

In the Council Chambers of the Showers City Hall on Wednesday, February 1, 2012 at 7:30 pm with Council President Tim Mayer presiding over a Regular Session of the Common Council.

ROLL CALL: Granger, Mayer, Neher, Rollo, Ruff, Sandberg, Spechler, Sturbaum, Volan  
Absent: None

#### AGENDA SUMMATION

Council President Mayer gave the Agenda Summation

#### APPROVAL OF MINUTES

Minutes for June 29, 2011 were approved by a voice vote

#### REPORTS:

##### COUNCILMEMBERS

Marty Spechler said the most urgent issue in the city was the lack of room in the low barrier shelters for homeless persons in the winter weather. He was concerned about the dangerous condition of people who were intoxicated and sleeping in the open. He said he was talking to the administration about possibilities, including using the second floor of an existing shelter. He said he didn't want to see anyone die because of inaction.

Dorothy Granger noted the visit from Gary Mayor Karen Freeman-Wilson, first African-American female mayor in Indiana, to kick off Black History Month events.

Chris Sturbaum noted that Carroll Krause would be speaking on the Showers Brothers Furniture Factory and neighborhood; she would be signing her book as well.

Susan Sandberg noted that her two favorite interests, working in the recovery community and working in social education with the jail population would converge in the Cardinal Stage Company's production of Bill W and Dr. Bob, the story of the founders of Alcoholics Anonymous. She urged folks to support the local stage company.

##### REPORTS: MAYOR and CITY OFFICES

Black History Month Bloomington-Style Steering Committee, Bev Smith and William Hosea, co-chairs of the Black History Month Committee, noted the kickoff event and other events during the month. Smith noted that Karen Freeman-Wilson, the first African-American woman mayor in Indiana would give an address at the kick-off event in the council chambers. Smith and Hosea noted several other events scheduled for the celebration.

Jacqui Bauer, Sustainability Coordinator for the City of Bloomington, noted the upcoming free E-Waste Collection day at the Sanitation Garage.

Bauer and Lisa Abbot, Director of Housing and Neighborhood Development, gave a report on the 2010 and 2011 "Beat the Meter Blitz" energy audits. They also gave a report on the second year of the "MLK Day Energy SWAT" program that served 30 residents and 3 businesses with over 45 volunteers to help homes become more energy efficient. Rollo asked questions about the funding and particulars of the program regarding modeling and carbon equivalence calculations. Spechler commended the turnout of volunteers and noted that his house was one of the ones that had a volunteer team making recommendations.

##### COUNCIL COMMITTEES

There were no reports from any council committee at this meeting.

##### PUBLIC INPUT

Mayer asked for public comment.

Scott Wells spoke about the coal industry and the permitting processing for the industry. He spoke about the different tests regarding toxic discharge from the plants in Indiana. He said solar panels on North Showers were a clean way to use electricity.

CW Poole said he was part of the Occupy Bloomington movement, and showed a photo taken of two people at the event. He said one was an alcoholic who he would not have known except for the Occupation movement. He asked about what help was available for this person in Bloomington. He said the community needed a detox center and asked what we could do to get one. He said that this effort had spun out of working groups to help make change in the world.

Glen Carter noted he was also part of the Occupy Bloomington movement, and thanked Poole for his comments. He said the detox center in Bloomington 20 years ago helped him get back on his feet and into a program to help him deal with alcoholism. He said he'd like to see the council appropriate money for a bottom rung of the 'ladder to sobriety.'

Charis Heisy said she also had become friends with the same alcoholic that Poole spoke about and said he was in grave danger. She said that before the Occupy Movement was moved out of People's Park the group collectively was meeting some of his basic human needs. She said she was encouraged by her open call for a meeting with the Mayor, and enjoyed having tea with him, but said that people still need to have places to assemble freely without time and use restrictions.

