefits to the Council and must, prior to March 1st of each subsequent year of the tax abatement, provide the County Auditor and the Common Council with further information showing the extent to which the Petitioner has complied with the statement of benefits; and
- WHEREAS, according to this material, the Petitioner wishes to construct a new building that will contain Bloomington Paint and Wallpaper, another retail facility, and apartments on the second floor, with the exterior to be constructed of all brick and limestone (the “Project”); and
- WHEREAS, the Economic Development Commission has reviewed the Petitioner’s application and Statement of Benefits and passed Resolution 04-01 recommending that the Common Council designate the building as an ERA, approve the statement of benefits, and authorize a five-year period of abatement for this project; and
- WHEREAS, the Common Council has investigated the area and reviewed the Application and Statement of Benefits, which are attached and made a part hereof, and found the following:
- A. the estimate of the value of the Project is reasonable;
 - B. the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the Project as proposed;
 - C. the estimate of the annual salaries of these individuals who will be employed or whose employment will be retained can be reasonably expected to result from the Project as proposed;
 - D. any other benefits about which information was requested are benefits that can be reasonably expected to result from the Project; and
 - E. the totality of benefits is sufficient to justify the deduction; and
- WHEREAS, the property described above has experienced a cessation of growth; and
- WHEREAS, since the property is also located in the Thomson Walnut Winslow TIF district, I.C. 6-1.1-12.1-2(1) requires the Redevelopment Commission to approve this tax abatement, which approval was granted on February 2, 2004;

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

SECTION 1. The Common Council finds and determines that the area described above should be designated as an "Economic Revitalization Area" as set forth in I.C. 6-1.1-12.1-1 et. seq.; and, the Common Council further finds and determines that the Petitioner or its successors shall be entitled to an abatement of property taxes for the Project as provided in IC 6-1.1-12.1-1 et. seq. for a period of five (5) years.

SECTION 2. In granting this designation and deduction the Common Council incorporates I.C. 6-1.1-12.1-12 and also expressly exercises the power set forth in I.C. 6-1.1-12.1-2(I)(5) to impose additional, reasonable conditions on the rehabilitation or redevelopment beyond those listed in the Statement of Benefits. In particular, failure of the property owner to make reasonable efforts to commence the project within twelve months of the date of the designation and to develop and use the land and improvements in a manner that complies with local code are additional reasons for the Council to rescind this designation and deduction.

SECTION 3. The Common Council directs the Clerk of the City to publish a notice announcing the passage of this resolution and requesting that persons having objections or remonstrances to the ERA designation appear before the Common Council at a public hearing on March 24, 2004.

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

MICHAEL 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 resolution designates the property located at 1106, 1108 and 1116 S. Walnut Street as an Economic Revitalization Area (ERA), approves a Statement of Benefits, and authorizes a 5-year period of abatement for the project proposed by the petitioner, Bloomington Paint and Wallpaper, LLC, represented by R. Bradley Night. He is seeking a tax abatement in order to construct a new building to contain Bloomington Paint and Wallpaper, another retail store, and apartments. The resolution also declares the intent of the Council to hold a public hearing on March 24, 2004 to hear public comment on the ERA designation before voting on a resolution confirming these actions.

**RESOLUTION 04-01
OF THE
ECONOMIC DEVELOPMENT COMMISSION
OF THE
CITY OF BLOOMINGTON, INDIANA**

WHEREAS, the Economic Development Commission of the City of Bloomington, Indiana, recognizes the need to stimulate growth and to maintain a sound economy within the corporate limits of the City of Bloomington, Indiana; and

WHEREAS, the Indiana Code at 6-1.1-12.1 et. seq. provides for the designation of "Economic Revitalization Areas" (ERAs) within which property taxes may be abated on improvements to real estate;

WHEREAS, in addition to the ERA designation, an applicant for tax abatement must receive Common Council approval of the Statement of Benefits resulting from the proposed project; and

WHEREAS, the Common Council of the City of Bloomington in Ordinance 97-06 gave to the Economic Development Commission the responsibility for making recommendations to the Council regarding requests for tax abatement; and

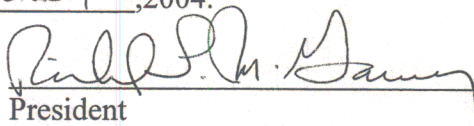
WHEREAS, Bloomington Paint & Wallpaper, Inc. ("Petitioner") has applied for tax abatement on, and has submitted a Statement of Benefits regarding, its proposed project at 1116 South Walnut Street in Bloomington, Indiana; and

WHEREAS, the Economic Development Commission has met and considered Petitioner's application and Statement of Benefits, and has recommended a five year tax abatement on the proposed improvements; and

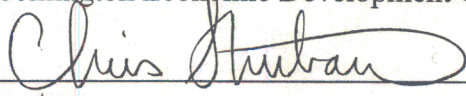
WHEREAS, the recommendation of a five year tax abatement is contingent upon the sole use of brick and limestone as the exterior building materials on the proposed improvements; and

NOW, THEREFORE, BE IT RESOLVED that the Economic Development Commission of the City of Bloomington does hereby recommend to the Common Council that it designate 1116 S. Walnut Street in Bloomington, Indiana, as an ERA and approve said Statement of Benefits regarding improvements to said site proposed by Petitioner and approve a five year tax abatement on said improvements.

APPROVED this 27 day of JANUARY, 2004.



President
Bloomington Economic Development Commission



Secretary
Bloomington Economic Development Commission

04-08
**RESOLUTION
OF THE
REDEVELOPMENT COMMISSION
OF THE
CITY OF BLOOMINGTON, INDIANA**

WHEREAS, Indiana Code 6-1.1-12.1-2(1) provides that when property located in an Economic Revitalization Area (ERA) for tax abatement purposes is also in a Tax Increment Finance (TIF) allocation area, the Redevelopment Commission must approve the application for the abatement prior to the filing of the deduction application with the County Auditor; and

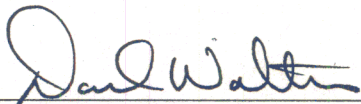
WHEREAS, R. Bradley Night has applied for property tax abatement on the proposed new Bloomington Paint and Wallpaper project at 1116 S. Walnut, Bloomington, Indiana (the "Project"), located in the Thomson Walnut Winslow TIF Area, which request has been approved for a five year abatement by the Economic Development Commission and is pending before the Common Council; and

WHEREAS, the Thomson Walnut Winslow TIF fund (the "Fund") contains sufficient monies to meet the obligations that have been approved to date for payment from the Fund, and the approval of the Project will not impair the ability to meet obligations imposed upon the Fund;

NOW, THEREFORE, BE IT RESOLVED BY THE BLOOMINGTON REDEVELOPMENT COMMISSION THAT:

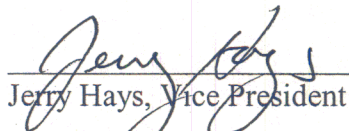
The application for property tax abatement for the Project described above should be, and hereby is, approved, subject to final approval by the Bloomington Common Council.

BLOOMINGTON REDEVELOPMENT COMMISSION



David Walter, President

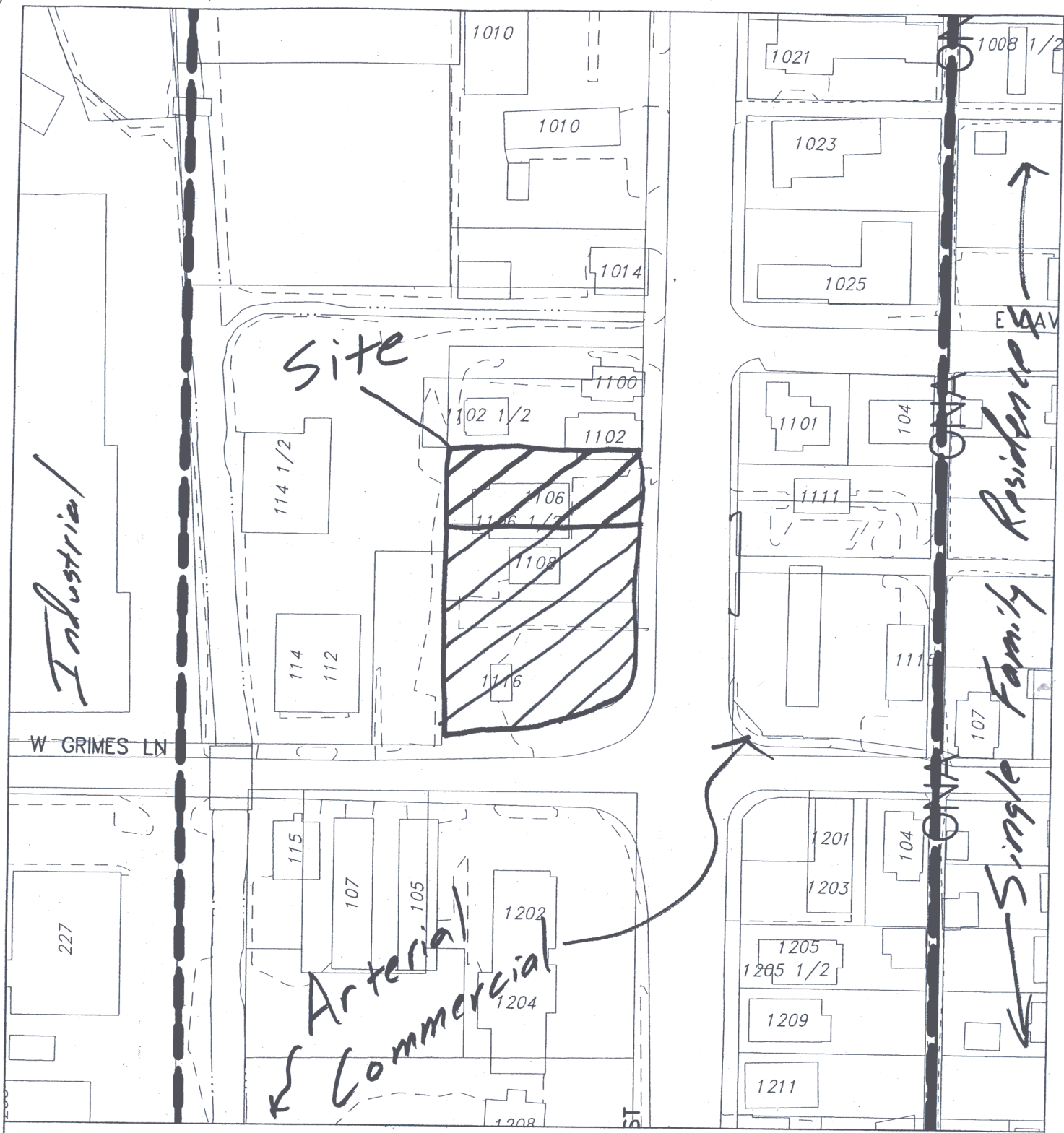
ATTEST:



Jerry Hays, Vice President

2/2/04

Date



CU/V-60-03 Bloomington Paint & Wallpaper

1116 S Walnut Street

Board of Zoning Appeals

Site Location, Parcels, Zoning

By: greulice

12 Dec 03



For reference only; map information NOT warranted.

City of Bloomington
Planning



Scale: 1" = 100'

19



Tax Abatement Applicant Summary

To: City of Bloomington Common Council
From: Ron Walker, Director of Economic Development
Date: February 10, 2004

Regarding:

Resolution: 04-03
Ordinance: 04-06
Applicant: Bloomington Paint & Wallpaper, Inc.
Project Address: 1116 S. Walnut Street
Phone: 812-337-2468
Applicant Contact: Brad Night, President

Tax Abatement Information:

Project Summary: The applicant plans to construct a *two-story mixed-use facility* at 1116 S. Walnut Street (the northwest corner of S. Walnut Street and W. Grimes Lane) and relocate Bloomington Paint & Wallpaper to the new facility. The main level of the new building will contain 9,000 sq ft. Approximately 75 percent of the main level will be utilized by Bloomington Paint & Wallpaper and 25 percent will be leased to the Bloomington Carpet Company. The upper level of the building will contain 7,000 sq ft that will be divided into six 1,000 sq ft apartments. ***The site features a building-forward design, brick and limestone exterior and approximately 30 parking spaces at the rear of the building.***

Real Estate Improvement Cost: \$1,010,000 (see attached application)

Current Zoning: CA (Arterial Commercial)

Existing Site: The site is underutilized, contains three vacant structures, including an abandoned gas station, and is mostly concrete and asphalt.

Job Creation: The applicant estimates that the project will create 2-4 new jobs. The total new job creation will be dependent upon increased sales resulting from the relocation and expansion of Bloomington Paint & Wallpaper. Increased sales will also determine the mix of full-time versus part-time labor. The applicant's estimates do not include new jobs created at the Bloomington Carpet Company or jobs created in the construction of the facility.

Projected New Annual Wages: The applicant estimates that annual payroll will increase between \$10,000 - \$40,000 based upon new job creation as explained above.

Requested Tax Abatement Term: 5 years

Recommendation: The Office of the Mayor supports this project and recommends a five-year abatement for real property improvements.

Project Overview & Recommendation:

In October, 2003 the petitioner submitted an application requesting a ***10-year property tax abatement*** for real property improvements at 1116 S. Walnut Street. The site included the two parcels at the northwest corner of S. Walnut Street and W. Grimes Lane. At that time, the petitioner planned to construct a 7,000 square foot, single-story facility with 23 parking spaces. The parking lot contained one entrance/exit on W. Grimes Lane. Total improvements were estimated to be \$500,000. In a memorandum to the Redevelopment Commission, the Office of the Mayor, under the previous administration, recommended a 10-year abatement on the real property improvements based upon the following:

- The request supports a locally-owned small business.
- The project will enhance an underutilized piece of property and be a positive investment in the South Walnut Street corridor.

The petitioner received approval from the Board of Zoning Appeals, in the October 23, 2003 meeting. One of the conditions of the approval was that delivery times (for Bloomington Paint & Wallpaper) be arranged so as to avoid deliveries during peak traffic hours. On November 3, 2003, the Redevelopment Commission unanimously approved the tax abatement application from Bloomington Paint & Wallpaper.

The parking limitations and restrictions on delivery times prompted the petitioner to purchase an additional parcel immediately to the north. The addition of this parcel would provide entry to the rear parking lot from S. Walnut St as well as entry and exit to the parking lot from W. Grimes Lane.

With the third parcel now included in the site plan, the petitioner came back to the BZA on December 18, 2003. The site plan now contained an expanded building (16,000 sq ft) with expanded commercial space on the main level – intended to be leased, residential use on the second level and seven additional parking spaces. The Board of Zoning Appeals approved the project with no limitation on delivery times. ***Total improvements to the site were now estimated to be \$1,010,000 as opposed to \$500,000, with the previous site plan.***

Due to the change in the scope of the project, the petitioner was required to reapply for tax abatement. In December 2003 the petitioner submitted an application requesting a 10-year tax abatement for real property improvements.

