

In the Council Chambers of the Showers City Hall on Wednesday, May 23, 2007 at 7:30 pm with Council President Dave Rollo presiding over a Special Session of the Common Council.

COMMON COUNCIL
SPECIAL SESSION
May 23, 2007

Roll Call: Wisler, Diekhoff, Ruff, Sandberg, Rollo, Sturbaum, Sabbagh, Mayer
Absent: Volan

ROLL CALL

Council President Rollo gave the Agenda Summation

AGENDA SUMMATION

There were no appointments at this meeting.

BOARD AND COMMISSION
APPOINTMENTS

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 07-08 To Amend the Bloomington Zoning Maps and Zone Property Currently in the Monroe County Planning Jurisdiction to Commercial General (CG) in Anticipation of Annexation – Re: 2501 South Leonard Springs Road (Small Town Properties, Petitioner)

Ordinance 07-08

It was moved and seconded that Ordinance 07-10 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that there was no committee recommendation. It was moved and seconded that Ordinance 07-10 be adopted. Timothy Mayer, Parliamentarian, noted that the public comment portion of this discussion would serve as a public hearing for this item, and that instead of voting on it at the end of the discussion, he would move to forward it to the June 6th meeting for final action.

LEGISLATION FOR SECOND
READING

Ordinance 07-10 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (2501 South Leonard Springs Road)

City Attorney Tricia Bernens noted that the property owner came to the city wanting to be annexed so that the property could be developed into a package liquor store. She noted that the roadways and intersection were annexed into the city in the 1960s and that city services (except police, fire, and animal control) were already provided to the area. She said that the property owner understood that if annexed, the development of the property would be done to city zoning specifications. She said that this property is not within the interlocal agreement within the county, so initial zoning legislation would be needed. If approved, the annexation would take effect on July 10th, different from the regular annexation process because this action was prompted by 100% of the property owners being in favor of this annexation.

President Dave Rollo asked petitioner and property owner Ted Najam if he wished to make a statement. He said he had reviewed the council packet, spoke to both Bernens and Plan Director Tom Micuda, and was present to answer questions the council members might have.

Mayer asked if the city jurisdiction stopped at State Road 37. Micuda said the western boundary of the city was at the western edge of the *old* Wal-Mart site. He added that on the north side of State Road 45, it was Mayfield's Cafeteria property.

Mayer asked if bus service extended that far, and Bernens said that there was bus service to that area along city roads.

Mayer then asked if sanitation service would be extended there, to which Bernens replied that the city does not serve commercial properties with this service, but if it were actually a residence, the service would extend to the new annexed areas.

Sturbaum asked if the city could annex just a road under today's annexation laws. Bernens said sections of road could not be annexed today as in the

1960's. She said the only instance in which this could possibly be done would be if the contiguity standards were met and the property was at least 150 feet wide.

Sturbaum asked about the relocation of a billboard that sat on the property currently. Bernens said that it would be relocated to another location in the county as per county laws. If the property were to come under city jurisdiction before the billboard was relocated, it would not be able to be relocated. She said that the owner was working with the billboard company to remove it before the annexation deadline.

Sturbaum asked about the administration and planning department's position on the annexation. Bernens said that they were supportive. Sturbaum asked what advantage this annexation was to the city. Bernens said there was no great advantage, but there was no great disadvantage, either. She said it was good to add to the tax base as it would spread tax costs out. In this case, costs are small, the process is voluntary, and there would be few new services.

Sturbaum asked about quotas of liquor licenses -- who imposes the regulations, how many were used and how many were available. Bernens said she was not that familiar with these regulations but said that liquor licenses were relegated to incorporated municipal limits. She said that Big Red Liquors had one in reserve and that it planned to use it for this property. Sturbaum asked that more information be provided for the next meeting.

Najam said that Big Red Liquors had one license for a package liquor store, and that according to a recent newspaper article there were 11 allowed in the city and this was the last one. He said it could be used for a store on this property but only if the property was annexed into the city.