#### BOARD AND COMMISSION APPOINTMENTS

It was moved and seconded that the following people be reappointed to their respective board or commission:

David Walter	Redevelopment Commission
Mike Szakaly	Redevelopment Commission
Mike Allen	Bloomington Digital Underground Advisory Commission
Paul Sturm	Bloomington Arts Commission
Martina Celerin	Bloomington Arts Commission
Teri Guhl	Bloomington Human Rights Commission
Valeri Haughton	Bloomington Human Rights Commission
Byron Bangert	Bloomington Human Rights Commission
Julie Hill	Commission on Aging
Sophia Hauserman	Commission on Aging
Mary Balle	Community and Family Resources Commission
Brenda Chapin	Community and Family Resources Commission
Jim Rosenbarger	Bicycle and Pedestrian Commission
Gracia Valliant	Commission on Hispanic and Latino Affairs
Jeff Weber	Traffic Commission
Sarah Ryterband	Traffic Commission
Jim Shakleford	Traffic Commission
Bev Smith	Commission on the Status of Black Males
Ryan Strauser	Board of Housing Quality Appeals

The reappointments were approved by a voice vote.

#### LEGISLATION FOR SECOND READING

Ordinance 12-02 To Amend the Planned Unit Development (PUD) District Ordinance and Preliminary Plan For Parcel C(a) of the Thompson Area PUD – Re: 1140 S. Morton Street (First Capital Management, Petitioner)

It was moved and seconded that Ordinance 12-02 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of do pass 7-0-2.

It was moved and seconded that Ordinance 12-02 be adopted.

James Roach, Senior Zoning Planner gave the overview of the PUD that was created to remove obstacles to redevelopment of the old Thomson/RCA Plant area and an overview of the proposal to amend that PUD to allow multifamily buildings on this tract. He compared the size of the Pocket Park on the property (5,500 square feet) to People's Park (13,300 square feet). He addressed the part of the property that was situated in the flood plain of Clear Creek, noting that there would be no residential use there, and the commercial building would be elevated two feet above the base flood stage. He discussed regional architecture inspirations for the residential and commercial structures.

Spechler asked about another small property adjacent to this tract owned by First Capital. He also questioned the cul-de-sac use of Madison Street near the project.

Rollo asked about species of plants to be used in the landscape plans. Roach said that the permitted plants in the UDO were native species and should be included in a revised landscape plan.

Public Comment brought Scott Wells to the podium. He said he would like to see this developer pay new utilities hook-on fees that had the ability to be increased by the council to match other rate increases as they happened.

CW Poole said he emphatically agreed with Wells, and said the rates should be increased. He said he liked the development because it was an underserved area, it did not involve urban sprawl and it would enhance the B-Line trail. He encouraged this developer and council to develop more affordable housing.

Volan asked the size of the building in relation to a slide shown of an existing building on 10<sup>th</sup> Street. Roach said the slide shown was of a four-plex with one-bedroom units; the proposal had two-bedroom units.

Rollo asked if Jeff Fanyo could speak about the flood plain issue and the fill that would be required for the commercial building.

Jeff Fanyo from Bynum Fanyo & Associates Engineering said that the flood elevations were computed by the state; it was a 725 contour elevation for a 100-year event across the length of the property. He said the commercial building was at 729.56, 4.5 feet above that stage, and therefore was in excess of the two feet allowed. He said the property was unique in that there was a railroad embankment that separated the stream from the property. He said the area was called an ineffective zone because water was probably not going to flow there. He said that state permits were awarded according to these findings.

Volan asked if this flood concern was the reason for parking under the buildings. Fanyo said it was a marketing decision. Volan asked about the maps shown. Fanyo said the flood insurance plans were slightly different than the ones based on the city GIS maps, based on newer information.

Rollo asked if other changes in the flood plain (a riparian buffer at Cook Pharmica) would change the situation in this area. Roach said that a new study might shrink the width of the floodway, but the talk was merely speculation at this point. He said that the Switchyard Master Plan would also have an impact on this area and even downstream.

Granger clarified that the residences were condominiums and that they would each have their own hook-on fee for utilities.