After reviewing the application, the Office of the Mayor determined that a strict interpretation of the City of Bloomington's tax abatement guidelines could suggest that no abatement be awarded to this project:

- Retail services do not qualify for tax abatement under Indiana Code 6-1.1-12.1-3 unless the area is designated as an Economic Development Target Area.
- The project is not located in one of the four geographic areas in which the City's tax abatement guidelines identify as priority areas.
- City guidelines do not recommend abatement for multifamily residential developments unless 20 percent of the units are available to low-moderate income tenants.

However, the Office of the Mayor believed that the benefits to the community from the relocation of Bloomington Paint & Wallpaper, the redevelopment of 1116 S. Walnut Street to a mixed-use facility and the commitment from the petitioner for building an exceptional facility justified granting a three-year tax abatement.

The recommendation for property tax abatement was based upon the City of Bloomington's tax abatement guidelines and Indiana Code regarding tax abatement. The community benefits guiding the recommendation for approval are the following:

- *The site has experienced a lack of development.*
- *The characteristics of the property, including obsolete building and possible environmental contamination, have impaired normal development and full utilization of the property.*
- *The project will encourage the retention of a locally owned business that has operated in the downtown for 75 years.*
- *The project will expand employment opportunities through the expansion of Bloomington Paint and Wallpaper and an additional commercial tenant.*
- *The project will utilize vacant land for new development of a mixed-use facility, with a building-forward design and parking in the rear.*
- *The redevelopment of this site will generate new property tax revenues for the Thomson Walnut Winslow TIF District.*

Another factor that influenced the decision to limit the abatement to a three-year term was the unidentified commercial tenant slated to occupy approximately 25 percent of the main level of the new building. The petitioner had stated that he was seeking a business whose products and services would be complementary to Bloomington Paint & Wallpaper. However, with the tenant unidentified, the city was being asked to approve an abatement for an unknown use and an unknown user.

In making its recommendation, the Office of the Mayor also considered many additional community benefits resulting from this project:

- *Any perceived or real environmental concerns will be eliminated with the redevelopment of the property.*
- *The project is a mixed-use development along a highly traveled, major corridor that serves as a gateway into downtown Bloomington.*
- *The project is located within the Bloomington Urban Enterprise Zone boundaries and the Thomson Walnut Winslow TIF District, both of which are geographic areas targeted for redevelopment.*
- *The relocation of Bloomington Paint & Wallpaper will improve safety on the north side of the downtown square because customers park in the rear of the new building, as opposed to street parking in the downtown.*
- *The relocation of Bloomington Paint & Wallpaper will improve traffic flow on 6th Street, between N. College and N. Walnut Streets, because of the difficulty in obtaining deliveries at Bloomington Paint & Wallpaper's current location.*
- *Bloomington Paint & Wallpaper's current location will become a mixed-use facility with commercial on the main level and residential use on the upper level.*

In January 2004 the Office of the Mayor issued a memorandum to the Economic Development Commission supporting the project and recommending a *three-year property tax abatement*.

On January 23, 2004 the Economic Development Commission (EDC) considered Bloomington Paint & Wallpaper's request for a 10-year tax abatement versus the recommendation for a three-year abatement. The EDC suggested a change in the exterior building materials in exchange for a greater period of abatement. Specifically, the use of brick and limestone and no EIFS. ***The petitioner agreed to use brick and limestone as the sole exterior building materials in exchange for a recommendation of a five-year abatement on real property improvements.*** The EDC unanimously passed a resolution recommending that the Council designate 1116 S. Walnut Street as an Economic Revitalization Area, approve a 5-year tax abatement and designate the site as an economic development target area.

Due to the upgrade in building materials, the Office of the Mayor amended the original recommendation of a three-year abatement to a recommendation for a five-year abatement. The petitioner also amended his request for a 10-year abatement to a request for a five-year abatement.

On February 2, 2004 the Redevelopment Commission unanimously passed a resolution approving the application for tax abatement.

The petitioner amended the Statement of Benefits (SB-1 form) to include a statement that brick and limestone will be the exterior building materials and that the commercial area will be leased for retail that is complementary with Bloomington Paint & Wallpaper and compatible with residential uses on the second floor.

The petitioner has since secured the Bloomington Carpet Company as the commercial tenant for the building.

The new investment and improvements to the property will generate greater property taxes than the underutilized property currently generates. The increased property tax liabilities will be phased in, allowing the investor to recoup some of the costs of the investment and improve cash flow in the most critical period of the relocation and expansion. In the second year of the project, the public sector will begin collecting 20 percent of the new revenues. By year six, the public sector will collect 100 percent of the new property tax revenues.

A review of TIF revenues shows that this project will generate approximately \$253,000 additional TIF revenues for the Thomson Walnut Winslow TIF district. If this investment does not take place, it is estimated that the site will generate only \$176,000 in property tax revenues. It is also believed that this project may induce additional investment and redevelopment in the surrounding area.

Based on the information presented in this report, the Office of the Mayor recommends that the Council approve a five-year property tax abatement on real property improvements to 1116 S. Walnut Street.



STATEMENT OF BENEFITS

State Form 27167 (R7 / 12-01)

Prescribed by the Department of Local Government Finance

**FORM
SB - 1**

INSTRUCTIONS:

1. This statement must be submitted to the body designating the economic revitalization area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise this statement must be submitted to the designating body **BEFORE** a person installs the new manufacturing equipment and / or research and development equipment, or **BEFORE** the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction. "Projects" planned or committed to after July 1, 1987 and the areas designated after July 1, 1987 require a STATEMENT OF BENEFITS. (IC 6-1.1-12.1)
2. Approval of the designating body (City Council, Town Board, County Council, etc.) must be obtained prior to initiation of the redevelopment or rehabilitation, or prior to installation of the new manufacturing equipment and / or research and development equipment, **BEFORE** a deduction may be approved.
3. To obtain a deduction, Form 322 ERA, Real Estate Improvements and / or Form 322 ERA / PPME and / or 322 ERA / PPR & DE, must be filed with the county auditor. With respect to real property, Form 322 ERA must be filed by the later of: (1) May 10; or (2) thirty (30) days after a notice of increase in real property assessment is received from the township assessor. Form 322 ERA / PPME and / or 322 ERA PPR & DE must be filed between March 1 and May 15 of the assessment year in which new manufacturing equipment and / or research and development equipment becomes assessable, unless a filing extension has been obtained. A person who obtains a filing extension must file the form between March 1 and the extended due date of that year.
4. Property owners whose Statement of Benefits was approved after June 30, 1991 must submit Form CF - 1 annually to show compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
5. The schedules established under IC 6-1.1-12.1-4(d) and IC 6-1.1-12.1-4.5 (e) effective July 1, 2000 apply to any statement of benefits filed on or after July 1, 2000. The schedules effective prior to July 1, 2000 shall continue to apply to those statement of benefits filed before July 1, 2000.

SECTION 1		TAXPAYER INFORMATION				
Name of taxpayer Bloomington Paint & Wallpaper						
Address of taxpayer (street and number, city, state and ZIP code) 110 W. 6TH street Bloomington IN 47404						
Name of contact person Brad Night				Telephone number (812) 337-2468		
SECTION 2		LOCATION AND DESCRIPTION OF PROPOSED PROJECT				
Name of designating body City of Bloomington Common Council				Resolution number		
Location of property 1116 S. Walnut St.		County Monroe	Taxing district Perry City			
Description of real property improvements and / or new manufacturing equipment and / or research and development equipment (use additional sheets if necessary) See Attached Sheet		ESTIMATED				
				Start Date	Completion Date	
		Real Estate		03/04	10/04	
		New Mfg Equipment				
R & DE						
SECTION 3		ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT				
Current number 7	Salaries \$190,000	Number retained 7	Salaries \$190,000	Number additional 2-4	Salaries 10k-40k	
SECTION 4		ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT				
NOTE: Pursuant to IC 6-1.1-12.1-5.1 (d) (2) the COST of the property is confidential.	Real Estate Improvements		Machinery		Research and Development Equipment	
	Cost	Assessed Value	Cost	Assessed Value	Cost	Assessed Value
	Current values	590,000				
	Plus estimated values of proposed project	1,010,000				
	Less values of any property being replaced					
Net estimated values upon completion of project	1,600,000					
SECTION 5		WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER				
Estimated solid waste converted (pounds) _____		Estimated hazardous waste converted (pounds) _____				
Other benefits:						
SECTION 6		TAXPAYER CERTIFICATION				
I hereby certify that the representations in this statement are true.						
Signature of authorized representative KB Night			Title PRESIDENT		Date signed (month, day, year) 2-11-04	

FOR USE OF THE DESIGNATING BODY

We have reviewed our prior actions relating to the designation of this economic revitalization area and find that the applicant meets the general standards adopted in the resolution previously approved by this body. Said resolution, passed under IC 6-1.1-12.1-2.5, provides for the following limitations as authorized under IC 6-1.1-12.1-2.

- A. The designated area has been limited to a period of time not to exceed _____ calendar years * (see below). The date this designation expires is _____.
- B. The type of deduction that is allowed in the designated area is limited to:
- 1. Redevelopment or rehabilitation of real estate improvements; Yes No
 - 2. Installation of new manufacturing equipment; Yes No
 - 3. Installation of new research and development equipment; Yes No
 - 4. Residentially distressed areas Yes No
- C. The amount of deduction applicable for redevelopment or rehabilitation is limited to \$ _____ cost with an assessed value of \$ _____.
- D. The amount of deduction applicable to new manufacturing equipment is limited to \$ _____ cost with an assessed value of \$ _____.
- E. The amount of deduction applicable to new research and development equipment is limited to \$ _____ cost with an assessed value of \$ _____.
- F. Other limitations or conditions (specify) _____

Also we have reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved: (signature and title of authorized member)	Telephone number ()	Date signed (month, day, year)
Attested by:	Designated body	

* If the designating body limits the time period during which an area is an economic revitalization area, it does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years designated under IC 6-1.1-12.1-4 or 4.5

SB-1 Attachment: Bloomington Paint & Wallpaper

Description of Real Property Improvements:

New Construction of mixed-use facility: retail use on 9,000 sq ft main level , apartments on 7,000 sq ft upper level. 8,000 sq ft of main level will be occupied by Bloomington Paint & Wallpaper. Remaining 1,000 sq ft of main level will be leased for retail that is complementary with Bloomington Paint & Wallpaper and compatible with the residential units on the second floor (Ex: carpet or flooring company). The exterior of the building will be constructed solely of brick and limestone.

Tax Abatement Calculations for Real Property Improvement
 1116 S. Walnut Street - Bloomington Paint and Wallpaper
 Using 2003 Payable 2004 Tax Rate and AV Estimates

Improvements \$ 1,010,000
 2003 Tax Rate 1.8107%
 Annual Taxes without Abatement \$ 18,288

Year	Abatement Percent	Abatement	Taxes Payable	Taxes Abated
1	100%	\$ 1,010,000	\$ -	\$ 18,288
2	80%	\$ 808,000	\$ 3,658	\$ 14,630
3	60%	\$ 606,000	\$ 7,315	\$ 10,973
4	40%	\$ 404,000	\$ 10,973	\$ 7,315
5	20%	\$ 202,000	\$ 14,630	\$ 3,658
Total Taxes to be Paid:				\$ 36,576
Total Value of Abatement:				\$ 54,864

TIF Revenue Calculations -Thomson Walnut Winslow TIF District			
Bloomington Paint & Wallpaper, Inc.			
<i>(assuming no development)</i>			
Pay Year	Net Valuation of Increment	Tax Rate*	TIF Revenue
2006		2.4119	-
2007	590,000	2.4240	\$ 14,301.60
2008	590,000	2.4361	\$ 14,372.99
2009	590,000	2.4483	\$ 14,444.97
2010	590,000	2.4605	\$ 14,516.95
2011	590,000	2.4728	\$ 14,589.52
2012	590,000	2.4852	\$ 14,662.68
2013	590,000	2.4976	\$ 14,735.84
2014	590,000	2.5101	\$ 14,809.59
2015	590,000	2.5227	\$ 14,883.93
2016	590,000	2.5353	\$ 14,958.27
2017	590,000	2.5480	\$ 15,033.20
2018	590,000	2.5607	\$ 15,108.13
Total TIF Revenues			\$ 176,417.67

*Based on pay 2003 Rate with an annual increase of .5%

TIF Revenue Calculations -Thomson Walnut Winslow TIF District			
Bloomington Paint & Wallpaper, Inc.			
Pay Year	Net Valuation of Increment	Tax Rate*	TIF Revenue
2006		2.4119	-
2007	808,000	2.4240	\$ 19,585.92
2008	606,000	2.4361	\$ 14,762.77
2009	404,000	2.4483	\$ 9,891.13
2010	202,000	2.4605	\$ 4,970.21
2011	1,010,000	2.4728	\$ 24,975.28
2012	1,010,000	2.4852	\$ 25,100.52
2013	1,010,000	2.4976	\$ 25,225.76
2014	1,010,000	2.5101	\$ 25,352.01
2015	1,010,000	2.5227	\$ 25,479.27
2016	1,010,000	2.5353	\$ 25,606.53
2017	1,010,000	2.5480	\$ 25,734.80
2018	1,010,000	2.5607	\$ 25,863.07
Total TIF Revenues			\$ 252,547.27

*Based on pay 2003 Rate with an annual increase of .5%

1. A. R. Bradley Night, 3721 Silver Creek Ct. Bloomington, IN 47401
B. 100%
C. One Owner
D. S corporation, R. Bradley Night sole officer.
2. A. 1116 S. Walnut St. Parcel # 015-62900-00, # 015-57730-00, and # 015-24960-00 combined 200ft by 140ft
B. Seminary Part Lot 65 Parcel # 015-629-00, # 015-57730-00, and # 015-24960-00
3. A. CA Zoning
B. Three small buildings on property and is mostly concrete and asphalt.
C. The site has had a variety of different uses in the past, including a tobacco store, car lot, small engine repair, pool supply, and gas station.
D. 590000.00 for all parcels.
E. N/A
4. A. Construction of new building with 30 parking spaces. 9000 sq ft main level of building to be allocated 75% to Bloomington Paint & Wallpaper, 25% rentable commercial space. 7000 sq ft second level will have six 1000 sq ft apartments.
B. N/A
C. N/A
D. Start March 2004 Complete October 2004
E. Seven jobs retained, two to four created by Bloomington Paint & Wallpaper. Rentable commercial space should create three to five new jobs.
F. City planning staff finds that all improvements to site will only have positive impacts to the area and community as a whole. Bloomington Paint & Wallpaper hopes to become a cornerstone to the southern downtown area and the Patterson Dive extension.
5. A. Project site qualifies for tax abatement due to a long history of underdevelopment of a highly visible intersection. Environmental concerns of the defunct gas station will be eliminated with new construction. The new project will eliminate a long time "eye sore" and should spark future positive business development in the area.
B. Seven full time employees retained, 2-4 part and full time jobs created. Current employees have total combined salaries of 190000.00 with 401K and paid vacation benefits. Three to five new jobs should be created by rented commercial space.