Ruff questioned Bernens about this set of circumstances and asked if the county was losing anything. Bernens said they were not losing tax revenue, but was not aware of any other issues except that the county would no longer have control over zoning of this property. Ruff asked if there was any downside to this annexation, to which Bernens said there was nothing that she could think of.

Public Comment:

It was noted once again by Council Attorney Dan Sherman that this segment would serve as the public hearing on the annexation.

Richard Martin, former city Plan Commission member and a present member of the county Plan Commission said he believed there was no downside for either the county or city for this annexation. He said, however, if it would hasten the annexation of Wal-Mart into the city, then City Police instead of the Monroe County Sheriff's deputies could deal with the many police calls from that property. He noted that the bus stop for the area was in the city right-of-way on Leonard Springs Road so Bloomington Transit could legitimately service that stop on city property, while technically not servicing Wal-Mart, which lies outside city limits. He noted that the property in question for annexation was totally surrounded by county property, most of which has been developed. He noted that all residential areas were within county area serviced by City of Bloomington Utilities for sanitary sewer. He noted that the county had a PUD approval on the northwest side of this property, and that there were plans for a gas station on the west side of the road, which he would discuss later.

Martin noted that sometimes Fire Protection District issues slow down annexation timetables, but it was established that this was not a factor in this annexation.

Council comments: There were no additional comments at this time.

It was moved and seconded to forward Ordinance 07-10 to the Regular Motion to Forward to Regular Session on June 6, 2007 for Final Action Session meeting of June 6, 2007 for final action.

Motion to Forward to Regular Session on June 6, 2007 for Final Action

The motion to forward Ordinance 07-10 to June 6, 2007 received a roll call vote of Ayes: 8, Nays: 0.

VOTE

It was moved and seconded that Resolution 07-05 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that there was no committee recommendation. It was moved and seconded that Resolution 07-05 be adopted.

Resolution 07-05 To Adopt a Written Fiscal Plan and to Establish a Policy for the Provision of City Services to an Annexed Area (2501 South Leonard Springs Road)

City Controller Susan Clark presented the timeline and related activities for the Leonard Springs annexation, noting that the timeline was shortened because this was a voluntary annexation and it was covered under a separate section of Indiana Code. Clark said that there were no one time costs for signs, recycle bins, street resurfacing or capital infrastructure. She noted that the estimate of tax revenue would exceed the cost of police, fire and animal control services by about \$200 for the first full year after the annexation. She noted that the streets had been in the city limits for many years, and that the resurfacing had been done by the city.

Mayer asked which governmental entity did the recent improvements to the intersection. Justin Wykoff, Manager of Engineering Services, said that the state maintains State Road 45.

Sturbaum asked Planning Director Tom Micuda if there were any sidewalk issues to discuss. He said that there would be sidewalk requirements whether this property was developed under city or county jurisdiction. Sturbaum asked about signage, referring to the store awning at a Big Red Liquors store at the corner of 2nd Street and Walnut. He asked if the entire awning was considered a sign, or only the lettered parts. Micuda described the awning and said that the lettering and logo portion of the awning were counted as the sign, even though the color of the awning helps to identify the business. He said that the ordinance would need to be changed to do otherwise. He noted a case that came to the Board of Zoning Appeals that agreed with this interpretation of the city sign ordinance.

Wisler asked if the \$504 was a tax revenue estimate and not the whole tax bill for the property. Clark noted that the city tax rate was added on to the county tax rate.

Ruff asked about the calculation of the Fire and Police services. Clark said that the statistics on police calls to liquor stores do not exist, so she used acreage to estimate these costs. She noted that city police calls average about 3.83 calls per acre per year, so she estimated that there would be 4 calls per year to this property. When asked, council member and Police Captain Mike Diekhoff noted that there are not very many calls to liquor stores in Bloomington.

To answer questions regarding the actual acreage of this property, Najam noted that property lines run to the middle of the road, and the state also took part of the property to improve the intersection and therefore, the lot is now sized at .52 acres. There was no public comment on this item.

Resolution 07-05 received a roll call vote of Ayes: 8, Nays: 0.