Sturbaum said that this proposal was an enormous improvement over a parking lot and that he would support it. Volan said more owner-occupied new apartment styled housing was needed in Bloomington. He said that 67% of Bloomington housing was rental, and that the vacancy rate for all units in Bloomington was 5.5%. He said if rental costs were to go down more housing needed to be built. He added that affordable housing was older housing and that we needed to keep it, too. He expressed a desire that the commercial building in this development become two-story so that artists could have space on the second floor. Volan said that the connection of Madison through Grimes and Patterson to the southern part of Madison was a missed opportunity and that it reiterated to him that council members should be in on the development process from the beginning.

Volan said he had stated earlier that there was too much space allotted to parking in the proposed development. He said that 46 spaces (12 of which were within the buildings, 12 which were in driveways into the buildings) were planned. He discussed several old models for parking and their newer updated models, and said that while the developer claimed parking was needed to sell units, he believed that ratio of one space per bedroom was too much. He asked people to continue to challenge their assumptions about parking. He said that anything but parking would be a higher and better use of land. He said the project would improve the area overall and would support it.

Rollo said the project had many positive features but that he had problems with building in the floodway. He said that the city took great pains to mitigate impervious surface and to mitigate stormwater impacts with rain gardens and swales. He said that this project would actually fill the area and displace flood water, and since the effect was not known, he would have liked a more recent evaluation. He said in all other respects it was a good project, but that he would not support it.

Spechler noted that affordable housing is created when new housing is created and vacancies become available. He said he didn't believe that vacancy rates were 5.5% and that he believed that number had come from an agency that had not done adequate research. He said that by just looking around, the number of vacancies had to be larger.

Spechler said that additional parking across Patterson Drive was not a good idea because that busy street had fast moving traffic. He said that allowing traffic from Madison to drive through the development to Patterson Drive was a bad idea. He said he would support the plan and hoped that the parcel north of the Pocket Park would be developed in an appropriate manner.

Mayer thanked the developer for working with the neighborhood to make the connection work, and said he thought this was a good project.

Ordinance 12-02 received a roll call vote of Ayes: 8, Nays: 1(Rollo)

Ordinance 12-03 To Amend the Planned Unit Development (PUD) District Ordinance and Preliminary Plan for Tract E of the Thomson PUD – Re: 1525 S. Rogers Street (NSSX Properties, LLC – Warehouse Community Center, Petitioner)

It was moved and seconded that Ordinance 12-03 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of do pass 6-0-3.

It was moved and seconded that Ordinance 12-03 be adopted.

Eric Greulich, Zoning Planner, said that the petitioners wanted to operate a family oriented community center in the warehouse in question and wanted to amend the list of uses that would be allowed there. He said that plans included remodeling both inside and outside of the building, that parking would be upgraded, a stage and theater, office spaces would be created along with recreational use areas. He said that the petitioners were amenable to adding bike parking locations at the council's request. He noted that was the only major change since the committee meeting on this ordinance.

Spechler said he had visited the building and noticed a small creek behind the building. He asked how the creek would affect the outdoor stage and B-Line trail access. He also asked about the older trees on the property. Greulich said that a 25 foot buffer would be created in which trees would be preserved. He said the Thomson PUD gave relaxed preservation, landscaping and environmental standards to properties that had buildings on them.

Bernie Guerrettaz, representative of Bledsoe Riggert Guerrettaz engineering and land surveying firm, said the building was currently not functioning well for roof runoff, and explained the renovations that would allow the runoff to be directed underground to a culvert underneath the building. He said that the B-line elevation also created the swale problem. Greulich said there was localized work in the area that could eventually help the problem of running water in the ditch.

Rollo noted the flood plain surrounded the building and also noted that 43 parking spaces out of 214 were to be on permeable surface, that some trees would be saved and that a sedge meadow would be installed. He asked if the parking lot required any changes or fill. Greulich said that it would be at existing grade. Guerrettaz said that over the past three years the DNR had granted at least three different permits for this site. He said the current plan was more environmentally friendly than what the previous permits allowed. He said he was hesitant to add more permeable pavers in the north part of the lot. Rollo confirmed that the runoff from the parking lot would be going through bio-filtration of some kind.

