COMMON COUNCIL
REGULAR SESSION
September 3, 2014

In the Council Chambers of the Showers City Hall on Wednesday, September 3, 2014 at 7:30 pm with Council President Darryl Neher presiding over a Regular Session of the Common Council.

ROLL CALL

Roll Call: Ruff, Sturbaum, Sandberg, Granger, Neher, Mayer, Rollo, Volan, Spechler
Absent: None

AGENDA SUMMATION

Council President Neher gave the Agenda Summation

APPROVAL OF MINUTES

The minutes for the Regular Sessions of August 27, 2014 were approved by a voice vote.

REPORTS

- COUNCIL MEMBERS

Marty Spechler noted his opposition to the recently announced Parks & Recreation Department policy that would require trainers and teachers who hold classes in the city park properties to purchase a permit. He said he would like to hear the arguments for this policy.

Steve Volan said he and Dave Rollo were having a constituent meeting at the Elm Heights Bloomingfoods.

Dave Rollo offered what he called a modest proposal. He talked about the prospect of not doing any more large scale development until the Comprehensive Plan, *Imagine Bloomington*, was completed. He said this would allow the city to take some time, and would allow more public input. He wanted a new comprehensive plan before any more major development.

Darryl Neher announced his constituent meeting on Saturday, September 6, at 11:00 a.m. in the McCloskey Room of City Hall.

- The MAYOR AND CITY OFFICES

There was no report from the mayor or any city offices at this meeting.

- COUNCIL COMMITTEES

There were no committee reports at this meeting.

- PUBLIC

Lisa Marie Napoli invited the council members to attend an October 4th, 2014 event where monks would celebrate a new monastery north of town. She said she would follow this announcement with an email invitation.

APPOINTMENTS TO BOARDS AND COMMISSIONS

It was moved and seconded that Mark Strosberg be appointed to the Bicycle and Pedestrian Safety Commission.
The appointment was approved by a voice vote.

LEGISLATION FOR SECOND READING AND RESOLUTIONS

Resolution 14-16 To Approve an Update to the City of Bloomington's Americans With Disabilities Act Transition Plan

It was moved and seconded that Resolution 14-16 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 9-0-0.
It was moved and seconded that Resolution 14-16 be adopted.

Josh Desmond, Assistant Director of the Planning and Transportation Department, noted briefly that the Americans with Disabilities Act Transportation Plan (ADA Plan) outlined how the city facilities either did comply or would comply with this law in the future. He said the city's updated plan was tied to the ability to receive federal and Housing and Urban Development grant funding. He said that an inventory had been created of all curb ramps and sidewalks in the public right of way. He said they had been evaluated for their compliance, and he noted that there were also cost estimates in planning for upgrades to the facilities that needed change.

Volan asked if there was a difference between the 'low' priority and no priority at all. Desmond said that was the case, and that no cost was involved in those categories.

Resolution 14-16 *(cont'd)*

Spechler wanted to know the action plan for the high priority accessible areas, and how many of these improvements would be made in the next 12-18 months. He wanted assurances more than just words.

Desmond said that as street resurfacings were done, ramps in those areas would be upgraded. He said the city was looking for federal funds through the Metropolitan Planning Organization (MPO) and was pursuing a curb/ramp update through the MPO. Spechler said that was a marginal side activity, and not a real plan. He asked Desmond if it wasn't a lower priority activity. Desmond said there was not one pot of money identified to cover this implementation plan. He said it was a newer priority, and not a low priority activity, that needed to be worked into the program.
Spechler asked for a more defined effort to comply with the law.

Rollo asked if the transition plan was amendable if a particular area was overlooked. Desmond said it was amendable, and it should actually be a living document that got changed as priorities changed.

There were no public comments on this Resolution.

Council comments:
Mayer thanked staff for bringing the city within compliance of the ADA.

Spechler said that intentions were good, and that citizens needed this so he would be voting for it. He said he would watch for action in the next year.