It was moved and seconded that Ordinance 07-08 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that there was no committee recommendation. It was moved and seconded that Ordinance 07-08 be adopted.

Parliamentarian Mayer noted after the discussion of this item, it too would be forwarded to the meeting on June 6th for a final vote.

Planning Director Tom Micuda said that the intent of this ordinance was to make sure zoning was in place for the Leonard Springs property when its annexation took effect. Micuda used an aerial view and photos to point out the site location, condition and surrounding uses. He noted that this was currently zoned by the county as CA, Commercial. He said that based on surrounding uses, previous use and county zoning, the property owner, staff and the plan commission had settled on the CG zoning.

In reviewing site plan issues, Micuda said that new construction would be addressed with a staff-level site plan review and noted several segments of development that would be examined. He also noted that the access cuts to the property would probably need to be relocated for safety reasons.

Najam noted that the development plan was in progress, and that they were proposing a WYE access control on State Road 45.

Rollo asked if the impervious surface area on the lot would increase. Micuda said it probably would actually decrease 15% as more natural landscaping would be added.

Rollo asked about drainage on the property. Micuda said it would drain to the Northwest, in the opposite direction from Wal-Mart.

Sturbaum asked if there were issues with old underground gas tanks on the property. Najam said that when the intersection was upgraded, the old gas tanks were removed with IDEM approved closure on the site.

Public:

Richard Martin, County Plan Commission member, noted that the drainage on this property was part of an area draining into a karst area and said he was glad that the pervious surface on the property would increase with this development. He gave an overview of the other three corners of the intersection involved in this issue, noting the county Plan Commission's work on requests for other rezones and developments planned for the area. He noted that entrances to the properties on those corners have been moved away from the intersection so that it can function better. He noted that this was one of the most heavily traveled intersections in the entire county.

Martin agreed with the Commercial zoning designation of this property, but wanted to alert the council that after they decided the zoning issue, the position of the driveway and access to the property would be reviewed at the staff level, without council input or deliberation by a public body.

Martin explained that Wal-Mart was required to have 'right in, right out' accesses on Leonard Springs Road and State Road 45. He noted that these driveways were further away from the intersection in question and asked the council to make sure that the same 'right in, right out' access was made a condition of the zoning for the property's rezone. He said the ideal situation would be to allow traffic to turn into the property from the south lane of Leonard Springs Road with no ability to exit the property from that driveway. He noted that this would be the safest plan and the one that would allow the main intersection to function safely for all. He said that the county had worked hard to move ingress and egress away from that intersection and would like to keep it as safe as possible.

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Ordinance 07-08 (cont'd)

Rollo asked Micuda to comment. Micuda noted that the job at hand was zoning designation and that he would not recommend conditioning the zoning designation on site plan review for traffic engineering. He recommended letting the Engineering Department and Planning Department evaluate the proposal to determine what access plan should work with the site. He added that what they were looking at was a conceptual proposal that still needed to go through site plan evaluation and that the traffic review on the proposal of engineering had not yet been done. He said that the staff was well aware of the issue but had not yet determined how it would be addressed.

Sturbaum asked if Micuda and staff might come to the same conclusion as Mr. Martin. Micuda said it was a possibility and that while the access control review was always done, the site itself, its use and the traffic background would be taken into consideration in determining the amount and type of access to the property.

Mayer asked about access control regarding a utility pole on the property. Micuda said there were overhead power lines on the entire site, and that pole limits how far south access points could be, but it was a very preliminary judgment.

Council comments:

Ruff noted that this decision would be simple except for Mr. Martin's concerns and comments. Ruff said he held Martin in high regard and considered him a selfless dedicated citizen with a mastery of understanding planning in the county and the city. He added that Martin's remarks concerned him as one who looked out for the health, safety and well being of citizens, but understood that there was a procedure for city staff to come to the same conclusion.

Sturbaum said he was content to leave further decisions in the staff's hands and was confident that they would take the comments seriously and would make the best decision for the community.

Rollo said he appreciated Martin's comments, and there would be another crack at this in July. He said there would be an opportunity to discuss this with the staff further before the final vote.