I hereby certify that the representations made in this application are true and I understand that if the above improvements are not commenced (defined as obtaining a building permit and actual start of construction) within 12 months of the date of the designation of the above area as an Economic Revitalization Area, the Bloomington Common Council shall have the right to void such designation.

OWNER

DATE

R. BRADLEY NIGHT

10-24-03

[Handwritten signature]

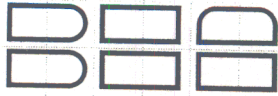
*All owners must sign; all general partners must sign; the president of the corporation must sign.

Please submit this Application along with a non-refundable fee of \$100.00. Checks should be made out to the City of Bloomington.



- ↕ TRUSS BEARING (UPPER)
ELEV. + 62'-0"
- ↕ TRUSS BEARING (LOWER)
ELEV. + 61'-0"
- ↕ WINDOW HEAD
ELEV. + 51'-0"
- ↕ WINDOW SILL
ELEV. + 46'-0"
- ↕ SECOND LEVEL FLOOR
ELEV. + 44'-0"
- ↕ STOREFRONT HEAD
ELEV. + 41'-0"
- ↕ STOREFRONT SILL
ELEV. + 3'-0"
- ↕ MAIN LEVEL FLOOR
ELEV. + 0'-0"

A
 EAST ELEVATION
 NOT TO SCALE



BYNUM FANYO & ASSOCIATES, INC.

ARCHITECTURE
CIVIL ENGINEERING
PLANNING

February 9, 2004

Mayor's office
Attn: Ron Walker

Re: Bloomington Paint and Wallpaper

Dear Ron,

The proposed building is 9052 sq. ft. in size with a building forward design. In front of the building, along S. Walnut, is a 10' wide landscaped area that will collect the runoff water via private inlets. This water will be piped and emptied into the existing stormwater line located at the southwest corner of the property. The extreme north end of the property (north of the retaining wall and curb) will flow in the current direction to the north and northwest, at a city regulated 3:1 slope. The northern drive and rear building sidewalk will sheet flow into the parking lot, across to the west curb, and empty into one of two storm inlets. From here, the runoff will be piped to the existing city pipes at the southwest corner of the property as well. Before any water reached the existing city lines, it passes through a stormceptor (Structure No. 17), which will filter and clean the water of impurities. The plans show the manhole for this filtration system, which is located entirely underground. This device was required by CBU to ensure stormwater quality management. The only remaining portion of the lot that flows into the floodplain is a 7.42 strip of grass that will remain flowing west as it currently does. A retaining wall has been place at the edge of pavement to ensure a 3:1 slope exists in this area for proper drainage.

Please feel free to contact me with any additional questions you may have.

Very truly yours,

Steven M. Peters
Bynum Fanyo and Associates, Inc.

revisions:

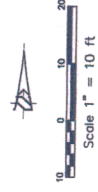
designed by: J
drawn by: ds

ARCHITECTURE
CIVIL ENGINEERING
PLANNING
Bloomington Paint & Wallpaper
BPM/PAINT & ASSOCIATES, INC.

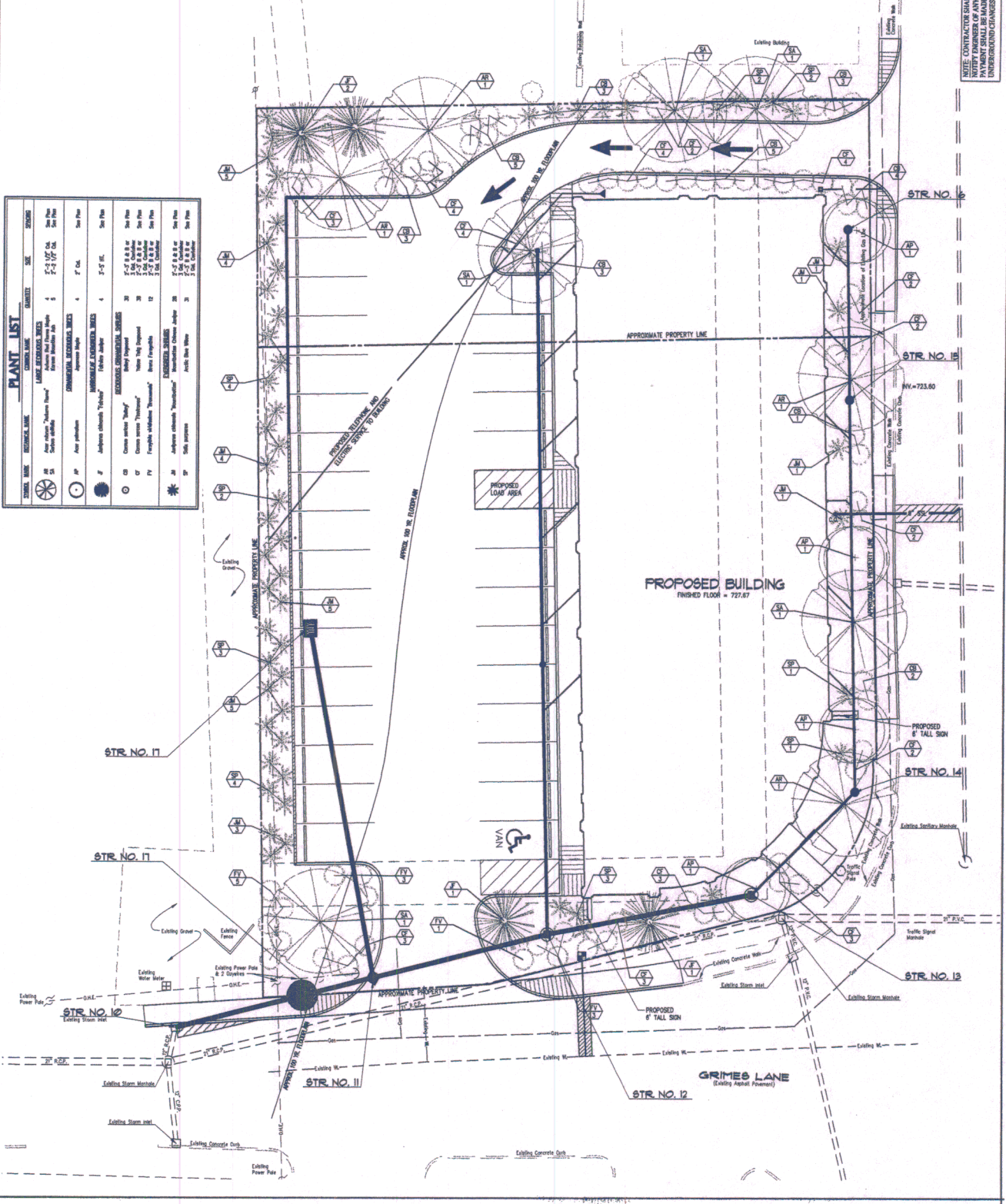
Proposed:
Bloomington Paint & Wallpaper

Site: LANDSC.

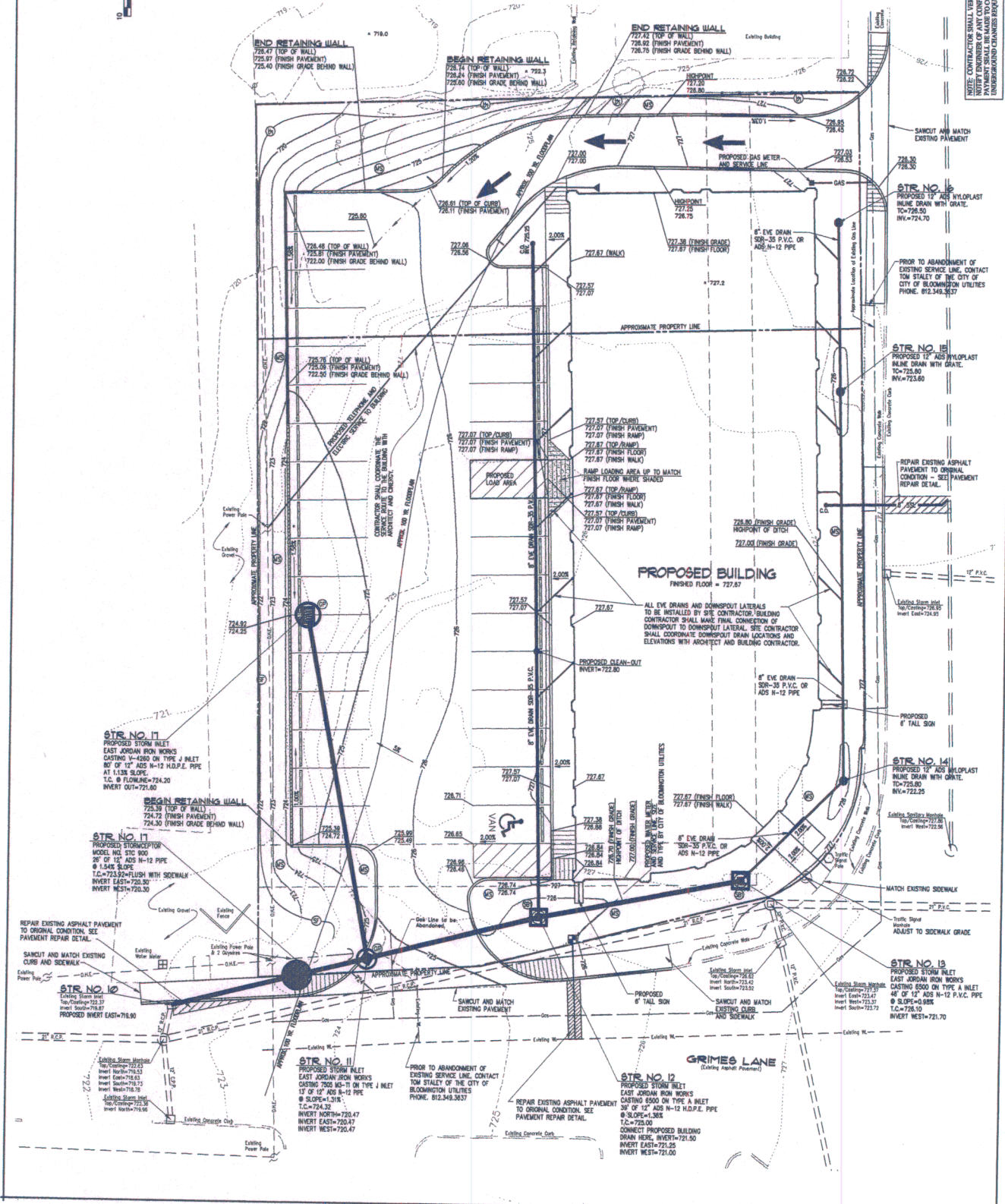
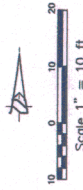
Sheet No. 5 of
Project No. 40



PLANT LIST			
SYMBOL	RECOMMENDATION	QUANTITY	SIZE
	Large Evergreen Shrub Shrub: Redwood	4	5'-8" H. Oak
	Small Evergreen Shrub Shrub: Redwood	4	5'-8" H. Oak
	Tree: Redwood	4	7' Oak
	Tree: Redwood	4	5'-5" H. Oak
	Tree: Redwood	20	5'-8" H. Oak
	Tree: Redwood	20	5'-8" H. Oak
	Tree: Redwood	12	5'-8" H. Oak
	Tree: Redwood	20	5'-8" H. Oak
	Tree: Redwood	20	5'-8" H. Oak
	Tree: Redwood	20	5'-8" H. Oak
	Tree: Redwood	20	5'-8" H. Oak



NOTE: CONTRACTOR SHALL VERIFY ALL UTILITY LOCATIONS & DEPTHS AND
 NOTIFY ENGINEER OF ANY CONFLICTS PRIOR TO & AFTER ANY EXCAVATION. NO
 PARTIAL CANCELLATION OF CONTRACT SHALL BE ALLOWED FOR ANY
 UNDERGROUND CHANGES REQUIRED DUE TO CONFLICTING UTILITIES.



NOTE: CONTRACTOR SHALL VERIFY ALL UTILITY LOCATIONS & DEPTHS AND PAYMENT SHALL BE MADE TO CONTRACTOR PRIOR TO ANY EXCAVATION OR UNDERGROUND UTILITIES REQUIRED DUE TO COMPLETION OF UTILITIES.

STR NO. 16
 PROPOSED 12" ADS NYLOPLAST
 8" EYE DRAIN WITH GRATE.
 TOP=728.50
 INV.=724.70

STR NO. 15
 PROPOSED 12" ADS NYLOPLAST
 8" EYE DRAIN WITH GRATE.
 TOP=728.60
 INV.=723.80

STR NO. 11
 PROPOSED STORM INLET
 EAST JORDAN IRON WORKS
 CASTING 4500 ON TYPE A INLET
 45" OF 12" ADS N-12 H.D.P.E. PIPE
 AT 1.5% SLOPE
 T.C.=724.20
 INVERT EAST=724.20
 INVERT WEST=721.80

STR NO. 10
 PROPOSED STORM INLET
 EAST JORDAN IRON WORKS
 CASTING 4500 ON TYPE A INLET
 45" OF 12" ADS N-12 PIPE
 @ 1.5% SLOPE
 T.C.=723.92
 INVERT EAST=720.30
 INVERT WEST=720.30

STR NO. 11
 PROPOSED STORM INLET
 EAST JORDAN IRON WORKS
 CASTING 7500 MS-11 ON TYPE J INLET
 12" OF 12" ADS N-12 PIPE
 @ SLOPE=1.3%
 T.C.=724.32
 INVERT NORTH=720.47
 INVERT EAST=720.47
 INVERT WEST=720.47

STR NO. 12
 PROPOSED STORM INLET
 EAST JORDAN IRON WORKS
 CASTING 6500 ON TYPE A INLET
 36" OF 12" ADS N-12 H.D.P.E. PIPE
 @ SLOPE=1.36%
 T.C.=725.00
 INVERT EAST=721.25
 INVERT WEST=721.00

STR NO. 14
 PROPOSED 12" ADS NYLOPLAST
 8" EYE DRAIN WITH GRATE.
 TOP=728.90
 INV.=722.25

STR NO. 13
 PROPOSED STORM INLET
 EAST JORDAN IRON WORKS
 CASTING 6500 ON TYPE A INLET
 45" OF 12" ADS N-12 P.V.C. PIPE
 @ SLOPE=0.88%
 T.C.=728.10
 INVERT WEST=721.70

PROPOSED BUILDING
 FINISHED FLOOR = 727.87

ALL EYE DRAINS AND DOWNSPOUT LATERALS
 TO BE INSTALLED BY THE CONTRACTOR BUILDING
 CONTRACTOR SHALL MAKE FINAL CONNECTION OF
 DOWNSPOUT TO DOWNSPOUT LATERAL. THE CONTRACTOR
 SHALL COORDINATE DOWNSPOUT DRAIN LOCATIONS AND
 ELEVATIONS WITH ARCHITECT AND BUILDING CONTRACTOR.