The motion to adopt Resolution 14-16 (which included a page updated after packet distribution -- page 11) received a roll call vote of Ayes: 9, Nays: 0

Ordinance 14-15 An Ordinance to Amend Ordinance 01-04, Establisl the McDoel Conservation District, Ordinance 08-04, Establishing the Prospect Hill Conservation District, Ordinance 11-05, Establishing the Garden Hill Conservation District and Title 8 of the Bloomington Municipal Code Entitled "Historic Preservation and Protection" – Re: Exempting Changes in Paint Color from the Certificate of Appropriateness Requirement, Re-titling Maps and Amending the Municipal Code to Reflect the Full Historic District Status of these Districts

It was moved and seconded that Ordinance 14-15 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 9-0-0.
It was moved and seconded that Ordinance 14-15 be adopted.

Lisa Abbott, Director of the Housing and Neighborhood Development Department, briefly outlined the changes that would be made in the maps and code. She said it would allow people to change exterior paint colors without the necessity to obtain a Certificate of Appropriateness from the Historic Preservation Commission (HPC). She said it would also change the conservation district designation to full historic districts in the Bloomington Municipal Code and on all city maps.

Volan noted confusion in the historic status of the districts. He said that when these conservation districts were created, people thought that they were going to be told what to do with their homes. He wondered if there would be more concerns and changes to come. Abbott said that state statute dictated that this exemption be specifically stated in the ordinance. She noted that all three districts wanted this exemption, and that they were working on design guidelines. Volan noted that there were residents of the districts present, and he wished to hear from them on this issue.

Rollo asked if photovoltaic cells could be added to a property, noting that they were allowed in the past. Nancy Hiestand said that was the case in Prospect Hill, and McDoel Gardens had adopted it in their design guidelines that had been ratified by the HPC. She said this had become a fairly routine thing with specific mention in the guidelines.

Mayer asked if homes could be painted a different color on each side. Abbott said painting would no longer be included in the Certificate of Appropriateness process.

Ordinance 14-15 *(cont'd)*

Public comment:
Elizabeth Cox-Ash spoke for the McDoel Gardens neighborhood. She commended Abbott and Hiestand for their work on this issue, and their support in helping McDoel Gardens amend their plan. She asked the council to support this ordinance. She noted that the guidelines were crafted so that they covered existing homes, aging in place, energy efficiency and privacy fences. She said that there were both 'preferred' and 'acceptable' categories to correspond with different levels of expense. Cox-Ash said that the process took five months. Of the 237 votes on the plan, 69 ballots were returned, 52 of those approved the plan, and 17 were not in favor of the plan. She noted a simple majority was needed to adopt the plan.

Council questions:
Spechler asked if someone who was dissatisfied with the regulations in McDoel Gardens could sell their home. Abbott said they could.

Council comments:
Spechler said color expressed individuality in all parts of life, and was supportive of this change.

Granger thanked the staff, especially Nancy Hiestand, who helped make this happen for home owners.

Sturbaum said two neighborhoods that were concerned about the change got together and listened to each other. He said that through discussion, each neighborhood had customized their own guidelines, and that the process worked well. He was surprised and pleased at the result.

Volan said he was pleased to hear Sturbaum's take on this. He said he expected there to be a lot more changes, more concern, when the only change was paint color. He complemented the staff, neighborhoods and Sturbaum.

Neher said that when the elevation to historic status took place, the McDoel Gardens neighborhood leaders met with Sturbaum and Neher. They weren't aware that the neighborhood had been elevated to a full Historic District. He said the neighborhood discussion and action was a model for how this process should work. He said genuine commitment on the part of the neighbors, Historic Preservation Commission and the HAND Department were to be commended.

Spechler said he would vote for this, even though Historic Districts put restrictions on what could be changed. He added it enhanced the property values in the area, and people who voted against this proposal could always move.

Ordinance 14-15 received a roll call vote of Ayes: 9, Nays: 0.

Resolution 14-14 To Designate an Economic Revitalization Area, Approve the Statements of Benefits, and Authorize Periods of Abatement for Real Property Improvements and Personal Property - Re: Properties at 304 W. Kirkwood Avenue (Elmore Y Orrego, LLC, Petitioner)

It was moved and seconded that Resolution 14-14 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 5-0-4.
It was moved and seconded that Resolution 14-14 be adopted.