The motion to forward Ordinance 07-08 to June 6, 2007 received a roll call vote of Ayes: 8, Nays: 0.

Motion to Forward to Regular Session on June 6, 2007 for Final Action

It was moved and seconded that Ordinance 07-11 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee Do Pass Recommendation of 2-0-3. It was moved and seconded that Ordinance 07-11 be adopted.

Ordinance 07-11 To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles and Traffic" - Re: Parking Near Sixth and Madison Streets

Manager of Engineering Services Justin Wykoff summarized the changes that were proposed for the area using maps and diagrams. He noted that a change from parallel to angle parking would add 5 spaces to the 6th Street area in front of the new Bloomingfoods Market. He noted that parking on Madison Street next to the new market was not presently according to code. He explained that changes would convert all of those spaces to two loading zone spaces in front of two adjacent businesses on Madison, changing the west side of the street to 16 angle parking spaces (with one handicapped accessible) from parallel parking to add 6 spaces to that side of the street with no parking on the east side of that street. He noted islands, curbs, tree plots, sidewalks and new landscaping that were proposed. He noted that Bloomington Glass owners were willing to work with the city to maintain pedestrian sidewalk clearance in front of their business.

Mayer asked for clarification on the Bloomingfoods delivery area, and Wykoff outlined the loading zone area, and noted that large trucks could park at the side of the building while allowing the required 12 foot access in the road for cars to back out of their parking spaces on the west side of the street. George Huntington, General Manager of Bloomingfoods, said that large trucks could be unloaded in anywhere between 4-14 minutes. He noted that the street was not as well traveled as Walnut where such deliveries also take place. Wykoff noted, too, that double parking was not an issue on this spot as it was on Walnut.

Mayer asked if there were improvements planned north of the area in terms of curbing and sidewalk. Wykoff noted there were none planned at this time.

Ruff asked if Huntington had an agreement with Bloomington Glass to share a loading zone. This question was answered fully after the next question.

Wisler asked about visibility while large trucks were unloading in the area. Wykoff noted that the intersection was a four way stop and should allow drivers to assess the roadway before they pull around the corner. Wisler asked about the width of the roadway and Wykoff said that while the street would be narrowed by approving the angle parking on the west side of Madison, it actually would be a better use of the roadway. Wisler asked if the road would have a center line, Wykoff said it probably would not. Wisler asked if new sidewalk and landscaping would be constructed in the area. Wykoff said it would be and indicated the footage needed for the 5 foot wide sidewalks, planters and landscaped area. Wisler said that he was concerned about the narrowness of Madison with the possibility of parked delivery trucks and the sidewalks, planters and landscaped area. Wykoff said that the dimensions of the sidewalk and green structures were weighed against the frequency of deliveries. Concerned about the turning radius for trucks at the corner of 6th and Madison, Wisler asked about the height and construction of the planter there, fearing that trucks would damage the planter in turning.

Sturbaum asked about the plan for the remainder of 6th Street as it intersects with the B-Line Trail. Wykoff said all that was being worked on so that mature trees and sidewalks would enhance the area.

Wykoff noted that other angle parking was being discussed with businesses in the area. Rollo reiterated that Bloomington Glass would be able to pull their trucks into their garage without blocking the sidewalk. He also verified that the loading zone was for all the businesses in the area.

There was no public comment at this time.

Sturbaum said it was a smart way to arrange the parking which he said had been messy for a long time. He said the east side of the street would be better for pedestrians and added that all modes of transportation were considered in the plan.

Mayer thanked Bloomingfoods for bringing this forward. He said it had taken him two city administrations to get this parking situation taken care of and he was grateful they helped.

Ordinance 07-11 received a roll call vote of Ayes: 8, Nays: 0.

The meeting was adjourned at 9:20 pm.

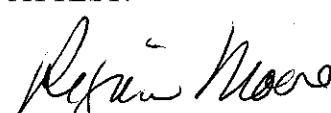
ADJOURNMENT

APPROVE:



Dave Rollo, PRESIDENT
Bloomington Common Council

ATTEST:



Regina Moore, CLERK
City of Bloomington