REPAIR EXISTING ASPHALT
 PAVEMENT TO ORIGINAL
 CONDITION - SEE PAVEMENT
 REPAIR DETAIL.

REPAIR EXISTING ASPHALT PAVEMENT
 TO ORIGINAL CONDITION. SEE
 PAVEMENT REPAIR DETAIL.

PRIOR TO ABANDONMENT OF
 EXISTING SERVICE LINE, CONTACT
 TOM STALEY OF THE CITY OF
 BLOOMINGTON UTILITIES
 PHONE: 812.349.3637

REPAIR EXISTING ASPHALT PAVEMENT
 TO ORIGINAL CONDITION. SEE
 PAVEMENT REPAIR DETAIL.

GRIMES LANE
 (Existing Asphalt Pavement)

Match Existing Sidewalk
 Adjust to Sidewalk Grade

Match Existing Sidewalk
 Adjust to Sidewalk Grade

Match Existing Sidewalk
 Adjust to Sidewalk Grade

Match Existing Sidewalk
 Adjust to Sidewalk Grade

ORDINANCE 04-06

**TO DESIGNATE AN ECONOMIC DEVELOPMENT TARGET AREA (EDTA)
Re: Bloomington Paint and Wallpaper, Inc., Located at 1116 South Walnut Street**

WHEREAS, Indiana Code 6-1.1-12-7(a) authorizes the Common Council to designate an area as an Economic Development target Area; and

WHEREAS, statutory criteria require that an area so designated must be an area that:

- (1) has become undesirable or impossible for normal development and occupancy because of a lack of development, cessation of growth, deterioration or improvement or character or occupancy, age, obsolescence, substandard buildings, or other factors that have impaired values or prevented a normal development of property or use of property; or
- (2) is designated as a registered historic district under the National Historic Preservation Act of 1966 or under the jurisdiction of a preservation commission organized under Indiana Code 36-7-11, 36-7-11.1 or 14-3-3.2; or
- (3) encompasses buildings, structures, sites or other facilities that are:
 - (A) listed in the national register or historic places under the National Historic Preservation Act of 1966; or
 - (B) listed on the register of the Indiana historic sites and historic structures; or
 - (C) determined to be eligible for listing on the Indiana register by the state historic preservation officer; and

WHEREAS, on January 23, 2004, the City of Bloomington Economic Development Commission held a hearing to consider the request to designate the parcels of real estate with Tax Identification Numbers 015-62900-00, 015-57730-00, and 015-24960-00, each described as part of Seminary Lot 65 in the City of Bloomington, Indiana, and located at 1106, 1108 and 1116 South Walnut Street, Bloomington, Indiana (which will all be combined under the address of 1116 South Walnut Street and will be referred to in this legislation as the "Property"), on which Bloomington Paint and Wallpaper proposes to construct a new building, as an Economic Development Target Area; and

WHEREAS, at the conclusion of the hearing, the Economic Development Commission adopted Resolution 04-02, which recommended that the Common Council designate the above-described area as an Economic Development Target Area in compliance with Indiana Code 6-1.1-12.1-7(a);

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

SECTION 1. The Property described herein is hereby designated as an Economic Development Target Area under the authority of Indiana code 6-1.1-12.1-7(a).

SECTION 2. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

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

MICHAEL 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.

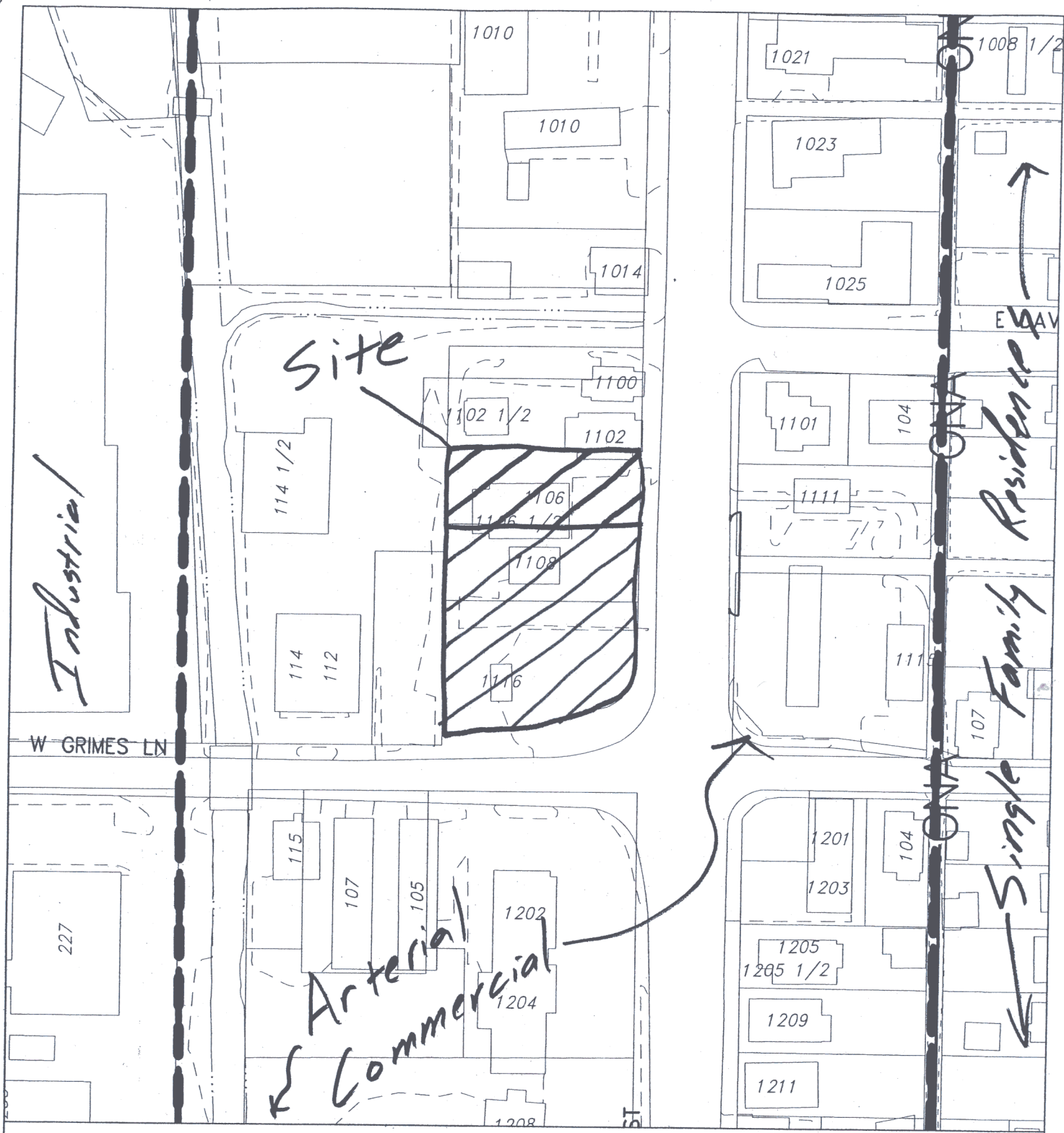
REGINA MOORE, Clerk
City of Bloomington

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

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance designates the parcels located at 1106, 1108 and 1116 South Walnut Street as an Economic Development Target Area (EDTA). These three addresses will be combined under the one address of 1116 South Walnut. This designation was recommended by the Economic Development Commission and will enable the proposed residential and retail uses on the designated property to be eligible for tax abatement. Final approval of the tax abatement for the construction of the Bloomington Paint and Wallpaper building will also require the adoption of an initial and confirming resolution, which must designate this site as an Economic Revitalization Area (ERA), approve the statement of benefits, and authorize a period of abatement.



CU/V-60-03 Bloomington Paint & Wallpaper

1116 S Walnut Street

Board of Zoning Appeals

Site Location, Parcels, Zoning

By: greulice

12 Dec 03



For reference only; map information NOT warranted.

City of Bloomington
Planning



Scale: 1" = 100'

19

**RESOLUTION 04-02
OF THE
ECONOMIC DEVELOPMENT COMMISSION
OF THE
CITY OF BLOOMINGTON, INDIANA**

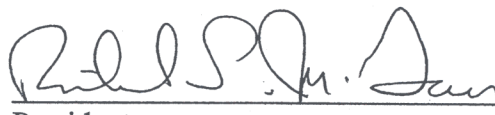
WHEREAS, Indiana Code §6-1.1-12.1-7 specifies that an economic development target area may be designated by the Common Council after a favorable recommendation by an economic development commission; and

WHEREAS, the Economic Development Commission of the City of Bloomington, at the request of the petitioner, Bloomington Paint & Wallpaper, Inc., held a meeting on January 23, 2004 to consider petitioner's application for economic development target area designation of 1116 South Walnut Street in the City of Bloomington, Indiana; and

WHEREAS, the Commission has determined that the application falls within the statutory qualifications in Indiana Code §6.1.1-12.1-7 and has voted approval of the designation;

NOW THEREFORE, BE IT RESOLVED by the Economic Development Commission of the City of Bloomington that the Commission recommends to the City of Bloomington Common Council that an ordinance be passed designating the above described location as an economic development target area.

APPROVED this 23 day of JAN, 2004.



President
Bloomington Economic Development Commission



Secretary
Bloomington Economic Development Commission

INTERDEPARTMENTAL MEMORANDUM

City of Bloomington Legal Department

TO: Common Council Members

FROM: Susan Failey, Asst. City Attorney

RE: Designation of an Area as an Economic Development Target Area

DATE: January 26, 2004

The request for designation of a specific area as an Economic Development Target Area (EDTA) does not involve the approval of a financial arrangement or the issuance of bonds. Rather, it consists of a consideration of criteria and a recommendation to the Common Council that an EDTA designation is appropriate for a specific geographic area.

BACKGROUND

Prior to January 1, 1988, a property owner was eligible to apply to the City for tax abatement even if the proposed use of the improved property was residential or retail. Under current law (IC 6-1.1-12.1-3(e)(11)), tax abatement may not be granted to a residential facility unless:

1. it is a multifamily facility that includes at least 20% of the units for low and moderate income users; or
2. it is located in an EDTA; or
3. it is in a "residentially distressed" area (which requires additional specific findings regarding loss and/or deterioration of housing in the area).

Retail facilities may not obtain tax abatement unless they are located in an EDTA.

PROCEDURE

Application to the Economic Development Commission is the first step for a property owner seeking to obtain EDTA designation. After considering an application, if the EDC is in favor of the application, it recommends that the Common Council pass an ordinance so designating the area. Not more than 15% of the total geographic area of the City may be in an EDTA. Obtaining the EDTA designation does not insure a developer that he/she will be granted tax abatement. That decision is a separate process acted on by the EDC and the Common Council.

CONSIDERATIONS

The qualifications for an EDTA designation are contained in Indiana Code 6-1.1-12.1-7. The geographic area designated as an EDTA must be an area that:

- (1) Has become undesirable or impossible for normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvement or character of occupancy, age, obsolescence, substandard buildings, or other factors that have impaired values or prevented a normal development of property or use of property; or
- (2) Is designated as a registered historic district under the National Historic Preservation Act of 1966 or under the jurisdiction of a preservation commission organized under Indiana Code 36-7-11 , 36-7-11.1, or 14-3-3.2; or
- (3) Encompasses buildings, structures, sites or other facilities that are:
 - (a) listed on the national register of historic places under the National Historic Preservation Act of 1966; or
 - (b) listed on the register of Indiana historic sites and historic structures; or
 - (c) determined to be eligible for listing on the Indiana register by the state historic preservation officer.

A project must fall within these guidelines in order to be designated as an EDTA.

In the Council Chambers of the Showers City Hall on Wednesday, December 3, 2003, at 7:30 pm with Council President Gaal presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
December 3, 2003

Roll Call: Banach, Diekhoff, Ruff, Pizzo, Gaal, Rollo, Cole, Sabbagh, Mayer

ROLL CALL

Council President Gaal gave the Agenda Summation

AGENDA SUMMATION

The minutes of Regular Sessions from September 17, 2003 and October 8, 2003 along with Special Session minutes from November 12, 2003 were approved by a voice vote.

APPROVAL OF MINUTES

Patricia Cole recognized the Crestmont and Ivy Tech partnership that is bringing college classes to the area. She said this good work of Chancellor Whikehart and Kevin White, Crestmont President, would address the transportation problem in this area that prevents folks from getting to classes.

MESSAGES FROM
COUNCILMEMBERS

Cole talked about the problem of health care in the community mentioning that she had recently noticed that fundraisers were being held to help folks with medical expenses and said that it was unacceptable that folks did not have access to health care. She said it was a right, not a privilege. She said that this industrialized country should join the others in providing this to its citizens.

Andy Ruff recognized Harmony school students and their teachers who traveled to the "School of the Americas" in Georgia to participate with other outraged and concerned Americans in a protest of the tactics of torture, terror and political oppression that are taught there by the US government and then used around the world by repressive regimes to quash political movements of oppressed people. He said the Harmony students and others like them give us hope for a future of more justice, freedom, and democracy in the world. He said that their involvement and initiative needed to be noted.

Mike Diekhoff congratulated the Bloomington High School North Band for marching in the Macy's Thanksgiving Day Parade. He said that both he and Councilmember Ruff were North Grads and were proud to have them represent our city.

Tim Mayer spoke of the fire that occurred at the utilities building on the Friday after Thanksgiving saying that our firefighters were right next door to the building. He said Risk Management, Red Cross and city employees were there and that our IT department kept the utility running and there was no disruption of service. He said the Utilities Service Board met on Monday as scheduled, but in the Dillman Plant. He noted that even though there was turmoil in the area surrounding the building, a citizen was witnessed putting a payment in the drop box. Mayer added that the Utilities Department would be opening a temporary office in the North part of the Showers building.

David Sabbagh said that the actions of the legislature and its actions regarding reassessment affect us locally. He quoted Morton Marcus' recent column on property reassessment:

The majority House and the mayor of our capital city want to cut property taxes for people who live in older homes. These homeowners have been escaping appropriate taxation for years because of an unconstitutional assessment practice that favored older homes. Now the revisionists in the legislature, bent on nullification of the supreme court and tax court rulings, are pressing for undoing what reassessment was intended to do: set right the property tax system in this state.

In effect there is no need to give subsidy for older homes. What these politicians

want to do is compensate owners for older homes at the expense of everyone else in the state. What is the justification for that?
Second the house wants to lower taxes on older homes because they think that older homes are occupied by older, poorer people. This point is subject to verification. Let them prove to us that older homes are homes for elderly poor. If that is true, why adjust the property tax, why not give a credit on the income tax. The legislature seems ready to ignore economic realities and blind to the welfare of most Hoosiers. They appeared to have a preference for pandering to a vocal poorly identified minority.

Sabbagh said he couldn't agree more. He said it was not good public policy and suggested a reverse mortgage for those owners.
On a more positive note, Sabbagh said the downtown square lighting ceremony on Friday, November 28, was a wonderful, positive thing and congratulated all who have a hand in this project in any way.