Danise Alano-Martin, Director of Economic and Sustainable Development, noted the committee discussion on all the portions of this proposal, and noted that she would recap the project features, the financial impact on the Tax Increment Financing (TIF) district fund, and would address questions that were posed by council members in the committee hearing. She noted that the CEO and Chairman of the LLC, the developer, and the architect for the project were present for this discussion.

She noted this resolution was part of the tax abatement process set by state statute. It defined the Economic Revitalization Area so that a tax abatement could be authorized in that area. Staff recommended a 5 year

abatement for real property (that would be phased in over that period of time). She said that a 10 year abatement for personal property (that included new information technology equipment) was recommended for a full 100% abatement for each of the ten years of the benefit.

She said the next step would be consideration of an ordinance to set an Economic Development Target Area. She said that this was required with retail and/or housing components to a project. She added that the requirement for a public hearing would be satisfied with the discussion of the 'confirmatory' resolution later in the month.

Alano-Martin described the redevelopment of the downtown property that would contain commercial space, possible retail along the B-Line, and market rate residential owner-occupied condos with two residences for the owners of the property.

Addressing questions from the council members in the committee discussion, she noted the following:

- Job and Wage Creation: She said 12 new jobs would be created at this site, and 55 jobs would be retained with wages of $15 per hour.
- Capital Investment: She noted that capital investments would total $14.6 million divided into new construction, public infrastructure and personal property, and this would increase the tax liability on the parcels by seven. Alano-Martin provided details of capital investments and itemized each of the three categories.
- Tax Liability changes: She outlined changes and projected assessments for both personal property and real estate.
- Building Design: She noted there would be parking spaces within the structure for both residential and office uses. She noted that there was a potential for a few on-street parking spaces to be created on Kirkwood.
- Sustainability Features: She said these were provided by the petitioner and referenced both green development and also LEED certification for commercial and residential areas.

Alano-Martin noted the TIF funds would not need to be used for public infrastructure to accommodate this project and, in fact, the development would contribute over $215,000 annually to the TIF account after the abatement period was over, and over $430,000 during the five year abatement period. She noted that this TIF revenue also supported the Certified Technology Park (CTP) redevelopment in the same district.

She noted the 2010 TIF Plan Development Objectives stated many of these same goals with increased employment, adding office space, adding public space, and adding upper story residential uses.

She said the staff believed the proposal would contribute in strong ways to the TIF, the CTP, and the synergy between them.

Rollo asked Tom Micuda, Planning and Transportation Director, if he could relate what would be allowable to be built by right, what a typical proposal would be in terms of scale of the building, and how this proposal would measure in that context. He also asked about uses.

Micuda said the intensity of use, the uses of commercial, retail and residential were fine, but the scale was a little over what was allowed. He said the Plan Commission had granted a height waiver for a recessed fourth floor.

Rollo asked if the plaza area was public or private. Micuda said the plaza encroached on the right-of-way and went through the process for encroachment. He said it was in the public right-of-way and would be accessible to the public.

Rollo asked for the price point for the owner occupied residential units. Alano-Martin, after noting that these were not intended to be student residences, asked the developer to comment.

Greg McHenry said their market survey showed a lack of comparable condo sales in the Bloomington market. He said there was a potential for this type of housing, and the purchase price was based on comparable prices of about $200 per square foot range. He said the price would be between $275,000 and $600,000 depending on the size of the unit.

Spechler asked what percentage of units on the second floor would be occupied by the owners and their families. Alano-Martin said that 100% of the condos on the fourth floor would be occupied by the owners. Spechler asked what percentage of the entire residential space would be occupied by the owners. Alano-Martin said this was 9%.
Spechler asked if this were usual for projects that were awarded tax abatement. Alano-Martin said that she didn't think there were any others that had this component.

Volan asked if a café or restaurant renting commercial space would be permitted to encroach into the plaza area. Alano-Martin said this would go through a public works permitting process as would other restaurants with outdoor seating.

Volan noted the building's metal paneling being described as 'timeless' versus "modern." He asked for an explanation of these design terms. McHenry said he misspoke using the term 'modern' and asked Gary Weaver with Weaver Sherman Design to answer. Weaver said it was a classical form on the first two levels which he called timeless. He also noted different facades along the B-Line. He said metal was used throughout older buildings, too. He said it was designed to not look like it was created in a specific time period.