Mayer asked about antifreeze leaks on permeable surfaces. Guerrettaz said the substance would go through the pavers into the underdrains and then into the rain gardens. He said that the pavers and soil under the pavers would degrade the dripped material to some degree and would slow the process of it being washed into a creek from the surface of a parking lot.

Mike Carmin represented the petitioner. He clarified that the outdoor theater was an option, but if it wasn't agreeable to the Parks and Recreation Department, the outdoor stage would not be built.

Mayer asked that the amendment be introduced.

#### Reasonable Condition 01

Sponsored by Councilmember Neher this Reasonable Condition would require that the petitioner to submit more detailed plans for the outdoor stage addition to Plan Staff for their review and approval. The plans would be submitted after the City's Master Plan for the Switchyard was completed and the petitioner had an opportunity to discuss the addition with the Planning and Parks and Recreation Department. The decision made by Plan Staff would be based, in part, upon the plan's conformance with the zoning and design guidelines recommended in the forthcoming Master Plan.

It was moved and seconded that Reasonable Condition 01 to Ordinance 12-03 to Amend the Planned Unit Development (PUD) District Ordinance and Preliminary Plan for Tract E of the Thomson PUD be adopted.

Neher asked that the outdoor stage be delayed and brought forth under a review process. Mayer noted that the representative of the petitioner had addressed the issue in his previous comments.

After the call for public comment, CW Poole said he liked the amendment. He referred to his previous comment in the committee meeting that was an objection to the use of public funds for a Christian mission. He said he appreciated this reasonable condition as an amendment.

The reasonable condition received a roll call vote of Ayes: 9, Nays: 0.

Volan asked the petitioner to set forth acceptable and unacceptable activities in the building and asked if it could be in writing.

Dennis Smith, President of the Board of The Family Center (the entity that will be leasing and supervising the use of the warehouse) said that the policies were a priority of the board. He said that the board recognized that this was a community asset and that their stewardship was one for the entire community. As requested by the council members, he named the board members as himself as president, Victoria Schopp building owner, Berit (Brewer) Deal, Judge Marc Kellams, Tyce Carmichael, Cheryl Welsh, John Mitchell, Liz Mitchell, Pastor Dennis Laffoon of AME Church, Dr. Earl Craig, and John Buehler.

Rollo asked about the list of the plants enumerated in the petition. He asked if the species would actually be planted if the ordinance were passed. Greulich said yes. Rollo said it was an excellent list and a quite diverse one

Public comment on the ordinance as amended:

CW Poole said it was an amazing project that would be an asset to the community. He commended the petitioner for adding bike parking. He said that without an access into the building from the B-Line, it looked as if the project was 'turning its back' against the B-Line Trail. He requested the name reflect the scope of the center by using "Christian" in the title of the center.

Final Council comments:

Volan said that the intent of the meaning of 'community' would be reflected in the document that outlined the permitted activities of the building. He said that all should feel welcome under the mission of the organization.

Neher said he appreciated the potential for this family center, and appreciated the space that would be available for not-for-profits to be there. He thanked the staff for helping in the crafting of the Reasonable Condition being considered because, he said, it would guide the development along the B-Line Trail and park area.

Granger said this was an improvement over the present site and wished the group luck in building the community center.

Sturbaum said he liked the face the building presented to the street and appreciated the reaction to the simple amendment and wished the petitioner luck in their mission.

Sandberg said we all could support youth activity throughout the community. She said any reluctance on her part was resolved by the amendment about the outdoor performance area.

Rollo noted the aesthetic improvement, and also noted his environmental concern. He said he was happy with the mitigation of storm water, tree preservation and list of grasses and species and limited parking on the site.