Dave Rollo commented on an article that described the sale of a Morgan County 4000 acre tract of land by Indianapolis Power and Light. He said the land was acquired for the benefit of the people of the state for a power plant and now the owner wants to parcel and sell the land. Rollo said the land was home to a number of rare species of hawks, rare waterfowl and other creatures. He said that currently only 4% of the state's land is set aside for protection of natural resources, protection of natural habitats and outdoor recreational pursuits. He encouraged citizens to write or call IPL to ask them to sell or deed this land to the State of Indiana, and gave particulars for doing so.

Tony Pizzo said that property and sales taxes are some of the most regressive taxes, while the most progressive tax is the graduated income tax. He said people without a lot of money pay a larger portion of their income for necessities. He said to keep this in mind when looking at the purpose of government which he said was social justice. He said that a few people holding everything with a lot of people holding nothing was not social justice.

There was no message from the mayor.

Marc Haggerty, Westside resident, said that the poor and the old don't live in new homes, and the older folks in his neighborhood were devastated by the latest property tax bills, and might have to move out of the area.

He said the founding fathers noted that a free press was essential for the well being of a democratic society. He said today's consolidation of the media has had a detrimental effect on the ability of citizens to be informed and noted the death of James Borden, Sr., who died in the Monroe County Jail on November 6, 2003. He said this was not covered well by the local paper while at the same time there were headlines about a student shot by a police officer in Muncie. He added that his investigation found that Mr. Borden had been subject to five Taser shocks and was processed as an uncooperative subject even after he had revealed that he was diabetic and hadn't had his insulin for over a week. Haggerty asked what happened to this man, why there was no tape of the processing, and why the newspaper didn't report on a death like this instead of relegating it to the back sections of the paper.

There were no appointments.

It was moved and seconded that Appropriation Ordinance 03-12 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis giving the Committee Do-Pass Recommendation of 7-0-1. It was moved and seconded that Appropriation Ordinance 03-12 be adopted.

MESSAGE FROM THE MAYOR

COMMITTEE REPORTS

PUBLIC INPUT

BOARD AND COMMISSION APPOINTMENTS

LEGISLATION FOR SECOND READING

Diekhoff asked Dan Sherman, Council Attorney and Administrator, to explain why this item needed to be postponed until December 10, 2003. Sherman said that the public hearing needed to be advertised ten days in advance of the action and there should be a formal motion to hold a special session on December 10, 2003 to do this.

Appropriation Ordinance 03-12 To Specially Appropriate from the Parking Enforcement Fund Expenditures Not Otherwise Appropriated (Appropriating Funds for Parking Ticket Appeals Software)

President Gaal clarified that this motion was subject to limited debate.

Banach asked what would happen if this motion was not passed and the meeting that had not been advertised was held to deliberate this item. Sherman said that this was not following the legal requirements and therefore the legislation would not pass.

It was moved and seconded that Appropriation Ordinance 03-12 be postponed to be heard at a Special Session on December 10, 2003.

Motion to Postpone until a Special Session on December 10, 2003

Dan Sherman, Council Attorney/Administrator, explained that Appropriation Ordinance 03-12 was not advertised as a public hearing for this meeting. Public notice was advertised for the December 10th date and noted that a special session could be held then for that purpose.

The motion to postpone Appropriation Ordinance 03-12 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 03-33 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis giving the Committee Do-Pass Recommendation of 5-0-3. It was moved and seconded that Ordinance 03-33 be adopted.

Ordinance 03-33 An Ordinance Amending Ordinance 00-35 Which Authorized the Issuance of Sewage Works Revenue Bonds for Wastewater and Storm Water Projects

Tom Guevara, Controller, explained that this ordinance would amend the ordinance passed on September 13, 2000, which authorized the issue of up to \$32M of fixed rate sewage works revenue bonds which included a storm water utility. He said there were two projects undertaken under the Storm Water Utility which the Parks Department and Public Works funded ahead of time with the understanding that the Utilities Department would reimburse the funds at the completion of the projects. Guevara said that the unforeseen snag was if Utilities issued bonds to pay for the \$2.6M improvements, they needed to be taxable bonds instead of the tax exempt bonds that the city normally issues. He said that not issuing these new bonds for repayment of the Parks and Public Works Departments would impair the ability of those departments to complete and pay for their current projects.

Guevara said another purpose of the ordinance would be to allow the city the option of issuing variable rate debt and/or fixed rate debt in order to obtain the lowest possible borrowing costs given the current interest rate environment.

In response to a committee question from Council Member Banach, Guevara addressed volatility of the variable rate index showing an analysis he had done tracking two periods of monthly variable interest rate changes on the LIBOR (London Inter Bank Offered Rate) index. He said this was an index of financial rates published on a daily basis for various lengths of time by the British Bankers Association, and added that although it was published by the BBA, it is an index used widely in the US and throughout the world to index variable rate debt. He said his chart represented 203 months on the LIBOR one month interest. He traced the slope of monthly increase in part of that period that calculated out to .1419% or 14.2 basis points. He also traced another period where the average monthly increase was .2%, with the average being .17% increase between the two data points.

Guevara said the current published LIBOR rate was 1.17%, and he had calculated the cross over points to fixed rates given these figures. He

said his analysis indicated the break even point would be around 2.5 years, when the interest rate would approach the fixed rate environment. He noted that the average LIBOR rate over this time would be 5.3614% assuming that the rate would continue to increase without interruption. He added that with this standard deviation of 2.15%, it indicated that 2/3 of the time the LIBOR rate would lie between 3.25% and 7.5%. He summarized the request by saying that he sought the flexibility to work with financial advisors to devise the best possible interest rate scheme that would minimize costs over the borrowing period. He said one possibility would be to use a variable rate for a few years, and then issue new debt using a fixed rate, or a rate swap into a fixed rate obligation. He also said that he would like to use different indices and run different scenarios to determine what would be best in mitigating overall costs. He said that the range of options would be from using pure variable rate, using fixed rate debt or using a combination of the two to minimize the borrowing costs. He added that given our low interest rate environment, the time and pace of any rising interest costs would still allow for analysis. He said that by not approving the variable rate debt, we would not be able to use an option that would possibly lower the overall borrowing costs. He said after the right scheme is determined, Utilities Service Board would have approval of the final debt issuance.

Cole asked if a raise in interest rates would trigger the swap to the fixed rate if the bonds were originally issued with a variable rate. Guevara said his analysis was historic and said it was impossible to predict if and how the rates would increase. He spoke about the Federal Reserve lows at this time, and the strategy for keeping Federal Fund rates at the present levels to protect against inflation increases in the current economy. He said that the variable rate interest would be about half of what the fixed rate would be at this time. He added that this would give time to strategize about mitigating overall interest costs.

Cole asked how long the note would need to stay at the variable rate and Guevara said that the initial note could be a five-year variable rate note where the interest rate would be subject to change every month, or using different indices, could change every three or six months.

Cole asked if this ordinance applied to bonds that already existed or ones that would be issued in the future, to which Guevara replied that it would be both. He explained that the approval was for the issuance of a total of \$32M of bonds and to this point \$4.7M of Wastewater bonds have been issued, and that the total issue here would be between \$2.6M and \$2.7M leaving about \$24M left to work with.

Guevara said he wasn't guaranteeing that the variable rate would be used, just that that option would be good to use, if needed, to lower the overall interest rate.

Banach thanked Guevara for the clarification on his question, and asked if the statement of the variable interest rate being just about half of the fixed rate was realistic. Guevara said he had looked at the tax equivalent rates and gave examples of current figures to support this statement. Banach then asked who the financial advisors were.

Guevara said his contact was Chris Johnston of the Crowe Chizek firm who had worked as the State of Indiana Deputy Treasurer, and called him a great expert in dealing with financial markets and helping with working through scenarios.

Jerry Gates, businessman, advised the council that "the only way to go is with a variable" rate, but suggested that there should be a rate in mind at which a switch to fixed rate would occur. He said the city didn't need a financial advisor with all the expertise at the University. He strongly encouraged the use of a variable rate as he said it would minimize the bank's risk and therefore allow a more favorable interest rate.

Gaal commented that Guevara's knowledge of municipal finance was amazing, and that he hoped that Guevara used a curve in figuring grades for his finance course.

Ordinance 03-33 (cont'd)

Ordinance 03-33 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 03-34 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis giving the Committee Do-Pass Recommendation of 5-0-3. It was moved and seconded that Ordinance 03-34 be adopted.

Ordinance 03-34 To Approve A Lease Between the City of Bloomington Redevelopment Commission and Mercury Development Group, LLC – Re: Register Parking Garage

Tom Guevara, Controller, spoke about the approval of the operating lease for the newly constructed parking garage at Register. He reviewed the agreement by saying that the rental payments would be for a period of thirty years, after which the city would own the garage. The rental payments would be based on a nominal construction cost which would be tied into an interest rate (of the five year treasury constant maturity rate), plus 250 basis points (or 2.5%). He said the lease payments would total approximately \$500,000 to \$520,000 annually, depending on the interest at the time the developer secured permanent financing.

Guevara said this was part of a project where the City of Bloomington leased land to Mercury Development with stipulations that a parking garage to be managed and operated by the city would be built there as well as a hotel. He added that the developer added an apartment complex component to the site. He said that the 552 space garage was completed and this act triggered the start of the period of the operating lease, which by state law couldn't be done until the garage was completed.

Guevara said the committee discussion questioned the status of the hotel on site and that he spoke with Mr. Ferguson, the principle of Mercury, and found that there were just a couple of issues that needed to be resolved with a prospective hotel developer. He specifically mentioned lease rental and sublease of the ground for the hotel and the option period that the hotel developer was requesting. He added that he couldn't get into too many more details, but having spoken to the developer on Monday and Mr. Ferguson last week, he felt that a face to face discussion would bring about resolution of the issues in a short period of time.

Guevara mentioned a committee query regarding a monetary penalty for failure to complete the garage and hotel. Guevara said that if the ground remained vacant, there was no financial benefit to the developer, even though a small payment might be involved in the leasing of the land to the hotel developer. He said adding a financial penalty on top of the lost costs of not leasing the land, or having a hotel built there would not do a lot for the city except to open complicated negotiations that were already completed for a ground lease and an operating lease. He said that Mr. Ferguson was sufficiently motivated to get the hotel in place to complete the project. It was his recommendation that the types of incentives and penalties were already in place.

He said the Redevelopment Commission, which had approved the operating lease at their meeting on Monday, December 1, 2003, had the authority to hold the Mercury Development in default of the ground lease if a hotel is not put in place. He added that this was a subjective judgment and it probably was something the city should not do unless absolutely necessary because of the financial and legal consequences. He recommended approval of the lease so that the garage could be opened to the public for the holiday shopping season. He said that once the lease was signed, parking lease rentals could be collected from Mercury and from the Smallwood project (even though the 142 spaces would not be used until September of 2004), and added it was in the financial interest of the city to approve the lease at this meeting. He

indicated that James McNamara, Deputy Mayor, could answer questions regarding the opening of the garage in December rather than January.

Ordinance 03-34 (cont'd)

Sabbagh asked how soon the garage could be opened for holiday shopping parking, McNamara said if the council were to approve the lease at this meeting, the garage could be opened for downtown visitor parking on Monday, December 8, 2003. He said it would be the intention to invite the county courthouse employees to park there to free up courthouse square parking for shoppers.

Cole asked if there was a way to reduce the glare of the lights in the parking garage, McNamara said he didn't know the answer, but said it was often a trade off between safety and the aesthetics and light pollution issues. Randy Cassady, electrician for the project, said that there was a shield on each fixture to prevent the light from spilling over. He said the Illuminating Engineering Society Standards for a surface parking lot ranged between 2 and 5 foot candles, and that garages were different because of their closure. He said that white lights were used instead of the more yellow lights so that cameras could be more easily and effectively used. He said they might be able to alter the position of the lights or add a shade, but added that the lights would not be seen from College Avenue because of the hotel that would be built there. Cole asked if the hotel windows would look directly into the lights and parking spaces of the garage. Guevara said that there had to be physical air space between the two structures, and said the hoteliers would be determining screening, and that this wasn't a unique issue. Cole said that downtown Cincinnati had a one dollar a day fee to encourage people to come to the downtown, and encouraged a similar policy for this garage.

Jerry Gates expressed surprise and shock at this action. He said the newspaper reported the cost of demolition of the old garage was estimated at \$386,000, and added that he had never leased ground where another party paid for demolition costs for structures on the ground. He said that the \$254,991 cost of relocating utilities born by the city was beyond belief. He said this was a sweetheart deal that the lessor didn't do unless there was some motivation. He said a Holiday Inn Express with a supposed lease in place was what was originally sold to the council, and asked the council not to vote to approve the lease at this meeting, but to ask more questions and reexamine the situation for another month. He said there was nothing that said the lease had to be approved on this particular date. He reminded the council that the city lost money on garage revenue and the citizenry was inconvenienced during the construction of the project and that he suspected that little or nothing was paid to the city during the construction time for this. He also added that the council should not approve the lease without some budgetary items regarding this project that it had been promised in the future. He added that the council should be looking at the entirety of the lease, and should take time to do it right. He added that the developer could not have gotten financing for the project unless the answers to all the questions were in place, and that the council deserved to know all of that information in approving the lease. He said the citizens deserved to have a fair price paid for real estate that was bought with taxpayer money, and asked just what would be turned over to the city in thirty years. He concluded by saying that the deal didn't smell good.

Ruff said he would like to have had a chance for Guevara to answer some of these questions, that he assumed the hotel would not belong to the city, but admitted he couldn't say for certain that he had a complete understanding of this issue. He said there were murky issues that he had been made aware of by different citizens who had asked him about the

Ordinance 03-34 (cont'd)

costs of relocation of utilities. Ruff said he appreciated Guevara's answers to his questions when he said that the council needed assurances that promised public benefits would materialize. He said that the IEC site, where the city also paid to tear down the building, was an example of this. He would like to think about some of these issues a little more including the exploration of reducing garage payments until the hotel is secured, the idea that the penalty for not finding a hotelier is really already in place for the developer, and Mr. Gates's comments regarding this. He said the ability to deliver the hotel was one of the criteria in choosing this developer. He said that he was under the impression that the developer was close to getting a hotelier all along, that he was not confident that voting yes on this was the right thing to do, and even though he had conversations with Guevara recently, he may not be comfortable voting yes on this.

Gaal said that occasionally the council could ask for questions raised during public comment to be answered and asked Guevara to respond to questions.

Guevara said that the draft for the operating lease was attached to the ground lease that had been signed in January of 2003. He reviewed the history of the garage saying that the old garage didn't pay for itself, and added that there were public policy reasons that the council has chosen to subsidize parking to its citizens. He said the garage was not a revenue producer as there were no taxes being paid on the city owned property, and that this project would still meet the demand for downtown parking and would still produce property tax revenues. He said there had been a public bidding process, and when partners of the chosen bid split, there had been another bidding process and the best bid had been selected. He said he agreed with Gates that this is not a profit making deal, but said government was to provide services that could not be met by a private market. He said that we need to create incentives to make the best use of the city's assets and this was done in a very public way, and that this had been a public process for two years. He added no deals had been made that the council had not seen. He said the concern now was doing what could be done to help the downtown merchants and to continue to get back to providing the public service of public parking that the city had managed and provided for so many years.