Sturbaum asked to see the B-Line elevation. He asked for the percentage of the façade that would be covered with metal. Micuda said 21% of the building's Kirkwood face would be metal, and 17% of the building's B-Line face would be metal. Sturbaum said it looked more like the metal portions were the predominant parts of both sides of the building with limestone highlights. He said he did not see this at the Plan Commission hearing. He asked how the percentages were figured.

McHenry said the metal was only on the face of the building on one side and on the bay windows on the other. He said the three dimensional quality of the building skewed the initial perception, and that the recessed parts of the buildings were not metal, but a different material. They calculated the length of the façade, and all the metal panels including metal surrounding the storefront windows on the first floor to derive the percentage of metal material. He said it would not be 'read' as a metal building in reality, and at street level. He said the majority of the 21% of the Kirkwood face was on the third floor of the building and it would not be visible from street level.

Sturbaum asked if the use of metal was a cost saving decision. McHenry said it was not, and he had looked at many materials. He said the choice was not typical in that it was an engineer composite panel that would have all connections concealed behind the panels. He said this would prevent 'waviness' or 'oil canning' and noted the grain of the metal panels would all run in the same direction.

Sturbaum asked about the longevity of the panels. McHenry said they were guaranteed for 30 years but would last beyond that time. McHenry showed the panel and spoke of features that supported the metal and a built in drainage system for moisture. He noted the metal and composite material created a smooth finished edge.

Granger asked about part time employee pay listed at $9.38 per hour in the application for tax abatement. Alano-Martin said the 2014 Living Wage was $12.06 per hour, and that 2015 was being calculated. She said the figure on the application was the current starting wage, and may not be what the employees actually make as a starting employee. She said

Resolution 14-14 *(cont'd)*

that if the project were approved for tax abatement, all positions would need to comply with the Living Wage Ordinance.

Volan asked if there were mechanicals at the top of the building because the roof was used for residences. McHenry said that they were in the garage area where there would be a 14 foot ceiling.

Volan asked if an elevator shaft needed to be located on the top of the building. McHenry said it would go about 3 to 4 feet above the roof line. He said it would be finished in the same way as the rest of the building and adjacent finishes on the roof area.

Volan asked Micuda if the annual number of demolition permits in the city had gone down in the last 20 years. Micuda said they had. Volan asked if a video or three dimensional rendering was required for this proposal. Micuda said developers could do a physical model or do a computer model. He said there were many images (rather than a video) presented to the Plan Commission.

Amendment #2 to Resolution 14-14

This amendment is sponsored by Councilmember Ruff. It would remove the residential condominiums occupied by the principals of Elmore Y Orrego, LLC from eligibility for this tax abatement. The amendment is coming forward pursuant to IC 6-1.1-12.1-2(I)(2), which allows the Council to impose additional reasonable conditions on a tax abatement by resolution that are consistent with purposes in statute and local guidelines.

Ruff moved and it was seconded that Resolution 14-14 be amended by Amendment #2. He explained that the amendment would remove the residential condominiums on the top floor that would be occupied by the owners of the building from tax abatement. He said the state of Indiana already differentiated these types of properties from the 1%, 2%, and 3% tax caps. He said the condos would be taxed at 1% and the commercial units would be taxed at 3%. He said the state already recognized the separate taxable units.

He said he believed it would bring long term benefits to the community as well as being profitable to the owners with $675,000 in annual revenue for 32 units offered as rentals. He referred to the nation's huge wealth inequality that had developed over the past decades and said the inequality in the US was one of the highest in the developed world. He noted that this inequality degraded the democratic system and said every action taken by the council needed to be closely examined to determine how it fit into that larger picture of inequality. He said there might be innocent transfers of wealth in an upward direction, even with good intentions, but this should be carefully scrutinized.

Ruff said he knew the investors were not out to game the system, and had presented a good project. He said the long term tax and financial implications of the proposal were complicated. He said the owner occupancy aspect of the upper floor condo units would be receiving a big tax break from the state anyway, even at a million dollars each. He said in this context, despite his good feeling about the project, he could not support the tax abatement on the personal dwelling units of the relatively high net worth owners.