Spechler said he welcomed the provision of an indoor performance space at private expense. He also agreed that a permanent amphitheater should be created in the Switchyard Park, and was appropriate for the city to promote that idea.

Mayer thanked Neher for his amendment adding its clarity and perspective was needed. He thanked the petitioner for a good adaptive reuse for the site. He thanked Greulich for his presentation and guidance.

Ordinance 12-03 as amended received a roll call vote of Ayes: 9, Nays: 0.

#### LEGISLATION FOR FIRST READING

Ordinance 12-04 To Amend the Bloomington Zoning Maps from Institutional (IN) to Residential Multifamily (RM) – Re: 718 East 8<sup>th</sup> Street (Cheryl Underwood, Petitioner)

### COUNCIL SCHEDULE

It was moved and seconded that the council revise the schedule for consideration of Ordinance 12-04 by discussing the ordinance at the Committee of the Whole on March 7<sup>th</sup> and placing the ordinance on the regular session agenda for March 21<sup>st</sup> for second reading.

The motion was approved by a roll call vote of Ayes: 9, Nays: 0.

### PUBLIC INPUT

Cheryl Underwood said that she asked to have the ordinance regarding her zoning issue (Ordinance 12-04) delayed and not introduced so that she could make a presentation at this meeting. She said she didn't receive notification that the ordinance was on the agenda for first reading for this meeting.

Dan Sherman, Council Attorney/Administrator said that the rules of the council did not allow for open public comment on items that were on the agenda, even for first reading. He noted that the petitioner had accepted the postponement and that the opportunity for further comment was foreclosed.

Volan said that as the council had just voted to postpone the legislation outside the original legislative cycle, he asked that the petitioner be allowed to speak at this time. He acknowledged that she could speak at meetings on February 15<sup>th</sup> and 29<sup>th</sup> when the item would not be on the agenda.

Sherman said there was room for the chair to make exceptions. Sherman clarified that the motion committed Ordinance 12-04 to a committee discussion on March 7<sup>th</sup> with a regular discussion on March 21<sup>st</sup>.

Sandberg clarified that since this was on the legislative cycle, it was not subject to public comment. Sherman noted that comment at this time would not be orderly or with the benefit of staff input or the input of other parties that might want to be part of the discussion. He noted that there had been a request by a council member to allow for comments, and it could be handled at the discretion of the chair or by moving to suspend the rules.

Volan noted that an item withdrawn from the agenda in other circumstances, and this item could have just been postponed to February 29<sup>th</sup>. He said the denial of Underwood's desire to speak was arbitrary. He made a motion to suspend the rules and it was seconded that Underwood be allowed to speak at this time.

The motion received a roll call vote of Ayes: 9, Nays: 0.

Cheryl Underwood spoke about her property in the University Courts area north of 7<sup>th</sup> Street, and talked about the rezoning of that property from Residential Multifamily to Institutional without her knowledge. She was also dismayed that she was not notified that the legislation related to this property was listed on the agenda for First Reading at this meeting.

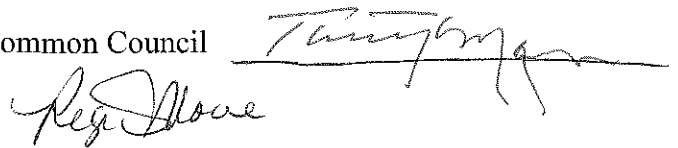
Shawn Kastner continued the Underwood property statement and noted that the only fair and honest approach to this and any other rezoning issue was to notify property owners by certified mail when zoning and other decisions were made about their properties.

### ADJOURNMENT

The meeting was adjourned at 10:15 pm.

APPROVE: /s/ Timothy Mayer, PRESIDENT, Bloomington Common Council

ATTEST: /s/ Regina Moore, CLERK, City of Bloomington

Handwritten signatures of Timothy Mayer and Regina Moore. The signature of Timothy Mayer is written over the word 'APPROVE' and the signature of Regina Moore is written below the word 'ATTEST'.