Pizzo said that this was an example of an instance where the city could cooperate with the private sector to create a win-win situation for the city and its citizens and also the private sector. He said he watched the project go through, and said nothing was done under cover. He said the project was good for the city and cited the new property taxes created on the property, the garage paying for itself in thirty years, and said it was not about making money, but about providing services.

Banach agreed with Pizzo and Ruff, and said that when the project was brought forward the hotel deal was in place and said he'd like to hear more about just what happened to the hotel. He reviewed that the reason Mercury got the bid was that they had the hotel in place and the council was led to believe that it was a certain thing.

Guevara said he had a copy of the letter in his file that had been provided to Mr. Ferguson when the bid was submitted, that it had been part of the presentation to the Redevelopment Commission, part of the record and part of the bid. He added that whatever the reason, that person changed their mind to put the Holiday Inn Express on the highway. He said to protect the city, the ground lease had the provision that a hotel had to be built on the property, and even though that particular hotelier left, Mr. Ferguson has continued to negotiate to find another.

Banach asked what happens when a developer backs out of a letter of intent. Guevara said that in this case, there was no penalty associated with this. He said Ferguson was working on his due diligence issues. Guevara responded to a query from Banach saying he didn't have specifics as to the timeline of the hotelier pulling out, that he'd have to check his files as that was two years ago. Banach asked what the repercussions would be if the lease was not approved at this meeting. Guevara said the ordinance would have to go through another legislative cycle, but the bottom line was that the garage could not be opened without the approval of the lease agreement.

Mayer asked if there was a tax abatement on this project. Guevara said no. Mayer asked if all the property on which this project was originally city owned and not on the tax roles. Guevara said it was. Mayer asked if taxes would be paid on the garage as well as the hotel and apartment structure. Guevara said they would not on a net basis as the city would pay taxes, but would be the recipient of that money.

Sabbagh asked if the garage could be opened at all, and Guevara said again that the garage could not be opened without an operating lease.

Cole asked if there would be a CREED for the downtown, and Guevara said that there was reluctance on the part of the state because of their fiscal condition, and there was a delay in having the city's application approved. He said that the application was supposed to be approved within 60 days of submission (first week of November), and so it would appear that an answer would come at the beginning of January. Guevara said it was disappointing not to have it on the state budget committee agenda a couple of times since the city had met with the committee and addressed any concerns they had about the application.

Cole said that the idea of capturing the money to use in the downtown was a persuasive argument for the council's approval. Cole then asked if Mercury bought the land on which the hotel would be built. Guevara said the city would own that land.

Rollo asked if there were representatives from the Mercury Development present, to which Guevara answered that unfortunately Mr. Ferguson had a personal emergency that prevented him from being present.

Mayer asked if there was a definite date for a decision on the hotel and asked if a suggested meeting between the hotelier and Ferguson could take place before December 19th or December 31st. Guevara said the question begged the issue of desire and that no one wanted this deal finished more than the mayor. He said it was important to this administration to get this done and they would do as much as possible to do that. Mayer said the council would like to hear a message by December 17, 2003, the last meeting for the year.

Ruff clarified the city would own the garage after thirty years, and asked how long after that the garage would need to be replaced. Guevara said the useful life of a parking structure was about forty years and it would depend on how the garage was used. He referred to the old Hoosierfest dances and festivities that stressed the old garage.

Ruff noted for the record that he previously said he wouldn't vote in favor of this approval unless a representative of the developer was present, but noted that his conversation earlier with Guevara revealed the emergency situation that prevented Mr. Ferguson from attending.

Ruff asked how not approving the lease would affect the operation of

Ordinance 03-34 (cont'd)

the garage. Guevara said that it could open, but not under the management of the City of Bloomington. He added that Ferguson could do whatever he wanted as it was his asset, but that the city needed an operating lease to manage the garage, and that by state law, the lease could not be signed until the structure was completed and ready for use.

Ruff asked if the developer could be asked to just let the city use the garage without payment since they were responsible for the garage being finished at this time. Guevara said he didn't know, but McNamara said that the risk issues and from a liability perspective it wasn't a good idea.

Banach said he agreed with Ruff, and that the developer is the responsible party and perhaps the lease agreement should say that the city could use the garage but that there would be no lease payments until the hotel deal is closed. Guevara said that one could always ask, but asked where the negotiations would stand when the developer refused. Banach said the city had given the developer plenty and that it was time to go back to the negotiating table and that it would give the developer more incentive to finish and would open the garage at the same time. Guevara said the downtown merchants and the holiday shopping season was the one consideration for getting the lease in place immediately. He reminded council that a merchant spoke before them when the garage was proposed to be torn down and that parking is at a premium around the square. He said the early indicators for retail this year and merchants were concerned with the competition from the mall and west side stores and that the city should give them the opportunity to do as much business as possible during this season. He added that if the city had to pay one month lease payments vs. negotiations and discussions of who's to blame, we should side on the side of the downtown merchants and provide the opportunity for parking downtown.

Banach, said he didn't appreciate the council being put into this position of feeling that they had no choice in the matter. He asked what harm would be done to ask questions of the developer, while tabling the legislation for another week. Guevara said he empathized with the council and said everything about this was not ideal, but ultimately prioritizing the list of benefits was parking downtown. To table this for another week would cut into the holiday season usage, and the highest priority should be to the downtown merchants and downtown users. He said often times things are not ideal, and often times tough choices need to be made.

Mayer said that cars were parked in the garage right now, and Guevara said that those cars belonged to apartment tenants and that the developer could do with the garage what he saw fit until he signed a lease with the city. Guevara said that once the lease was signed, the developer would have to pay for 150 spaces, even if his tenants were using fewer.

Ruff noted Pizzo's statement of generating tax revenues, but noted too, that we've spent \$500,000 - \$600,000 in the demolition and utilities relocation costs. He asked about the utilities relocation issue. Guevara said the utilities were buried under the garage at the city's request and so they were responsible for having the utility lines in a concrete well under the garage. He said that he was not privy to all the issues, but he said that the city didn't pay the full cost and that the full cost is being paid over five years in an interest free payment. He said the city was part of the responsible party for why the utilities had to be relocated to begin with. He added that there was some partial mitigation of the overall cost as well as a payment plan put into place to minimize the impact to the city.

Ruff asked if both parties assumed some risk in the development and asked if it were totally unknown that the utilities were buried there. Guevara said yes. Ruff asked if, on a lighter note, a status report could be given on the lawsuit against the enthusiastic youths who climbed the construction crane on the site to hang a banner. Guevara said he could not give any status on that.

Cole said that the council does not make the deals, but is asked to approve them little bit by little bit. She said they were sold this project by the presence of the hotel and that was the selling point for her. She said at that time, too, she didn't know about the eight story student apartment house creating a wall of buildings between the downtown and the west side. She said all the good in the hotel would overshadow the other things that were happening here, and hoped that if and when the hotel would be built it would look better than what is there now. She said that having a CREED in place would have that property tax more valuable and that there were other things to consider. She said we need to be clearer in what the benefits would be, and that we shouldn't be persuaded that we need to open this for this for the holidays. She added that this needed to be weighed against other messages that we may be sending by approval. She said the garage for the holidays was important, but other things may be more important, and that she would be voting against approval at this time.

It was moved and seconded to postpone Ordinance 03-34 until the Special Session of December 10, 2003.

Motion to Postpone Ordinance 03-34 until December 10, 2003

Ruff moved that this be tabled until the Special Session to be held on December 10, 2003. Pizzo, parliamentarian, said that this motion was not subject to debate. Sherman clarified that postponing until a certain time was, actually, subject to debate. Gaal said the debate was limited to the merits of postponing, not the merits of the ordinance.

Banach said postponing was a good idea given the fact that Mr. Ferguson had a family emergency and that he should be given an opportunity to come to hear the concerns.

Rollo said he agreed with the priority of having parking for downtown merchants, but that the council was also responsible for public expenditures in this long term lease agreement. He said there were a lot of unanswered questions. He said this was the second time this was debated without a representative of the Mercury Development Group and that if it was postponed he hoped that some member of that group could appear before council.

Pizzo asked if the hotel deal could be closed in one week. He asked how we could face those merchants downtown, and asked if postponement could result in a hotel. He added that if this hotelier doesn't work out, someone would still build one.

Motion to Postpone Ordinance 03-34 received a roll call vote of Ayes: 7, Nays: 2 (Diekhoff, Pizzo).

It was moved and seconded that Ordinance 03-35 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis giving the Committee Do-Pass Recommendation of 8-0. It was moved and seconded that Ordinance 03-35 be adopted.

Ordinance 03-35 To Vacate a Public Parcel – Re: Rights-of-Way beneath the Register Redevelopment Project (City of Bloomington, Petitioner)

Tom Micuda, Planning Director, said that this request was related to the previous request only in the property discussed. He said that this was a request to vacate two unbuilt platted alleys that crisscross the property and showed maps of the location. He said the right of ways were

supposed to have been vacated back in the 70's with the original construction of the Regester garage and the process was initiated but never completed. He said the purpose of the right of way vacation was necessary to have a clear title to the property. He said this was similar to the vacation of rights of ways of platted alleys on the 7th and Walnut property where another parking garage was built.

Ordinance 03-35 (cont'd)

Cole asked if the city was vacating the rights of way. Micuda said that the city owned the property and was essentially vacating the property to itself, but the purpose was to create a piece property that was unencumbered by any defects in the title. Cole noted that then it would be a whole parcel rather than one divided up by an alley.

Ordinance 03-35 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 03-36 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis giving the Committee Do-Pass Recommendation of 8-0. It was moved and seconded that Ordinance 03-36 be adopted.

Ordinance 03-36 To Amend the Bloomington Zoning Maps from RE1 to PUD and To Amend the Preliminary Plan for the Hidden Valley Farms PUD – Re: 3421 S. Sare Road (L & M Rentals, Petitioner)

Tom Micuda, Planning Director, stated that this was an amendment to a previously approved Plan Unit Development that was thoroughly reviewed in 2002, a mixed use Planned Unit Development that included single unit rentals, duplex rentals, and six and four bedroom unit count rental housing. He said this would increase the total units on the property from 254 to 297 but is moderated in the decrease in total bedroom count from 547 to 501. He outlined that the key changes included the addition of 30 single family homes, the conversion of several interior streets to pedestrian pathways leading to a common green with clubhouse and amenities, and a 20% reduction of impervious surface from the previous petition which would result in a four acre increase in greenspace and open space on the property. He said the Plan Commission forwarded the recommendation to the council with a 7-1 vote to approve the changes.

Sabbagh asked about the access. Micuda said the unusual shape of the parcel limited the access to Sare Road to one access point which concerned the Plan Commission with regards to emergency situation. He said they added a phasing requirement (which stays in effect with this amendment to the PUD) which says the project must be developed in two phases, and that the second phase would be contingent on a second access point for the second half of the development. He said there had to be a build out on either of the two adjacent properties to create a second access point.

Micuda added that the petitioner and representative were present. Jeff Fanyo said he was present with Matt Casio of L&M Rentals. He said that during the committee hearing Rollo and Ruff had stated the changes were an improvement, and so he asked for approval.

Gaal said that the amendment was an improvement over the original plan.

Ordinance 03-36 received a roll call vote of Ayes: 8, Nays: 0 (Cole out of room).

It was moved and seconded that the following legislation be introduced and read by title and synopsis only. Clerk Moore read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING

Ordinance 03-37 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)

Ordinance 03-37

It was moved and seconded that Ordinance 03-37 be heard without a committee hearing during the Special Session on December 10, 2003.

Motion to hear Ordinance 03-37 on December 10, 2003.

Gaal reminded the council that this was subject to limited debate.

Rollo explained that the petitioner had proposed an alternate plan for the development and would like this petition denied so that he could introduce an alternate plan. The letter requesting the denial was included in a memo held by the council members. In the interest of having the petitioner bring forth the alternate plan in a timely fashion, and so this could be considered at the January Plan Commission meeting, Rollo offered the motion to consider the ordinance at the December 10, 2003 Special Session.

Banach asked if this motion was asking to deny the Ordinance at this session.

Dan Sherman, Council Attorney clarified that this was a motion to commit or refer this matter to a special session next week without a committee of the whole discussion.

The motion to hear Ordinance 03-37 without a committee hearing and recommendation received a roll call vote of Ayes: 9, Nays: 0.

To Amend Title 15 of The Bloomington Municipal Code Entitled Ordinance 03-38 "Vehicles and Traffic" (Modifying Bryan Park Parking Restrictions; Prohibiting Overnight Parking at Parks and Recreation Parking Lots and Authorizing the Towing of Vehicles for Such; and, Expanding Shared Parking)

Ordinance 03-39 To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" – Re: Amending Section 2.22.030 in Order to Conform the Schedule of Credited Paid Time Off and Residency Requirements to Current Practice Ordinance 03-39

Ordinance 03-40 To Amend Ordinances Which Fixed the Salaries of Appointed Officers and Employees of the Civil City (Ordinance 03-20) and Utilities (Ordinance 03-21) Departments for the Year 2004 – Re: Civilian Positions in the Fire, Community and Family Resources, Parks and Recreation, and the Accounting (Utilities) Departments Ordinance 03-40

There was no public comment.

PUBLIC INPUT

The meeting was adjourned at 9:50 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Chris Gaal, President
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall on Wednesday, January 21, 2003 at 7:30 pm with Council President Diekhoff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
January 21, 2004

Roll Call: Banach, Diekhoff, Gaal, Mayer, Rollo, Ruff, Sabbagh, Sturbaum, Volan,

ROLL CALL

Council President Diekhoff gave the Agenda Summation

AGENDA SUMMATION

There were no minutes to be approved.

APPROVAL OF MINUTES

Chris Sturbaum reported that several council members recently attended the conference that the Indiana Association of Cities and Towns held for newly elected officials. He said one of the most meaningful things he learned was that those attending were citizens, not full time politicians. He added that this was the way the founders of Indiana wanted it to be so that regular people would be working for the city.

MESSAGES FROM
COUNCILMEMBERS

He said he had a letter signed by seven council members to the Alcoholic Beverage Commission that petitioned against the Von Lee liquor license. He noted the hearing would take place on February 4, 2004 at 9:00 am. He said that for two years the Save The Von Lee committee had been protesting against the loss of that theater and the behavior of Kerasotes, the owners, to forbid the use of this historic theater by the community. He said the case for restraint of trade would take place in the courthouse on January 28, 2004, at 9:00 am. He said the free market was not allowed to operate and that a viable theater had been removed from the community.

Andy Ruff read from a letter sent from Indiana State Senator Larry Borst, Chair of the Senate Finance Committee, that was published in the Indianapolis' The Southside Times newspaper on October 30, 2003.