He said this measure should not affect the project's completion and future, but would make it cleaner and add to its credibility.

Volan asked if there was a fiscal impact figure on the proposal. Ruff said that the rental units were taxed at three times the rate of the known residential units on the top floor. Volan asked for the fiscal impact of this amendment on the entire project. Alano-Martin said she received the amendment within the hour, and quick calculation with assumptions said the difference could be about $120,000 over five years. She reiterated that this was very quick calculation and she could not be entirely certain of the amount until further study was made.

Mayer noted the Economic Development Commission (EDC) had reviewed the proposal and had recommended a five year abatement on the real estate.

Alano-Martin said the EDC had viewed the project in its entirety as a worthy one. She noted the EDC recommended a phased-in abatement until year five when full taxes would be paid. She said the taxes paid under this proposal would be $477,526 while taxes abated would amount to $716,356. She said the administration's position was strongly

Amendment #2 to Resolution 14-14 *(cont'd)*

in support of the entire project as presented. She agreed that this project would fulfill the goal of owner occupied housing in the downtown, with both the top floor units and also the other units. She reminded the council that in the past they had asked for owner occupied units. She noted the owners were long term entrepreneurs in the community, and brought their wealth to the project to invest in creating jobs.

Neher said he remembered from the EDC discussion that the fact that the owners would be living in the building was a factor in using a five year abatement rather than a ten year one allowed by law. Alano-Martin said that since it was market rate residence rather than affordable or reduced rate housing, a five year abatement was recommended instead of one longer than five years.

Ruff noted Alano-Martin said that removing the fourth floor condominiums would reduce the benefit of the tax abatement by $120,000. Ruff said even if the whole building were taxed at a full 3%, it would not amount to that number. She explained her figuring and Ruff still disputed her calculations.

Spechler noted Alano-Martin had said there was value in having the leadership of these entrepreneurs living on site. He asked if having them as leaders, promoters and advisors of the development of the whole block and near the technology park would be worth what the city would lose in taxes that were abated. Alano-Martin said that was true. She added that having the development near the Certified Technology Park (CTP) and having new TIF revenue supporting the development of the CTP were strong public community benefits that would help create new technology jobs. She saw this as a new synergy with indirect economic impact with the new jobs created within this structure. She said having the owners living on site was a factor of sustainability. She added that it would not become college student housing because the owners would influence policies and activities there.

Referring to Ruff's comment on income equality in the US, Spechler asked if he was aware that tax abatements and Enterprise Zone Investment Deductions recently awarded gave benefits to people at the upper end of the income spectrum. Ruff said he was certainly aware of that fact, and noted he was talking about abating taxes on fairly luxurious personal residences. He said it was separate from the purpose of the abatement in helping to create jobs or provide a good mixed use building in the downtown. He said he was supportive of those things, but the partnership of the public and community would be better served without inclusion of personal residences.

Volan asked Alano-Martin about her statement regarding the possible relocation of this business if the tax abatement was not approved. He asked if the project would continue to be developed if the amendment was approved. Alano-Martin said another project was not amenable to making the residences owner occupied, and this project took the staff's recommendation to do so.

Granger and Ruff noted that the amendment only applied to the top floor, the two owner occupied residences.

Volan said it was better to consider the percentage of square footage of the building contained within these two fourth floor units rather than the portion of the number of units he asked for that number. Alano-Martin said she would like to talk to the county assessor on the tax impact of this amendment.

Volan noted he thought the question was relevant, and since this answer might not be readily available, he said he might ask for more time to consider this issue. Greg McHenry said the information was not immediately available.

Amendment #2 to Resolution 14-14 *(cont'd)*

Alano-Martin said the amendment as currently written needed to be tightened up because it didn't include specific parcel numbers and wouldn't until the parcel was built and subdivided. She speculated that as it was written, it might not be something that the auditor could interpret as it was intended.

Neher asked Patty Mulvihill, City Attorney, to express her concerns. Mulvihill said the amendment needed to be written to be more precise so that the county assessor's office would know exactly how to interpret the council's intent. She noted that the administration was not supportive of the amendment, but should it pass, staff would like to see tighter language on September 17th. She said she wanted to talk to Monroe County Assessor Judy Sharp to make sure she had the information needed to make sure the tax abatement was correct.

Neher asked if the amendment needed to pass at this time or if the intent of Ruff's amendment could be added at a later date. Dan Sherman, Council Attorney/Administrator, noted that this resolution would, in the ordinary course of the process, need a confirmatory resolution. He noted that that resolution could both modify and confirm, or even reject Resolution 14-14. He said if the question was not ready to be resolved at this time, it could be done on September 17th with that confirming resolution.

Volan asked for clarification in actual adoption of Resolution 14-14 at this meeting. Sherman said it could be modified by the confirmatory resolution. Neher asked Ruff if this was amenable to him. Ruff said it would be if Sherman thought this was a good way to proceed. Sherman said that in either instance, more specific language would be needed to change Resolution 14-15 at the meeting of September 17th.

Volan asked if Ordinance 14-16 would need to be amended also. Sherman said that ordinance would not need to be changed.

Ruff asked if there was a preference of one procedure over the other. Sherman said it was important that there be a good definition of the exempted property. He said that could be done on September 17th. Neher asked that Ruff to withdraw his amendment and said that on September 17th there would be all the information necessary to judge the amendment on its merits.

There were no public comments on this amendment.

Council comments:
Spechler said he understood Ruff's intention, symbolic as it was. He said the presentation was superb and the project was superb, and the fact that it was supported by Alano-Martin indicated that there would be substantial tangible and other benefits from having the owners on-site. He said that fact was worth not 'disfiguring' the resolution. He said he would vote against the amendment because he said he didn't want to jerk the developer around. He said this was a 'key' starter investment in the Certified Technology Park.

Volan said 'disfiguring' the project was not respectful of the author of the amendment. He said the notion that the council was 'getting in the way of a good project' or 'holding up progress' had not been heard from this petitioner. He said it was incumbent upon the council to ask the questions. He said this also was not a symbolic action, but would have a measurable effect on the tax impact of the project with about half of the taxes abated. He said it was appropriate to take some time to pursue the details.

Sandberg thanked Ruff for bringing the discussion forward in regards to investments of public money. She said the lack of specific numbers would cause her to vote against the amendment at this meeting, but she

Amendment #2 to Resolution 14-14 *(cont'd)*

wanted to hear more. She was skeptical that the condo residential development might not be as successful as the developer desired. She said she appreciated the fact that the owners would occupy the fourth floor.

Ruff expressed appreciation for the council members' willingness to engage in the discussion without full numbers. He said he was grateful that the owners wanted to live downtown in this building. He noted the EDC debated the prospect of abating taxes on market rate residential property and their five year graduated plan rather than the ten year plan allowed by the state. He noted the overall value of the project and the commitment of the owners, but said he was anxious to get harder numbers.

Neher said he would not vote for the amendment. He said the implication was that if the owners didn't live in their own facility, the two residences in question would be eligible for abatement. He said the value of the original plan was in the commitment to work towards owner occupancy in the building and aligned with other commitments made to the EDC on marketing and leasing to non-student populations.

Councilmember Ruff moved to withdraw this amendment. The motion was seconded.

The motion to withdraw Amendment #2 to Resolution 14-14 received a roll call vote of Ayes: 9, Nays: 0

Resolution 14-14 *(cont'd)*

Sturbaum asked Micuda if the brushed stainless steel panels were presented as materials for this development during the hearing of the Plan Commission. Sturbaum said he didn't remember seeing a sample of the material and didn't remember that exterior materials for the building were discussed at the Plan Commission. Micuda said the information was provided to the Plan Commissioners, but there was not an exhaustive discussion about it.

Sturbaum asked Micuda if didn't think that the building would be perceived as a brushed stainless steel building with limestone accents, because that's the way he perceived the building at this point. He added that the percentages of limestone to steel was almost irrelevant against the perception of so much metal and he wanted council to understand that perceptions could be different than what numbers might indicate. Micuda said the B-Line façade had a masonry and brick component, a mixed material building with combinations of metal, masonry and limestone.