To fund I-69, INDOT would have to pledge all of its expansion funds, \$21%-25% of its entire construction budget, to I-69 every year for 14 years to complete the project. Even if INDOT had no additional big expansion projects under development, it is unlikely that that much money could be dedicated to a single project for such a prolonged period. There would be no expansion projects, added travel lanes, new road construction, major improvements, etc., funded anywhere else in the state for fourteen years. INDOT has said that 80% of the I-69 costs will come from federal funds; however, there is no federal categorical funding for such projects. Even if a new federal category were created at some future date to provide funding for I-69, Indiana would have to compete with states like Texas for the funds. INDOT could probably qualify much of its existing federal road funding for I-69, however that would not increase total federal road funding for Indiana. That would only draw federal funds away from other projects. It is unlikely federal funds in excess of Indiana's regular apportionment will be available to build I-69.

There has been discussion that I-69 could be built as a toll road; however, several studies have demonstrated that the project as a toll road is not feasible. If the project were built on a pay-as-you-go basis with state funds, it would require the equivalent of a five cent gas tax increase dedicated entirely to I-69 to complete the project in 14 years. There are no other state funds available for the project.

Ruff read an excerpt from a report on WFIU's Third House:

Four south central Indiana state legislators agreed with State Senator Lawrence Borst that Indiana cannot afford to build I-69. Matt Pierce, Becky Skillman and Eric Koch said that I-69 could only be built if the federal government came up with new money for it. Koch, a Republican whose district includes portions of Lawrence, Monroe Jackson and Bartholomew counties, said he doesn't foresee that happening. Skillman, a Republican Senator from Bedford and Chair of the Republican Senate Caucus, said that legislators elsewhere in Indiana will not give up highway projects in their regions for I-69. Calling their opinion unanimous, Koch said he would not support a gas tax hike for I-69. Richard Bray, a Republican Senator

from Martinsville, said he doesn't think Indiana could afford even 20% of the required local state money if the feds did come up with extra money.

Ruff then read from the Indianapolis Star regarding a meeting of the Peoples Agenda Forum sponsored by Indianapolis Star and WTHR Channel 13 where state legislators listen to citizens voice their opinions and concerns on issues.

They came to the statehouse, sat down in lawmakers chairs and looking into their eyes, told them what they should do. The loudest message on Tuesday night rang clear as dozens decried the proposal to extend I-69 through southern Indiana, calling it unacceptable.

Ruff said those who have been opposed to the highway for years have not just been looking at environmental and family farm concerns. He said the fiscal component had been considered from the beginning. He added that taxing could only be done to a certain extent, and this extravagantly expensive highway would be a major issue in the upcoming state campaigns.

He thanked folks for listening, and encouraged them to visit the Bloomington Alternative website noting that there would be a related article posted there over the weekend.

Stephen Volan thanked those who helped in his campaign at this first regularly scheduled meeting of the year, and hoped by extending his thanks at this time, he would off set any errors in thanking folks before this. He extended a particular note of thanks to Tyler and Dave Ferguson.

David Sabbagh noted an article published on January, 20, 2004 about two men who intimidated disabled diners at an area restaurant. He read from the report:

Two men were arrested Friday after they alleged intimidated a group of people with mental and physical disabilities at a local restaurant. The two men called the group stupid and retarded. The transitional services employee called the management of the restaurant and asked that the two and their female companions leave. The transitional group rose to move to another area of the restaurant when the two men confronted the group and continued making derogatory comments. They threatened to beat up members of the group when the police arrived and the men were found to have alcohol on their breath.

Sabbagh added that one of the functions of government was to protect the most fragile of our society. He said these actions were outrageous and encouraged the prosecutor to throw the book at these men. He added that he hoped the community would speak out about this and that it was not appropriate in a safe and civil city.

Tim Mayer noted that Mrs. Ray Kroc of McDonald's restaurants had recently bequeathed \$1.5 Billion dollars to the Salvation Army.

Timothy Mayer read a proclamation from the mayor that named February 8, 2004 to be Girls and Women in Sports Day in Bloomington. Beverly Calendar-Anderson, Tulip Trace Girl Scouts, accepted the sealed proclamation and thanked the mayor and council for this proclamation on behalf of the National Girls and Women in Sports day planning committee. She listed several events planned for that time and invited citizens to those activities.

Nancy Hiestand, gave the Report on the McDoel Historic Conservation District. She said three years ago the council approved the designation. She added at the time, it was called a phase of a historic district, and that a proviso was needed to survey property owners in the district to retain the district, rescind the district, or to elevate it to a historic district. She

MESSAGE FROM THE MAYOR

COMMITTEE REPORTS

- Report on McDoel Historic Conservation District

explained that the regulations in a conservation district included reviews of demolition of a structure, construction of a new structure, or moving of a structure.

She said the Historic Preservation Commission heard only three petitions during this time 1) petition from BRI to move a house to 700 West Wylie, to move another house to 415 W. Allen, and Housing Solutions request for new construction on 726 W. Allen, and 2) a petition by an owner to demolish a property and build another home on the site. She said there had been no other demolition of structures within the district.

The proviso that the Department of HAND survey the owners was actually included in the legislation, and the Historic Preservation Commission decided it would use the regulations that applied to National Historic Register Districts to select how the polling would be done. She said that individual property owners were given one vote each; regardless of the number of properties they owned in order to give all a voice.

She outlined that the letter was mailed on August 19, 2003 and was concluded on November 14, 2003, and were counted by Michael Flory, Regina Moore and Nancy Hiestand. She outlined the results as:

- Votes against the elevation to a historic district: 138
- Votes to retain the conservation district: 105
- Votes against retaining the conservation district: 34
- Votes to elevate the conservation district to an historic district: 5

She said this indicated a 3-1 vote to retain the conservation district. She said there were 240 ballots mailed, and 140-145 ballots were returned. She added that Michael Flory reported that if owners were permitted to vote multiple times with regard to the number of properties they owned, the results would have still been the same.

She added that the Historic Preservation Commission voted to recommend retaining the conservation district based upon the survey. She added that Ordinance 01-04 stated that if no opinion reached a majority, the district would stay in place.

It was moved and seconded that the council accept the McDoel Conservation district report as presented by staff.

Volan questioned Hiestand on the total number of structures in the district and she explained that 110 rentals was part of the overall 271 structures. He asked about the four separate questions, and she explained that the questions voted on were derived from the state statute.

Sabbagh asked about the outcome had the voters been apportioned a vote per property, and Hiestand said the vote would still have been 3-1 in favor of retaining the conservation district.

Banach asked about the vote and how it was figured. Hiestand pointed out the unambiguous vote indicated she was looking at the 105 votes to retain the district and the 34 votes against retaining the district when she made that statement. Banach asked if one owner owned 20 or thirty properties. Hiestand said that there was nothing of that sort, but an exercise in tallying votes by parcelization. She explained that the church sat on three or four legal parcels, but would be given one vote versus four votes. She added that there weren't that many parcels owned by investor owners. She said one person owned five parcels and that was probably the largest landowner, who, she added that that person, actually had voted to retain the district.

Sturbaum said the simple question was to retain or not retain the district, and that the elevation to historic district question was required by state statute, but was not the focus of the neighborhood vote. Sturbaum asked

McDoel Historic Conservation District
Report (cont'd)

if the method of determining votes, owners and parcels turned out to be a sensible and simple process. Hiestand affirmed.

Elizabeth Cox-Ash, an executive committee members of the McDoel Association, thanked the previous council for approving this, and added thanks to four council members (Mayer, Sabbagh, Willsey and Diekhoff) that helped work through how the votes would be gathered. She thanked Michael Flory, Dan Sherman, the Historic Commission and Nancy Hiestand for their efforts throughout the process. She said that the granting of the conservation district had given the neighborhood the stability it needed for it to grow. She said in 1998, when the neighborhood association was begun, the neighborhood surrounded an abandoned manufacturing site and was not a desirable place to live. She said since the establishment of the conservation district, 80% of homes purchased were owner occupied, and with the stability of home investment housing prices had risen from an average of \$65-70,000 to \$85-95,000 with some selling three to four times the original prices, with several prices above \$100,000.

Cox-Ash said the Historic Preservation Commission, according to statute, for moving, demolition or building of structures, adding that certificates of appropriateness were then issued. She outlined the same four requests that Hiestand discussed, but showed pictures of houses that had been moved, new construction, homes with new additions as well as kit homes to give the flavor of the neighborhood. She added that the conservation district has increased the number of home renovations in the area, and added that a tour guide had been created for this unique neighborhood. She said the McDoel Neighborhood Association was the first to have a long range plan with long term and short term goals, and asked that the council vote in favor of keeping the conservation district.

Keith Romaine, member of the executive committee, said that part of this whole process was having a lot of parties which included a garden and home tour, a parade, ice cream social, a street party and a Halloween party, all with over 100 persons attending. He added that owner occupied homes have increased from 35% to 45% during this time.

Rob McCrea said he was a lifelong resident of Bloomington, but had lived in McDoel for just a short while and said the core neighborhoods were indicative of the finest qualities of Bloomington. He asked for unanimous support in the vote to retain the conservation district as an indication of support to those who have worked to preserve the history and character of the neighborhood.

Matthew Press, 601 West Dodds, said he added an addition to his home that almost doubled the size of his house. He said the conservation district guidelines added to the value of this remodeling, and encourages other neighborhoods to do the same if they think it is appropriate. He asked for support from the council.

Danielle Bachant-Bell, said that renovations on her house were easily done within the parameters of the conservation district. She said it was nice to walk through a neighborhood with such a diverse population, where neighbors know and enjoy each other, and said that the conservation district has helped to establish this as a true neighborhood.

Jack Baker, a resident of McDoel, said that before the conservation district the neighborhood needed attention, given static property values, disorderly growth, a perception that the area was unsafe, and a neighborhood that was not attractive to buyers. He said that all that has turned around and now the fabric of the neighborhood is being added to. One of the accomplishments is that it has showed that neighbors,

McDoel Historic Conservation District
Report (cont'd)

citizens, and government can work together if they are tenacious. He thanked the council for giving them the help in doing this, and noted overcoming miscommunication and a mayoral veto. He added that after three years this neighborhood has an example to show other neighborhoods that need stability and solutions to threats to their neighborhoods. He said he hoped these actions will help with development in the IEC area and hoped that attention would now be turned toward the Broadview area, Prospect Hill and the Near West Side neighborhoods. Baker said he had just spoken with Mayor Kruzan, who had indicated his support for the actions of the neighborhood.

Sabbagh said this issue was controversial when it came up and that he found it difficult to be the council representative when the issue, he felt, was evenly divided. He said that people who were concerned about the conservation district were shown that this was a successful endeavor and that he would vote to keep the district.

Volan said he was please to note his enthusiastic support for the acceptance of this report. He added that one reason why this district is worth conserving is that it specifically predates the widespread acceptance of the automobile, and is still able to accommodate them; but at the expense of the pedestrian way of life. He said what makes a city livable is acceptance of multiple modes of transportation and the priority of pedestrian oriented public spaces over auto-oriented ones. He said his own neighborhood, Old Northeast, along with Garden Hill, Elm Heights, and Eastside, would do well to study McDoel's example.

Sturbaum said this was an historic celebration in Bloomington and equated this with the Prospect Hill district and said that it also reflects a turn in the historic preservation movement. Rather than saving mansions and homes of the wealthy, this district valued saving and enhancing a working class neighborhood. He noted the Sears catalog homes that were constructed there are an important part of Bloomington's past and history and deserved preservation. He said that it was exciting to see neighborhoods working together, and it had displayed a new sense of itself. He said this was a good example of how government can work, and congratulated everyone who worked for this and those who voted for it.

Banach said he was one of the opposing votes three years ago, but will support it now. He said he would always take these designations seriously when significant portions of a neighborhood express grave concerns about changes that would take place. He said he had an issue with polling by owner rather than parcel, because if one person owned 50 houses he believed they should have 50 votes. He wished the neighborhood well and said he would support the district continance.

Gaal said he supported Sturbaums statements, adding that if only one council member had changed his mind, this would not have happened. He noted when the voting process had been established, the votes went to people not properties by conscious effort. He said that his belief is that democracy is based on people, while a plutocracy is based on wealth, and that it was inappropriate to give votes to the people or businesses because they own more property. He said property rights were the rights of people regarding property, not the rights of property. He said t would be interesting to see how this neighborhood would change with the CSX project, development of the IED, extension of Hillside Drive, the investment of the Bloomington Digital Underground in the area. He said the tool of the conservation district would help keep the integrity of the neighborhood intact in the midst of these other improvements, and that it was important to keep this perspective, and look at how this tool could be used elsewhere in the city.

Ruff said he remembered the debate as those who voted against this for fundamental political reasons and concerns, ones that he respected then and respects now. He said he didn't recall if the mayor's objections at that time were along those same lines, and wasn't sure what they were about. He said he was glad this had worked out so well, and that the same opposition and concern is not being raised now. He said he was glad Banach felt he could be consistent with his values and still vote for this now, and thanked him.

Mayer said he remembered the debate, the division, the hurt feelings, and that people's toes got stepped on with lack of communication. He said the council saw the wisdom of the conservation district and went forward with it. He said the lesson to be learned was that a few people with an idea, who were willing to listen, who are willing to work with all others with guards down, can grow an idea. He added that more people are joining in, the neighborhood is becoming more diverse, neighbors are respecting renters, and that the area has become a community within a community. He commended all for their effort and said that this went beyond the paint and plaster of the conservation district.

Diehkoff commended all for their hard work and said that communication and working together have set an example for other neighborhoods in the city.

The Report was accepted by a roll call vote of Ayes: 9. Nays: 0.

Mr and Mrs. Ray Murphy, parents of a developmentally disabled son, read a letter that they had written to the editor of the newspaper regarding the recent harassment of the developmentally disabled at a Westside McDonalds. He said that this should not happen and the behavior should be penalized, but prayed that these actions might someday not occur. He said he spoke with the police, and expressed dismay that there was no such thing as a hate law in Indiana. He spoke with the prosecutor who felt bad about the incident. He said he and his wife were torn and had proposed as a penalty working out their public service at Stonebelt with the very people they insulted and disparaged. He said we need to fight these conditions and that we need to make our laws stronger and penalties more severe. He asked the council help the most vulnerable of this city's population by doing everything they could to help fight these conditions.

PUBLIC INPUT

There were no appointments.

BOARD AND COMMISSION APPOINTMENTS

It was moved and seconded that Ordinance 04-01 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 9-0. It was moved and seconded that Ordinance 04-01 be adopted.