Micuda noted that metal was a permissible material in this overlay, and believed that was why the percentages were not discussed at the Plan Commission meeting. He said the predominant materials would be limestone and metal, and he didn't think it would read as a majority metal exterior. Sturbaum asked if the reason this metal was permitted was that it was reflective, but not highly reflective. Micuda said that in each of the six downtown overlays, a list of prohibited materials existed. He said it was not a highly reflective material.

Sturbaum said he finally understood that the materials permitted or not permitted by code did not allow for newer building materials.
He asked how long the planning department operated on the model of "if it's not listed as prohibited, it's okay."

Micuda said when a material was not listed as prohibited, it was available to be used as either a primary or secondary material. He said in most overlay districts, it was available as an option. He said metal allowed for modern design touches and use of color in this area, with less traditional types of architecture.

Sturbaum noted that there could be an all metal building in this overlay. Micuda noted that it was a clearly acceptable material and the code was set up that way.

Rollo asked Micuda for recent buildings that used metal as part of the façade. Micuda noted the Rubicon building on Kirkwood near the corner of 4th Street and Grant. He said masonry was the predominant material but red metal accents were used. He said the design idea was to augment a classic material with a more modern material to put a splash of color on the building, and it had been well received.

Sturbaum asked about galvanized metal as a building material. Micuda said that there was a difference in proposals with that material.

Public comment:
Allison Chopra said she appreciated Ruff and Sandberg's sensitivities to abating taxes in this proposal. She asked that the council not be wooed by owner occupied condos. She related an earlier proposal for condos at the corner of Kirkwood and Washington and noted that they did not sell at the price point similar to the ones in this proposal, and the project did not go forward. She said that with her mortgage calculator and a ten percent down payment, one would have to make three times the living wage to qualify to purchase these residences.
She thought the condos would be attractive for rentals, and perhaps should not receive incentives for development.

Daniel McMullen talked about student housing. He said the market for residences in the downtown would grow.

Council Comments:
Spechler said he would vote for this project. He said the council should not be concerned with the commercial viability of any project that came before them. He said proposals were made by people who were putting their own money at risk, and it was their job to see what the market would bear with price reductions or failure as their other option. He said even if the business failed, the new building would still remain. He said the discussion on aesthetics was presented by qualified architects and it was not the council's job to express views on this as long as the buildings were not endangering the health and safety of the community, transportation, or public policy. He said he would make an exception for truly ugly projects.

Spechler said developers should be allowed to develop, and not have to wait for the Growth Policies Plan to be updated. He said he wanted development as soon as possible.

Rollo noted his disagreement with Spechler adding that there was a public investment in tax abatements. He said it was appropriate to review the aesthetics of the building, use of the building, and the tenancy of the building. He said this was the best hope for owner occupied units in the downtown. He said the petitioner was offering the proposal on good faith, but it was possible that the market would not support owner occupied development. He noted new proposals may have further incentives or restrictions depending how this project fared.

He said the project generated income, brought employment downtown, noted it optimized the use of the property, and had a successful design of a large building to break up a large building face. He said he wasn't sure about the metal component, but thought the project was good.

Rollo reiterated that the rate of development downtown was overcoming the downtown, and that it was the council's responsibility to do something about that and not let the market run amok and let interest rates dictate any development.

He thanked Alano-Martin for her presentation, especially with regards to the TIF projections.

Granger said she liked the owner occupied feature of the project. She thanked Alano-Martin for her attempt at calculating on the quick.

Sturbaum said he didn't mean to put the council in an uncomfortable spot with the issue of metal siding. He said it was a mistake to use stainless steel on this building.

He said he now looked more closely at the permissible materials in the code with a different slant. He said his vote against this would be a protest vote.

Volan said he was concerned about the look of the building and the viability of the owner-occupied condo building. He noted that the aesthetics of the building was a concern of the city as outlined in the Unified Development Ordinance. He said this was the measure by which developments would be judged. He noted his preference for three dimensional models for these projects to avoid surprises or misinterpretations of elevations.

Volan said that he was much more concerned about the viability of a condo project. He believed it was a viable concept and believed there would be a demand for condos, but was concerned that the units might be bought up and rented. He named four projects where many units were rented by their owners, which, he said, made them ineligible for 30 year fixed financing. He said this didn't encourage owner occupancy. He noted that he had asked if there was going to be a restriction on the number of units that would be available for rent. He said the council could have stipulated, for example, that if more than 25% of the units were rented at any one time, the tax abatement would cease. He said he would be interested in pursuing this measure in the next two weeks.

Ruff said he might vote no on the project overall if his amendment were to fail in the future meeting. He asked what it made the most sense to do at this point, abstain or vote no. Sherman said this resolution had to be adopted before the confirmatory vote could take place with amendments on September 17th. Ruff asked if his voting yes on the resolution at this meeting created support he would not be able to retract if his amendment on September 17th failed. Sherman said Ruff was free to vote any way he wished on September 17th's confirmatory resolution, no matter which way he voted on the resolution at hand.

Mayer said aesthetics were difficult as 'ugly' was in the eye of the beholder. He noted his favorite was the Seagram Building in New York City, built in 1959 and made of steel and glass.
He had previously asked for the timeline on the project and said it began in October, 2012, and was decided by the Plan Commission in December, 2013, a total of 15 months. He was sure that they didn't plunk down drawings at the first meeting, but noted there were discussions, examinations of material samples, reviews, and revisions all along the way. He noted that it was supported by all Plan Commissioners and that it was important to understand that entire process from concept to approval.

Mayer said he liked the project, liked the openness of the plaza, and liked the work/live residences.

Neher said he supported the project as it was reviewed by the Economic Development Commission and would continue to support it. He said the challenges of owner occupied units downtown and the willingness of the petitioner to take the risk was part of his reason for support. He said it kept an employment center in the downtown, would decrease tax rates in year two of the project, and had a great geographic relationship to the CTP.

Sturbaum said he liked everything about the project and it was well designed. He said he didn't like symbolic votes and would be voting in favor of the project.

Resolution 14-14 *(cont'd)*

Resolution 14-14 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 2 (Ruff, Volan)

Ordinance 14-16 To Designate an Economic Development Target Area (EDTA) – Re: Property Located at 304 W. Kirkwood Avenue and Identified by the Monroe County Parcel ID Numbers 013-08290-00 013-44860-00, 013-44850-00, 01 08300-002300 (Elmore Y Orrego, LLC, Petitioner)

It was moved and seconded that Ordinance 14-16 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 5-0-3. It was moved and seconded that Ordinance 14-16 be adopted.

Danise Alano-Martin explained that the designation of an Economic Development Target Area (EDTA) was required by state statute in order to enable the authorization of tax abatements on a project that had retail or residential components. She said the EDTA designation could find that the area, building or parcel had been subject to one of a series of factors: a lack of development, cessation of growth, deterioration of improvements, character of occupancy, age, obsolescence, substandard buildings or other factors that impaired values or prevent normal development or use. She said that both Lockerbie Court Condominiums and Madison Park Condominiums had also been similarly designated EDTAs. She said the 'substandard building' applied in this case and the redevelopment from a single use property to a mixed use property was desirable.

There were no council questions on this ordinance.
There were no public comments on the ordinance.

Volan said that a vote for this Ordinance was a vote for mixed use development. He noted the two condo developments mentioned by Alano-Martin did not have this configuration.

Ordinance 14-16 received a roll call vote of Ayes: 8, Nays: 0, Abstain: 1 (Ruff).

LEGISLATION FOR FIRST READING

ORDINANCE 14-17 TO AMEND TITLE 20 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "UNIFIED DEVELOPMENT ORDINANCE" (Revising the Definition of "Standardized Business" Under BMC 20.11.020 [Defined Words])

ORDINANCE 14-17

PUBLIC COMMENT

There was no public comment at this portion of the meeting.

COUNCIL SCHEDULE

It was moved and seconded to cancel the next work session due to lack of agenda items to be discussed.

The work session for Friday, September 5, 2014 was cancelled by a voice vote.

ADJOURNMENT

The meeting was adjourned at 10:42 pm.

APPROVE:

Darryl Neher, PRESIDENT
Bloomington Common Council

ATTEST:

Regina Moore, CLERK
City of Bloomington