LEGISLATION FOR SECOND READING

Ordinance 04-01 To Amend the Bloomington Zoning Maps from RS3.5/PRO6 to PUD and to Adopt the Preliminary Plan for the Adams Grove Planned Unit Development – Re: 1201 S. Adams Street (Millennium Property Management, Petitioners)

Jim Roach, Planning Department, reviewed the ordinance, by giving the location, current zoning, size of property, and the Growth Policy Plan for the area. He said the development would extend Adams Street, had one karst feature on the mainly wooded property, and was adjacent to multifamily, industrial and future industrial uses. He said the proposed change in zoning from the currently single family zoning to a Planned Unit Development which would be exclusively multifamily. He said the plan called for 160 units (half one bedroom units, half two bedroom units) at the density of 6.9 units per acre. He said about ten acres of land on West Adams Street would be preserved for active and passive uses of a gazebo and trails. He said urban residential uses, clustered and taller buildings, creation of common green areas, common elements to create

Ordinance 04-01 (cont'd)

road connections and the creation of denser residential areas near bus services was all called for in the Growth Policies Plan.

He showed the Alternative Transportation and Greenways System Plan map and pointed out how this project would provide the bike paths recommended in that plan. He pointed out the CSX Switchyard location and showed the proposed project's accessibility both now and after already approved development occurs in the area. He said the ten acre green area would not be an easement because of its environmental features. He concluded by noting the density fit the Growth Policies Plan recommendations, preserved green space would provide a focal point for the residents, a single type housing (while not exactly fitting the GPP, the Plan Commission thought it would be appropriate in this location being adjacent to industrial and office uses while affording the developer the opportunity to preserve greenspace), will provide for connectivity to both the north, west and south. He said the Plan Commission's recommendation was 7-0-1.

Gaal asked about connections from the property to Bloomfield Road to the north. Roach said the ATGS Plan called for signed bike routes and sidewalks but no additional off-street features along Adams Street. Micuda added that connections from Bloomfield Road to the downtown, would be best along an widened Bloomfield road which has yet to be funded. Gaal noted this was a dangerous route for bikers. Micuda said the future improvements would take bike paths, sidewalks, or side paths into consideration.

Sturbaum asked if this area historically had been changing generally from single family zoning to PUDs. Roach said that without checking he couldn't tell for sure, but there were some areas that did have single family zoning with the possibility of duplexes. Micuda outlined the areas that had been zoned for single family housing and said that many of them were rezoned at varying densities. When Sturbaum speculated about the future changes, Micuda said the department would like the remaining parcels to remain single family and be redeveloped in that fashion.

Rollo asked about plans for accessibility to the Clear Creek Trail, to which Roach said this would be a possibility using smaller local roads and sidewalk system to the larger off street trail system. When asked if there were obstacles to a road directly west to the area, Roach said there was an auto salvage yard with potential environmental constraints to re-development and an existing multifamily development without a road.

Micuda asked if the petitioner could talk about connections between these properties as he was the owner and had alluded to this possibility in Plan Commission meetings.

Mike Pauly, Millennium Property Management, said he has spoken to owners of adjacent properties regarding connectivity within all the developments to Weimer Road and Second Street. Rollo commended him for trying to do this since Adams Street is not complete and since there is not presently any public transportation in this area.

Volan said at the last meeting he alluded to what bothered him most about the project, the form of the buildings. He said in future projects he would be looking for something of a more urban form. He said he would be abstaining from the vote as he didn't have a strong enough objection to vote against the project.

Rollo said he would be supporting the project as he had seen an earlier version and commended the developer for reducing the footprint of the built environment and providing greenspace.

Sturbaum said that because changing the direction of the status quo will be like turning around an ocean liner, there was no point in voting against this current proposal and that he would also abstain from voting.

Ordinance 04-01 (cont'd)

Mayer asked for clarification of the rules regarding council members abstaining on final votes. Dan Sherman, Council Attorney/Administrator read from the Bloomington Municipal Code 2.04.0360 (d):

Members shall vote on all questions before the council except in situations when there is a conflict of interest or other good cause. If a member fails to vote on any matter, any other member may raise the question and insist that the member either vote or state their reason for not voting and be excused.

He stated that the question was whether the reasons heard from the new council members constitute good cause.

Banach asked for a point of order saying that he has abstained from final votes before and said it had been the practice to allow the council member the prerogative to do so. He said there was no reason to prevent them from abstaining now.

Mayer said his point was that the action was extraordinary, and in light of the two new council members saying that they would abstain, it would be a good idea to set our rules so that everyone knows the procedure from this time forward. Mayer said that it was his personal opinion that council members should vote yes or no on each item.

Banach asked why there was a sudden change in what had been the rule, and why it hadn't been questioned before when he, himself, had abstained from voting on an item. He asked why the point was not raised then.

Diekhoff as president noted that the question had been called and seconded.

Ordinance 04-01 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 2 (Sturbaum, Volan).

There was no legislation for first reading.

LEGISLATION FOR FIRST READING

It was moved and seconded to suspend the rules so that an item not on the agenda could be considered. Sherman noted this motion needed a two-thirds majority to suspend the rules. The motion passed with a voice vote (with no dissensions).

SUSPENSION OF THE RULES TO CONSIDER ITEM NOT ON THE AGENDA

It was moved and seconded to cancel the Committee of the Whole scheduled for January 28, 2004 since there was no legislation to be considered. The motion passed with a voice vote (with no dissensions).

CANCELLATION OF MEETING FOR JANUARY 28, 2004.

The next regularly scheduled meeting will take place on February 4, 2004.

There was no public comment.

PUBLIC INPUT

The meeting was adjourned at 9:05 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Michael Diekhoff, President
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall on Wednesday, February 4, 2004, at 7:30 pm with Council President Gaal presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
February 4, 2004

Roll Call: Banach, Diekhoff, Ruff, Gaal, Rollo, Sturbaum, Volan, Sabbagh,
Absent: Mayer

ROLL CALL

Council President Diekhoff gave the Agenda Summation

AGENDA SUMMATION

The minutes of the Organizational Session were approved by a voice vote.

APPROVAL OF MINUTES

Chris Sturbaum said he and some other folks were suing Tony Kerasotes, of Kerasotes Theaters, for restraint of trade for his condition of sale of the Von Lee theater that the theater could never be used again as a movie theater. Sturbaum said that was the reason the property hadn't sold until now, although Kerasotes had said on record that the theater was making money when he closed it. Sturbaum said Kerasotes wanted to stop any competition from coming in, and that Kerasotes believed he had restrained trade in a legal fashion. Sturbaum said this had been done to the detriment of the community, and that he had attended a liquor board meeting to speak against the granting of a liquor license for a sports bar in the theater. He said he believed that he was acting in the community's interest and asked that citizens pay attention to what was happening with the Von Lee.

MESSAGES FROM
COUNCILMEMBERS

Chris Gaal thanked Sturbaum for working on this project and said he was happy to sign onto a letter supporting Sturbaum's position with the liquor board.

Andy Ruff echoed Gaal's comments. He added that several council members wrote a letter submitted regarding the I-69 Environmental Impact Study that referred to an earlier letter to Governor Frank O'Bannon on the subject.

Stephen Volan congratulated Catherine Stafford on being the recipient of the Historic Preservation Commission's Achievement Award.

Dave Rollo thanked Sturbaum for taking the lead on the Von Lee.

Mark Kruzan, Mayor, teasingly thanked his District 2 Council member, Jason Banach, for his brief report and noted that they both were originally from Lake County. He also thanked the snow plow drivers saying that he had no idea how much time this task really takes, and the sacrifices the families of workers make.

MESSAGE FROM THE MAYOR

He stated that he would be asking staff and department heads to give reports (either on point or other informational items) during this section of the council meetings.

Kruzan noted that Julio Alonso, Director of Public Works, would give the first report on "Report on Snow and Ice Control in 2004." Alonso noted that 5,100 lane miles of streets had been treated and plowed, which was 12 passes through the city streets; that 70 parking lots had been plowed (about 12 lots per snow); that 1026 hours of overtime had been worked; and that 3168 tons of salt and 472 tons of sand had been used so far this year.

- *Report from Public Works on Snow Removal*

Alonso thanked the Street Department and the Fleet Maintenance Department who work together on snow removal, and especially

thanked Bob Chestnut who directs the Street Department and his crew. Alonso provided cost comparisons for sand, salt and mixtures of each saying that weather conditions dictated the proportion and type of mixture used.

- *Report from Public Works on Snow Removal (cont'd)*

Alonso also addressed the policy of the sanitation department canceling trash pick-up on days when the temperature was below zero. He added that a citizen had made a suggestion that they be able to drop off their trash if it couldn't be picked up, and 35 families took their trash to the sanitation garage on South Walnut street. He said this was a good suggestion and that they city would probably continue to offer this option during cancellation days.

Council Members took advantage of this timely report to ask questions. Ruff asked how much more salt was being used in clearing the streets relative to last year. Alonso said that different conditions called for different mixes of salt and sand but that a higher proportion of salt was used in the mixture than last year. Ruff asked if large amounts of salt affected water quality. Alonso said the product used (salt with a molasses treatment) didn't have additional adverse effects on water, and that the use of sand had its own problems.

Banach, noting that he just couldn't keep quiet on this issue, thanked the administration for this report, saying that he had not seen anything like this report during his eight years on the council. He noted that the streets were noticeably different this year and said that using salt helped with sand cleanups in the spring.

Volan asked about the cost of removing any sand on the streets. Alonso said he thought the budget allowed for approximately \$200,000 for four street sweeps year. He said the mayor and council would need to evaluate the use of the new molasses/salt product, but savings on street sweeping might not be substantial as sweeping removes other debris from the streets besides sand. He speculated that street sweeps might be reduced; but the saved time could be used to get other projects, such as potholes, taken care of on a timelier basis.

Diekhoff said he thought pretreatment of the streets worked well, and asked if there was a way of encouraging those parking downtown around the square so that those areas could be more effectively removed of snow during bad weather. Alonso agreed that perhaps the city should consider a snow emergency policy.

There were no committee reports.

COMMITTEE REPORTS

Jeanine Butler, Chair of the Bloomington Historic Preservation Commission, presented an Achievement Award on behalf of the commission to Catherine Stafford for her work on the Showers Bridwell house at 419 North Washington St. Stafford thanked her parents, and other relatives who had spent a considerable amount of time with the restoration of the home, one of only four Showers build homes in the North Washington Street National Register District, in the last three years.

PUBLIC INPUT

Catherine Stafford thanked her parents, Jonathan and Linda Stafford, her brother, grandmothers and other relatives for their help in this project.

Marc Haggerty spoke of his investigation of the death of James Borden in the Monroe County Jail on November 6, 2003. He said he had received very little satisfaction from his inquiries, except from the Sheriff who had provided a viewing of the tape of the incident. He said that a letter from Judge Mann informed him that the records regarding Borden's home detention had been lost. He said he had requested the

Human Rights Commission to use their authority to ask for an “investigation in absence of complaint;” but while the commission said they would write this letter, he noted some reluctance to overstep the city’s role and responsibility in what they may have perceived as a county matter. Referring to reports that Borden had been subject to Taser shocks, he added he had done some research on stun guns. He said they had been banned in many cities, noted deaths in other cities and states by the use of stun guns, and asked the council to consider a ban on the use of these guns.

PUBLIC INPUT (cont’d)

Troy Borden, brother of James Borden, said his brother died in the Monroe County Jail, and said his family would like to know what happened to cause his brother’s death in the jail’s receiving port. He said he assumed he died of electric shock, and asked why the police would subject a person who was diabetic and who had an enlarged heart to this type of treatment. He expressed dismay at the fact that others had viewed the tape of his brother in jail, but that the family hadn’t been able to see it. He said the ban of stun guns should be considered because they weren’t being used in the proper manner.

Vib Beldaus, representative of the National Alliance for the Mentally Ill said that documented evidence showed that Borden was unstable and was to be taken to the hospital. He asked what in the system broke down to allow someone who really needed medical care to be taken to jail. He said that in other cities, like Fort Wayne, the police had a program that trained them to deal with the mentally ill. This critical incident team had drastically reduced the number of arrests and deaths associated with this type of call. He said the community needs to act to prevent this from happening again.

Diekhoff noted that the county council and commissioners have the jail funding and responsibility under their purview and suggested that the citizens be sure to address those bodies with their concerns also.

There were no appointments.

BOARD AND COMMISSION APPOINTMENTS

There was no legislation for final action at this meeting.

LEGISLATION FOR SECOND READING

It was moved and seconded that the following legislation be introduced and read by title and synopsis only. Clerk Moore read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING

Appropriation Ordinance 04-01 To Specially Appropriate from the Parks General Fund and the General Fund Expenditures Not Otherwise Appropriated (Appropriating Funds from the Parks General Fund to Construct a Storage Facility and Appropriating a Grant from the General Fund – Police Department for Additional Traffic Enforcement)

Appropriation Ordinance 04-01

Ordinance 04-02 To Amend the Bloomington Zoning Maps from CG and RM7 to PUD and to Amend the List of Uses for Parcel C of the Thomson PUD – Re: 405-407 W Patterson Drive (Randy Lloyd/McDoel Ventures, Petitioners)

Ordinance 04-02

Ordinance 04-03 To Vacate a Public Parcel – Re: A Portion of West Grimes Lane Between South Rogers Street and South Madison Street, a Portion of the 12’ Alley Running Approximately 65 feet South of the above Right-of-Way; and, a Portion of the West Side of Madison Street Between Grimes and Patterson Drive (Randy Lloyd/McDoel Grocery, Petitioner)

Ordinance 04-03

Ordinance 04-04 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)

Ordinance 04-04

It was moved and seconded that the council discuss Ordinance 04-04 at the Committee of the Whole on Wednesday, February 11th, and consider it for final action at a Special Session on Wednesday, February 25th or March 3rd if the petitioner is not available that evening.

MOTION TO CHANGE THE SCHEDULE FOR Ordinance 04-04

Dan Sherman, Council Attorney/Administrator, explained that council president Diekhoff could not be present at the meeting on February 18th and had suggested that the public hearing and final action take place on February 25th or March 3rd. He said conversations with a representative of the petitioner revealed he was not in favor of the change, and Sherman said he had not been able to confirm that the petitioner would be present on Feb 25th. He said this motion would give the council the leeway to make the decision regarding the date for final action.

Rollo said he wasn't happy about this change, that it created a hardship for the petitioner who had anticipated a decision on February 18th, but was willing to accommodate this change so that Diekhoff could be present at this hearing.

The motion received a roll call vote of 8-0.

Ordinance 04-05 To Designate an Economic Development Target Area (EDTA) – Re: Woolery Stone Mill Building Located at 2200 West Tapp Road

Ordinance 04-05

Reverend Harold Taylor questioned the council on their reaction to the material presented to them in the earlier public comment period asking why the statement had been made that this was not the purview of the council. He asked if this was true, where do citizens go to try to improve the system?

PUBLIC INPUT

Diekhoff told him to make sure that he and others concerned about this issue take their concerns to the county council, the county commissioners, and the sheriff.

Taylor asked if it was possible for the group to present their ideas regarding a critical incident team, an idea he called a positive proposal, to the council and asked for ten minutes at a future meeting. Diekhoff asked him to speak with the council administrator/attorney after the meeting.

The meeting was adjourned at 8:35 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Michael Diekhoff, President
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington