City of Bloomington
Common Council

Legislative Packet

TUESDAY, 19 September 2017

Regular Session

Please note that the Council will meet on Tuesday, not Wednesday of this week.

All legislation and material contained herein.

Office of the Common Council
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City of Bloomington Indiana

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To: **Council Members**
From: **Council Office**
Re: **Weekly Packet Memo**
Date: **September 15, 2017**

Packet Related Material

Memo
Agenda
Calendar
Notices and Agendas:
Revised Notice: Affordable Living Committee Meetings 2017-2018.

Legislation for Second Reading:

- Ord 17-36 To Waive the Requirements of Bloomington Municipal Code, 2.29, Green Building Program, for the Dimension Mill, 335 W. 11th Street
  - Exhibit 1: Memo from ESD
    - Appendix A: Current Mill Images
    - Appendix B: Proposed Mill Design
  - Memo from ESD: Update on Implementation of Green Building Ordinance
  - LEED® Checklist for New Construction and Major Renovation.

  Contact: Brian Payne, Assistant Director for Small Business Development, Economic and Sustainable Development Department
  812.349.3419 or payneb@bloomington.in.gov

Legislation and Background Material for First Reading:
None

Minutes from Regular Session:

- August 9, 2017
- August 23, 2017

<u>Memo</u>

Reminders:

Regular Session is on *Tuesday* (Not Wednesday) Next Week

The Regular Session next week is scheduled for Tuesday (because Wednesday coincides with Rosh Hashanah – which is the Jewish New Year and, along with Yom Kippur, held ten days later, are also known as the High Holy Days).

There is one item on that agenda which is summarized herein and included in this material.

Following Week – Two Meetings
(Monday, September 25th and Wednesday, September 27th)

Please recall that the deadline for amendments to Chapter 6 (Transportation) and Chapter 7 (Land Use) of the Comprehensive Plan is <u>Tuesday, September 19 at Noon</u>. The packet with these amendments and the budget materials are due for release next Friday for Special Sessions on Monday, the 25th (Comprehensive Plan) and Wednesday, the 27th (Budget Introduction and Hearings). Due to the work associated with the preparation and release of the packet and other staff commitments, it's possible that even some of the amendments submitted by the deadline on Tuesday may not be ready for release next week and would then join the other amendments that need to be considered later in the Comprehensive Plan schedule.

TUESDAY, September 19th – Regular Session
Only One Item Under "Second Readings and Resolutions"

Item One –
Request for Waiver from Requirements of the Green Building Program

Res 17-36 grants the Economic and Sustainable Development (ESD) a waiver from the Green Building Program for the Dimension Mill, located at 335 W. 11th Street. The Redevelopment Commission owns this property and ESD is acting on the RDC's behalf.

☞ *Assistant Director for Small Business Development, Brian Payne, has submitted a detailed Memo outlining ESD's petition for a waiver from the Green Building Program. Such Memo is attached as an exhibit to the resolution. Please consult Mr. Payne's Memo in your review of this matter.*

The Green Building Program: BMC 2.29

The Green Building Program (also referred to as the Green Building Ordinance) is codified in Bloomington Municipal Code 2.29. The ordinance was sponsored by Councilmembers Piedmont-Smith and Rollo in 2009. The goal of this provision is for all occupiable City buildings – new construction, existing, and subsequently-acquired – to be brought up to LEED® Silver certification. LEED® (Leadership in Energy and Environmental Design) is a flexible rating system developed by the U.S. Green Building Council (USGBC) for evaluating the performance of a building from a "whole building" perspective. LEED® outlines prerequisites and credits in five categories: sustainable site planning, energy efficiency, materials selection, indoor environmental quality, and water conservation. Different LEED® standards apply, depending on whether the building is new construction, major renovation, or operation and maintenance of existing buildings. LEED®-NC is the rating system for new construction and major renovation. LEED®-EB:O&M is the rating system for the operation and maintenance of existing buildings. As codified, the purpose of the ordinance is to:

> further the city's commitment to environmental, economic and social stewardship; yield cost savings to city taxpayers through reduced operating costs; provide healthy work environments for staff and visitors; reduce local greenhouse gas emissions; and prepare for a current period of reduced supply of oil and natural gas.
>
> BMC 2.29.010

The ordinance applies to new construction as well as existing and subsequently-acquired occupiable buildings. When it comes to existing and subsequently-acquired buildings, the ordinance calls for any major renovations to "be designed, contracted and built to achieve LEED®-NC Silver certification in the renovated portion of the building."[1] A "major renovation" means an alteration that affects: more than 50% of the total building floor area; or an addition that increases the total floor area by more than 50%; or causes the relocation more than 50% of regular building occupants; or involves replacement of heating, ventilation or air-conditioning systems.[2]

Waiver: The Test

While the ordinance provides that major renovations trigger the requirement that the building be brought up to LEED®-NC standards, the ordinance also includes a waiver provision to address peculiar circumstances of a project that would obviate the goal of the ordinance or exact an unusual hardship on the. In particular, BMC 2.29.050(c) provides:

> If, due to specific circumstances, compliance with this Chapter would defeat the intent of the Green Building Program or create an unreasonable burden on the city department operating under this Chapter, the department may request a waiver from the requirements of this Chapter from the Common Council. The Council may grant a waiver from the requirements of this Chapter upon a finding that the city department requesting the waiver has:
>
> 1) documented the circumstances and burdens at issue; and
>
> 2) developed a reasonable plan to maximize the number of LEED® points attainable.

The ESD Department, on behalf of the Redevelopment Commission ("RDC"), is seeking a waiver from the requirements of the ordinance under this provision for the Dimension Mill.

The Dimension Mill

The Dimension Mill is a historic building located at 335 W. 11th, just south of the Upland Brewery and north of Solution Tree. It was acquired by the RDC from IU in 2012 and is part of the City's 12-acre Certified Technology Park (CTP). In 2013, the RDC completed a *Master Plan and Redevelopment Strategy* (*Plan*) for

[1] BMC 2.29.030(b)(1)
[2] BMC 2.29.020

the CTP. In general, the *Plan* identified as a key guiding principle, the "preservation and adaptive reuse of the contributing historic structures of the Tech Park conserving the cultural and historic industrial fabric of Bloomington for future generations."[3] In particular, the Dimension Mill was cited as a structure targeted for adaptive reuse for business incubation and technology office space.[4] In 2015, the Council designated the Mill, along with buildings at five other addresses within the Showers Brothers Furniture Complex, as historic districts. *See* Ordinance 15-11.

Pursuant to the *Plan*, the RDC voted to move forward with the renovation of the Mill in 2016. In early 2017, the Historic Preservation Commission approved the exterior design via a Certificate of Appropriateness. The ESD department is now working to finalize plans and solicit bids for the restoration of the Mill. As restoration of the Mill requires alteration to the building that affects more than 50% of the total building floor area, this alteration rises to the level of "major renovation" under the Green Building Program and therefore, must be brought up to LEED®-NC Silver standards. Because of the unique circumstances surrounding the use and development of the Mill, ESD is seeking a waiver from the requirements of the Green Building Program. More specifically, ESD is seeking a waiver due to issues of cost, viability/character, and, time.

Wavier Request: As Applied to the Dimension Mill

Again, any waiver of the Green Building Program must be approved by the Council. And, any petition for a waiver must do two things: 1) it must outline the burdens of compliance; and 2) it must develop a reasonable plan for maximizing as many LEED® points as possible. The following summarizes ESD's argument for a waiver. Again, the reader is pointed to Mr. Payne's Memo for the details of ESD's petition.

Burdens of Compliance

As represented by ESD, the burdens of compliance with the Green Building Program, as applied to the Mill pivot on three points: cost, character, and time.

Cost

Bringing the Mill up to LEED® Silver involves two types of monetary costs: hard costs associated with construction and soft costs associated with non-construction costs of the project, such as redesign by architects and engineers, documenting compliance, energy modeling, and LEED® application fees.

[3] Plan, p. 10

[4] Plan, pp. 18 and 35.

- Hard Costs: Payne details the literature on hard costs associated with LEED® Silver certification. He also provides cost citations from the local designer and contractor hired to work on the project. According to local estimates, the hard costs of bringing the historic Mill up to LEED® Silver, would add anywhere from 5 to 12% in hard construction costs.

- Soft Costs: Payne cites soft costs increases associated with attaining LEED® Silver as somewhere between 2 to 9%.

- Total Costs: The renovation budget for the Mill is $3.4 million. Based on the foregoing cost increase assumptions, ESD estimates the cost increases associated with renovation to LEED® Silver standards to be anywhere between $306,000 on the low end to $680,000 on the high end. Where cost lands on this spectrum is a function of whether the estimate is conservative or high. On the low end, ESD locates total soft and hard costs at a 9% increase, or $306,000. On the highest end, the cost estimate is cited to be a 20% increase, or $680,000. The mid-range estimate is anticipated to be a 12.75% increase or $433,500. *Please see Memo* from Payne for detailed assumptions.

- Payback: While LEED® certification comes at a monetary cost, it also comes with energy cost savings, and savings to environmental and human health. Controlling only for energy savings, Payne estimates that even, with a conservative cost estimate of $306,000 and an optimistic savings estimate of $10,000/year (anticipating high energy usage at a tech space, such as this), it will take thirty (30) years to realize a payback on an investment to bring the Mill up to LEED® Silver. *Please see Memo* from Payne for different cost and savings estimates.[5]

[5] Please note that the Green Building Program includes a payback provision. This payback provision is located at 10 years and applies to existing and subsequently-acquired buildings that have been subjected to a two-phase building analysis. BMC 2.29.040 (a)(2)(B). The Mill has not been subjected to such analysis. For that reason, ESD is requesting a waiver from the requirements of the ordinance. Note further that the payback analysis contemplated by the Green Building Program includes monetary costs and energy savings in its cost-benefit analysis, but also calls for the analysis to take into consideration factors such as peak power demand, air pollutants, water, waste, worker health, and productivity. BMC 2.29.020, definitions of "Cost-benefit analysis" and "Payback Period."

Character

The Mill is planned to be used as tech co-working space, office space, and an event venue. According to Payne:

> To effectively serve as a cauldron of innovation, the space itself must be conducive to creativity. In short, it must a place that inspires people. In this respect, the historic character of the Dimension Mill provides an ideal environment. As seen in Appendix B, the proposed design maintains the original brick walls and sawtooth roof, utilizing natural light and exposed wood and metal to create a beautiful, industrial aesthetic. *Memo*, p. 6

Payne states that according to the building's contractors, bringing the Mill up to LEED® standards would compromise much of the interior character of the building: it would likely implicate drywalling the exposed bricks and beams and covering part of the sawtooth roof with insulation. According to ESD, these changes would "defeat the purpose of locating this facility in the Dimension Mill."[6]

In addition, ESD points out that the space is intended to also be used as an event venue and that similar facilities in Indianapolis and W. Lafayette generate about 1/3 of their revenue from facility rental. ESD advises that compromising the historic interior will compromise this revenue stream.

Time

ESD estimates that LEED® construction will delay construction and activation of the Mill from 8 to 16 weeks, pushing the opening date from Fall 2018 to early 2019. According to ESD staff, "[t]his would result in at least two months of lost revenue from membership and rental agreements." Based on a very preliminary *pro forma*, such lost revenue may run approximately $30,000.[7] ESD also writes that delay "risk[s] alienating" those who are contemplating moving their business to Bloomington.[8]

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[6] *Memo*, p. 6

[7] Payne, personal communication.

[8] *Memo*, p. 6.

Plan for Maximizing LEED® Points

LEED® Certification operates on a scale of points attainable according to the LEED® Checklist (also attached). For LEED®-NC, a maximum of 110 points are available. To achieve LEED® Silver, a building must attain 50-59 points. Mr. Payne anticipates that if the project is granted the requested waiver, it will be able to achieve approximately 26 points without incurring significant costs or compromising character. Those points are anticipated to attach to the following**:** sensitive land protection, renovating a historic site, diverse uses of surrounding density, bicycle-friendly facilities, preserving open space, outdoor water use reduction, efficient water metering, building lifecycle impact reduction, construction waste management, utilization of natural light, incorporation of natural views, and, involvement of a LEED® -accredited professional.[9] In addition to the 26 LEED® points outlined above, Payne states that ESD is exploring the possibility of installing photovoltaics on the roof of the Mill and of the Mill serving as a battery storage pilot project. In addition, Payne states that the Mayor is supportive of adding vegetation to the roof.

Council Review

The plain language of the Green Building Ordinance requires that Council's review of a petition for a waiver is focused on whether the department has satisfactorily "documented the circumstances and burdens at issue" and whether the department has "developed a reasonable plan to maximize the number of LEED® points attainable."[10] Res 17-36 makes these findings. In addition, the resolution calls for ESD to report back to the Council on the number of LEED® points attained upon the completion of the renovation. Mr. Payne advises that if the waiver is granted, renovations are expected to be completed in September 2018 and that ESD will report back to the Council on LEED® points attained approximately one month thereafter.

[9] Payne, personal communication. *See also*, Memo.
[10] BMC 2.29.050(c).

NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
6:30 P.M., TUESDAY, SEPTEMBER 19, 2017
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES August 9th, 2017 (Regular Session)
August 23rd, 2017 (Regular Session)

IV. REPORTS (A maximum of twenty minutes is set aside for each part of this section.)
1. **Councilmembers**
2. **The Mayor and City Offices**
3. **Council Committees**
4. **Public***

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READINGS AND RESOLUTIONS

1. Resolution 17-36 – To Waive the Requirements of Bloomington Municipal Code 2.29, Green Building Program, for the Dimension Mill, 335. W. 11th Street

Committee Recommendation None

VII. LEGISLATION FOR FIRST READING

None

VIII. ADDITIONAL PUBLIC COMMENT* (A maximum of twenty-five minutes is set aside for this section.)

IX. COUNCIL SCHEDULE

X. ADJOURNMENT

**Members of the public may speak on matters of community concern not listed on the agenda at one of the two Reports from the Public opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.*

***Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call (812)349-3409 or e-mail council@bloomington.in.gov.*

Posted & Distributed: September 15, 2017

City of Bloomington
Office of the Common Council

REVISED NOTICE

THE AFFORDABLE LIVING COMMITTEE AND ITS SUBCOMMITEES

(Housing and Transportation; Food and Healthcare; Childcare and Employment)

WILL MEET ON THE FOLLOWING DAYS IN 2017 & 2018

All meetings are on Mondays at 12:00 pm.

2017

25 Sept.	Hooker Room (#245)	Housing and Transportation
	Council Library (#110)	Childcare and Employment
	Dunlap Room (#235)	Food and Healthcare
02 Oct.	Hooker Room (#245)	Committee
16 Oct.	Kelly Room (#155)	Housing and Transportation
	Council Library (#110)	Food and Healthcare
	Dunlap Room (#235)	Childcare and Employment
06 Nov.	Hooker Room (#245)	Committee
20 Nov.	Hooker Room (#245)	Housing and Transportation
	Council Library (#110)	Childcare and Employment
	Dunlap Room (#235)	Food and Healthcare
04 Dec.	Hooker Room (#245)	Committee

2018

08 Jan.	Hooker Room (#245)	Housing and Transportation
	Council Library (#110)	Childcare and Employment
	Dunlap Room (#235)	Food and Healthcare
22 Jan.	Hooker Room (#245)	Committee
05 Feb.	Hooker Room (#245)	Housing and Transportation
	Council Library (#110)	Childcare and Employment
	Dunlap Room (#235)	Food and Healthcare
19 Feb.	Hooker Room (#245)	Committee

Pursuant to Indiana Open Door Law (I.C. 5-14-1.5), this provides notice that these meetings will occur and are open for the public to attend, observe, and record what transpires.
Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call 812.349.3409 or e-mail council@bloomington.in.gov.

Posted: 15 September, 2017

City of Bloomington
Office of the Common Council

To Council Members
From Council Office
Re Weekly Calendar – 18 -23 September 2017

Monday, 18 September

12:00	pm	Bloomington Entertainment and Arts District Advisory Committee, Hooker Conference Room
12:00	pm	Board of Public Works Work Session, McCloskey
5:00	pm	Redevelopment Commission, McCloskey
5:00	pm	Utilities Service Board, 600 E. Miller Dr.

Tuesday, 19 September

4:00	pm	Bloomington Community Farmers' Market, Madison St., between 6th and 7th St.
4:00	pm	Board of Public Safety, McCloskey
4:00	pm	Board of Park Commissioners, Chambers
5:30	pm	Animal Control Commission, Kelly
5:30	pm	Bloomington Public Transportation Corporation, 130 W. Grimes Ln.
5:30	pm	Commission on the Status of Children and Youth, Hooker Conference Room
5:30	pm	Board of Public Works, Chambers
6:30	pm	Common Council Regular Session, Chambers

***Please note that the Council will meet on Tuesday, not Wednesday of this week.*

Wednesday, 20 September

9:30	am	Tree Commission, Bryan Park 1001 S. Henderson St.
2:00	pm	Hearing Officer, Kelly
4:00	pm	Board of Housing Quality Appeals, McCloskey
6:00	pm	Council on Neighborhood Associations, Hooker Conference Room

Thursday, 21 September

8:00	pm	Bloomington Housing Authority, 1007 N. Summit
5:15	pm	Solid Waste Management District Citizens' Advisory Committee, McCloskey
5:30	pm	Board of Zoning Appeals, Chambers
7:00	pm	Environmental Commission, McCloskey

Friday, 22 September

No meetings scheduled for today.

Saturday, 23 September

8:00	am	Bloomington Community Farmers' Market, 401 N. Morton St.

*Auxiliary aids for people with disabilities are available upon request with adequate notice. Please contact the applicable board or commission or call (812) 349-3400.

Posted and Distributed: Friday, 15 September 2017

RESOLUTION 17-36

TO WAIVE THE REQUIREMENTS OF BLOOMINGTON MUNICIPAL CODE 2.29, GREEN BUILDING PROGRAM, FOR THE DIMENSION MILL, 335. W. 11TH STREET

WHEREAS, in 2009, the Common Council of the City of Bloomington ("Council") passed Ordinance 09-04, known as the Green Building Program, and codified as Chapter 2.29 of the Bloomington Municipal Code; and

WHEREAS, the purpose of the Green Building Program is to "further the city's commitment to environmental, economic and social stewardship; yield cost savings to city taxpayers through reduced operating costs; provide healthy work environments for staff and visitors; reduce local greenhouse gas emissions; and prepare for a current period of reduced supply of oil and natural gas"; and

WHEREAS, in addition to other requirements, the Green Building Program provides that "major renovations" to existing and subsequently acquired City of Bloomington buildings, which include buildings owned by the Bloomington Redevelopment Commission ("RDC") "shall be designed, contracted and built to achieve LEED®-NC Silver certification standards in the renovated portion of the building" BMC § 2.29.030(b)(1); and

WHEREAS, however, BMC § 2.29.050(c) of the Green Building Program also provides for exemptions from the requirements of the ordinance where:

> (c) If, due to specific circumstances, compliance with [the Green Building Program] would defeat the intent of the Green Building Program or create an unreasonable burden on the city department operating under this Chapter, the department may request a waiver from the requirements of this Chapter from the Common Council. The Council may grant a waiver from the requirements of this Chapter upon a finding that the city department requesting the waiver has:
>
> (1) documented the circumstances and burdens at issue; and
> (2) developed a reasonable plan to maximize the number of LEED points attainable; and

WHEREAS, in 2012, the RDC purchased approximately 12 acres of property from Indiana University, including the Dimension Mill, located at 335 W. 11th; and

WHEREAS, the RDC completed a Master Plan after its purchase of the aforementioned 12 acres, which identified the "preservation and adaptive reuse of the contributing historic structures of the Tech Park conserving the cultural and historic industrial fabric of Bloomington for future generations" as one of the Master Plan's Guiding Principles, p. 10; and

WHEREAS, more specifically, "adaptive reuse" of the Dimension Mill was identified as one objective of the Master Plan, p. 18 and 35; and

WHEREAS, pursuant to this objective, the RDC and the Economic and Sustainable Development Department ("ESD Staff") have worked with architects and the local technology community to identify how to activate the Dimension Mill as tech office space, in accordance with the vision of the Master Plan; and

WHEREAS, after working with the RDC's architects and consultants, ESD Staff does not believe it is possible to both meet the LEED® Silver designation and maintain the desired historic character inside the Dimension Mill; and

WHEREAS, moreover, ESD Staff believes that meeting the LEED® Silver designation will come at a significant cost and which will take at least thirty (30) years to pay back; and

WHEREAS, ESD Staff has prepared a detailed memorandum ("ESD Staff Memo") outlining the financial and qualitative challenges posed by meeting the LEED® Silver designation and presenting the City's plan to emphasize sustainability in the renovation process, a copy of which is attached to this Resolution as "Exhibit 1;" and

WHEREAS, ESD Staff respectfully requests the Council waive the application of the Green Building Program to the Dimension Mill;

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

SECTION 1. The Council finds that due to the specific circumstances outlined in the ESD Memo, compliance with the Green Building Program would create an unreasonable burden on Economic and Sustainable Development Department and the Redevelopment Commission.

SECTION 2. The Council has reviewed the Memo submitted by the Economic and Sustainable Development Department on behalf of the Redevelopment Commission, attached hereto as "Exhibit 1," and finds that the Department has documented the circumstances and burdens at issue with renovating the Dimension Mill to LEED® Silver standards and that the Economic and Sustainable Development Department has developed a reasonable plan to maximize the number of LEED® points attainable.

SECTION 3. The Council hereby grants a waiver from the requirements of the Green Building Program pursuant to 2.29.050(c) for the renovation of the Dimension Mill, 335 W. 11th, as technology-sector office space.

SECTION 4. The Economic and Sustainable Development Department shall take all reasonable steps to maximize the number of LEED® points attained, and shall provide a report to the Council upon the completion of the renovation documenting the number of LEED® points attained.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2017.

_____
SUSAN SANDBERG, President
Bloomington Common Council

ATTEST:

_____
NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2017.

_____
NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2017.

_____
JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

Among other requirements, the City's Green Building Program (BMC 2.29) requires that major renovations to City-owned buildings to achieve LEED® Silver designation. However, the Green Building Program provides that a City department may petition the Council for a waiver from the requirements of the Program where compliance with the Program would create an "unreasonable burden" on the petitioning department and where such department documents the burdens at issue and develops a reasonable plan to maximize LEED® points. This resolution finds that the Economic and Sustainable Development Department has satisfied the waiver requirements for the Dimension Mill, located at 335 W. 11th and grants the requested waiver for this property.

RESOLUTION 17-36

<u>EXHIBIT 1</u>

MEMORANDUM

To: Common Council Members

Cc: Jeffrey Underwood, Controller
Thomas Cameron, Assistant City Attorney
Alex Crowley, Director, Economic and Sustainable Development

From: Brian Payne
Date: September 10, 2017
Re: Waiver from the Green Building Ordinance for the Dimension Mill Renovation Project

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I. Introduction

Dimension Mill Project

The Dimension Mill is a historic building, more than a century old, originally built by the Showers Brothers Furniture Co. to house the design and creation of customized, unique furniture products by master carpenters and skilled laborers. Located at 335 W. 11th St., in the heart of Bloomington's Trades District and Certified Tech Park, it is a 19,000 ft² brick warehouse-style building featuring the signature sawtooth roof seen on Bloomington's City Hall. Since the Showers Brothers Furniture Co. dissolved in the 1950s, the Dimension Mill has been little used, mostly as a storage facility, and fallen into disrepair.

Pursuant to Indiana Code 36-7-32, the Redevelopment Commission (RDC) and the Common Council of the City of Bloomington (City) created a Certified Tech Park (CTP) in Downtown Bloomington and established the required CTP fund to support the project. The RDC purchased approximately 12 acres of property from Indiana University, including the Dimension Mill, for this purpose. In 2013, the City completed a Master Plan and Redevelopment Strategy for the Trades District, envisioning the Trades District as a mixed-use area to support Bloomington's growing technology and life science businesses, facilitate entrepreneurship, nurture start-ups, and provide an attractive, integrated area to drive commercial activity.

As part of this cohesive strategy, the Dimension Mill will be renovated into a business incubator with plentiful co-working space, flexible office space for lease, and a dramatic event venue for networking, professional events, and community use. The Dimension Mill is the lynchpin to the success of the certified tech park: a bustling hub of innovation and entrepreneurial activity that will help drive Bloomington's 21st century economy for generations to come. Ideally, it will be the crown jewel of the

Trades District, the centerpiece of the Certified Tech Park, and one of the City's signature buildings for years to come.

A common lament within Bloomington's tech community holds that despite the necessary components - world-class educational institutions, support from high-performing local anchor businesses, and an affordable, desirable place to live - the City's innovation economy is not firing on all cylinders. The Dimension Mill directly addresses this problem, aiming to unify and strengthen our entrepreneurial ecosystem. It will be a gathering place to connect the fragmented segments of Bloomington's innovation economy to learn from each other, collaborate, and thrive together. The Dimension Mill will also serve as a crucial tool to recruit and retain talent in Bloomington, evidence of our community's commitment to embracing a knowledge-based economy and supporting would-be entrepreneurs.

The Master Plan identified adaptive reuse of the Dimension Mill for business incubation and technology office space as a community objective. On September 6, 2016, the RDC approved the City's proposal to move forward with the Dimension Mill renovation. On February 9, 2017, the Historic Preservation Commission (HPC) approved the exterior renovation design, and Blackline Studios began work on creating a full schematic design and budget estimate. On July 10, 2017, the RDC contracted with Bloomington Economic Development Corporation to establish a nonprofit entity to manage the Mill, and on September 5, 2017, the RDC hired Pat East, CEO of Hanapin Marketing and local tech community leader, to serve as Executive Director of that entity.

We sit at a critical juncture in the progress of the Dimension Mill project. The RDC and the HPC have approved design proposals, and the Mayor has signed off and is ready to move forward. Contractors are already in place to handle remaining design needs, manage construction, and create and execute a strategic vision for the operation of the Mill. However, to finalize specific building plans, create construction documents, and solicit bids for work, the City must know the parameters of the project. This hearing will mark a decision point: whether the Dimension Mill renovation must secure LEED-NC Silver certification per the City's Green Building Ordinance, or whether Common Council will grant a waiver from the specific requirement to pursue LEED-NC Silver certification.

Legislative Backdrop: Green Building Ordinance

The City's Green Building Ordinance, Chapter 2.29 of the Bloomington Municipal Code requires, among other things, that major renovations to existing City Buildings "be designed, contracted and built to achieve LEED-NC Silver certification standards in the renovated portion of the building."[1] However the ordinance further provides that the City may seek a waiver from Common Council if "compliance with this Chapter would defeat the intent of the Green Building Program or create an unreasonable burden on the city department operating under this Chapter."[2]

The Council may grant such a waiver if they find that the City has:

(1) Documented the circumstances and burdens at issue; and

[1] Bloomington Municipal Code 2.29.030 § (b)(1).

[2] Bloomington Municipal Code 2.29.050 § (c).

(2) Developed a reasonable plan to maximize the number of LEED points attainable.[3]

According to Dan Sherman, such a waiver has not yet been formally considered by Common Council.

LEED-NC Silver Certification

Leadership in Energy and Environmental Design (LEED) is among the world's leading green building certification programs. It was developed by the nonprofit U.S. Green Building Council (USGBC) as a set of rating systems for the design, construction, operation, and maintenance of buildings, homes, and neighborhoods to help building owners and operators be environmentally responsible and use resources efficiently.[4]

LEED-NC is the rating system for new construction (NC) or major renovations to existing buildings. It allocates points based on the potential environmental impacts and human benefits of each credit, weighed by the environmental impact categories of the United States Environmental Protection Agency's Tools for the Reduction and Assessment of Chemical and Other Environmental Impacts (TRACI) and the environmental-impact weighting scheme developed by the National Institute of Standards and Technology (NIST).[5]

The LEED-NC checklist allocates a maximum 110 points. Buildings can qualify for four levels of certification:

- Certified: 40–49 points
- Silver: 50-59 points
- Gold: 60-79 points
- Platinum: 80 points and above

The USGBC registers applicants, processes fees, and completes final review of credit applications. Once an application is complete, the review process involves preliminary, final, and possibly appeal stages each taking 20-25 business days.

II. Burdens of LEED-NC Silver Certification for the Dimension Mill Renovation

Financial Costs of Achieving LEED-NC Silver Certification

It is difficult to ascertain the precise costs of securing each individual LEED credit prior to the final construction planning and bidding phase. However, we can estimate the added cost burden of pursuing LEED-NC Silver (hereafter LEED Silver) certification for the Dimension Mill by examining general resources on green building costs. In addition, we can consider the best available estimates provided by qualified individuals familiar with the Dimension Mill project.

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[3] *Id*.

[4] U.S. Green Building Council, available at https://www.usgbc.org/leed.

[5] *Id*, available at: http://www.usgbc.org/ShowFile.aspx?DocumentID=8868.

There are two types of costs associated with pursuing LEED certification: soft costs, which include expenses required to navigate the LEED process, and hard costs, or the actual increased cost of construction required to ensure LEED Silver certification.

- Soft costs, which include redesign effort by the architect and design engineers, commissioning the project, documenting compliance, energy modeling for the project, and LEED application fees. Estimates for the soft cost increases associated with LEED Silver certification range from 2% to 9%.[6][7]
- Hard costs, which refer to the actual construction costs necessary to meet LEED Silver standards. Reports generated by construction consultants estimate the hard cost increases of LEED Silver certification from 5% to 15%, although those refer to new construction rather than the renovation of a historic building.[8]
- The U.S. Green Building Council estimates that LEED accreditation adds 5-10% to the hard costs of a new building project.[9] (This does not include soft costs or account for historic building renovation.)

LEED-certified experts at Blackline Studios and Weddle Bros Construction contracted to assist in the planning, design, and construction of the Dimension Mill, all argue that the large, warehouse-style historic brick building is a particularly ill-suited candidate for LEED certification. The inability to start anew with modern materials, the difficulty of establishing a thermal envelope around the original brick building, and the relatively small scale of this project compared to most new construction LEED projects, among other factors, dramatically increase the relative cost of achieving LEED-NC Silver standards.

- Hard cost estimate from Craig McCormick at Blackline Studio, principal designer of Dimension Mill project, LEED-certified designer:
    - "To attain LEED Silver Certification, we would need to engage a sustainability consultant, which is an upfront cost of $25,000-$30,000…In addition to the cost of the consulting firm, the USGBC States that pursuing LEED accreditation typically imposes a 5-10% increase in the construction budget of a project. MY assumption is that considering the unique factors of our renovation of a historic building, we will add at least a 10% construction budget increase."
- Hard cost estimate from Kelly Abel, Vice President, Weddle Bros. Construction:
    - "In a historic building like [the Mill], I would say between 8 – 12% in hard construction costs."

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[6] "Analyzing the Cost of LEED Certification." Northbridge Environmental Consultants, available at https://greenbuildingsolutions.org/wp-content/uploads/2016/05/LEED-Cost-Analysis-Report.pdf

[7] Mapp, Nobe, and Dunar (2012). "The Cost of LEED—An Analysis of the Construction Costs of LEED and Non-LEED Banks," Journal of Sustainable Real Estate. Available at: http://www.josre.org/wp-content/uploads/2012/09/Cost_of_LEED_Analysis_of_Construction_Costs-JOSRE_v3-13.pdf

[8] *Id* and http://www.hpac.com/archive/true-cost-leed-certified-green-buildings.

[9] According to Platinum Earth, LLC, LEED-certified environmental consultants.

Based on these assumptions, without factoring in the historic building difficulties, projected total cost increases for a $3,400,000 Dimension Mill renovation budget would be:

- Optimistic soft and hard cost estimates (9%) = $306,000
- Mid-range soft and hard cost estimates (12.75%) = $433,500
- High soft and hard cost estimates (15%) = $510,000
- Expert consultants with project knowledge estimates (15-20%) = $510,000 - $680,000

Financial Savings of LEED Silver Certification

The main financial benefit of achieving LEED Silver standards is reduced energy expenditure over time. A 2011 study of U.S. government LEED-certified buildings found LEED-certified buildings to have 25 percent lower energy use than the national average.[10] These government buildings reduced operational costs overall by 19 percent compared to national averages. In one analysis that distinguished between new construction and retrofits, owners of green buildings reported that their ROI improved by 19 percent on average for existing building green projects.[11] The same study found that operating costs for existing buildings declined 13 percent over five years.

Notably, these figures include LEED Gold and Platinum buildings, and do not distinguish between historic and newer structures.

Based on the U.S. Energy Information Administration's finding that office buildings typically spend $1.51/ft² per year on energy consumption,[12] LEED Silver certification would save the Dimension Mill (19,000 ft² = $28690 annually):

- Low energy savings estimate (10%) = $2869/year
- Moderate energy savings estimate (15%) = $4305/year
- High energy savings estimate (25%) = $7172/year
- Optimistic savings estimate for high-energy use per ft² building = $10,000/year

Given its technology focus, the Dimension Mill may well be an above-average per/ft² energy consumer. Even if this is true, the most optimistic cost estimate and energy savings payback schedule combination would be approximately 30 years ($300,000 cost increase at $10,000/year in savings). This is well beyond the 10-year payback cutoff contemplated in § 2.29.040(a)(2)(B) of the Green Building Ordinance.[13]

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[10] U.S. Green Building Council - https://www.usgbc.org/articles/leed-facts.

[11] McGraw Hill Construction (2010). Green Outlook 2011: Green Trends Driving Growth.

[12] U.S. Energy Information Administration, 2013, available at: http://www.dvirc.org/how-much-energy-does-an-office-building-consume/

[13] Bloomington Municipal Code § 2.29.040(a)(2)(B) – "In the interest of maintaining close control of the cost, the city shall pursue the LEED Silver standard only when the payback period is no more than 10 years." It is important to note that this provision is instructive, not dispositive, because a GBO Phase II analysis on the Dimension Mill has not been completed.

Qualitative Sacrifices of LEED Silver Certification

The success of the Dimension Mill depends on its desirability as a co-working space, office space, and event venue. To effectively serve as a cauldron of innovation, the space itself must be conducive to creativity. In short, it must a place that inspires people. In this respect, the historic character of the Dimension Mill provides an ideal environment. As seen in Appendix B, the proposed design maintains the original brick walls and sawtooth roof, utilizing natural light and exposed wood and metal to create a beautiful, industrial aesthetic.

According to each of the project's contractors, achieving LEED Silver certification would require sacrificing much of the interior character of the building. It would likely require covering the exposed brick walls and wood beams with drywall, and covering portions of the interior sawtooth roof with insulation. In essence, adherence to LEED Silver standards would defeat the purpose of locating this facility in the Dimension Mill.

According to their managers, similar facilities (Speakeasy in Indianapolis and Matchbox in Lafayette) derive roughly 1/3 of their revenue from reservations of their event space. Not only will such aesthetic compromises have real financial consequences, but reduced usage also hampers the Dimension Mill's utility as a networking and collaboration center. Finally, it would reduce its effectiveness as a selling point to recruit and retain talent in Bloomington.

Finally, LEED Certification would delay construction and activation of the Mill by at least 8 and up to 16 weeks, including redesign, documentation, Green Building Certification Institute review, and LEED approval phases, likely pushing the opening date from Fall 2018 to early 2019. This would result in at least two months of lost revenue from membership and rental agreements, and risk alienating stakeholders in the community who are considering whether to locate their business in Bloomington.

III. Plan to Emphasize Sustainability and Maximize Attainable LEED Points

50-59 points of a possible 110 are needed for LEED Silver status, 16 of which are unattainable to a project in this location (not in a LEED pre-certified neighborhood development zone).[14] According to Blackline Studios, applicants should aim for at least 65 points, because they may fall short of the intended total during the review process. After consulting with Weddle Bros., Schmidt Architects and Blackline Studios, we believe we can definitely achieve 26 LEED points without incurring significant cost additions or sacrificing the historic and aesthetic character of the Dimension Mill.

We are future-focused in the Dimension Mill's design and construction, but the marginal cost for the remaining LEED points needed for a Silver certificate is extremely high, notwithstanding the soft costs associated with the certification process. For a historic renovation like this, the pursuit of additional LEED points is beset by severely diminishing returns. While strict adherence to LEED Silver standards

[14] U.S. Green Building Council - LEED Credit Library, available at https://www.usgbc.org/credits/new-construction/v4. Neighborhood development Zone credit explanation available at: https://www.usgbc.org/node/2615490?return=/credits.

would jeopardize the financial viability and intended purpose of the Dimension Mill project, waiving the requirement for LEED Silver certification does not mean abandoning the pursuit of sustainability and energy efficiency.

We plan to utilize the City's already-contracted consultants to achieve as many additional LEED points as possible, and to optimize energy efficiency wherever possible. This includes meeting LEED accreditation standards in energy efficient lighting, light pollution reduction, indoor air quality, water management, and public transit and bike accessibility. In addition, we are pursuing other initiatives to enhance the building's energy efficiency:

- In conjunction with Duke Energy, we are exploring opportunities to serve as a battery storage pilot project, which would offer free energy savings to the Mill and potentially yield research benefits in battery storage technology and practices for future citywide use.
- The Mayor is committed to adding vegetation to the roof wherever possible.
- We are also exploring the possibility of installing PV panels on the roof of the building, and will do so if feasible.

Conclusion

Due to the uniquely high costs of LEED Silver certification for this historic renovation, and the importance of maintaining the intended aesthetic for successful achievement of the Dimension Mill's purpose, the Administration requests a waiver from compliance with the Green Building Ordinance. We intend to continue to pursue sustainable and energy-efficient building practices throughout this project, and would be glad to update Common Council on the full suite of LEED points attained once the renovation is complete.

APPENDIX A

VISION STATEMENT

The Trades District, a 12-acre portion of the Bloomington Certified Technology Park is envisioned as a place of innovation, attraction, and job-creation for the City of Bloomington. Located just steps from the downtown district on the site formerly occupied by the historic Shower's Brothers Furniture Company, the Trades District will serve as a thriving cultural and economic destination for the larger community.

PUBLIC ENGAGEMENT

As a continuation of the community outreach efforts that resulted in the 2013 Certified Technology Park Master Plan and Redevelopment Strategy, the City of Bloomington and the Bloomington Redevelopment Commission (RDC) invite you to view and respond to plans for the first phase of site and infrastructure improvements planned for the Trades District. A website has will be available to you through February 6th for review and feedback.

The Bloomington Redevelopment Commission cordially invites you to view these materials on display in the City Hall atrium and to attend an Open House on the evening of January 30th, from 5pm to 7pm in the City Hall Atrium. Come and exchange ideas with City of Bloomington officials and the project designers and hear from Mayor John Hamilton about the future of the Trades District.

DESIGN OBJECTIVES

- Establish Future Development Sites within the Trades District for Continued Public and Private Investment
- Establish A Unique Employment District that Promotes Collaboration, Attracts Employers, and Encourages High-Tech Startup Businesses
- Establish A New Character and Identity for the Trades District through the use of Distinguishing Design Elements and Materials
- Celebrate the Industrial Heritage of the Site and Historic Role of Showers Brothers Furniture within the Community
- Utilize Best Management Practices for Stormwater Management, Sustainable Technologies and Green Infrastructure
- Develop A Pedestrian Oriented Public Environment though the use of Curbless Streets and Enhanced Materials
- Create an Environment that Fosters Public Events, Programming, and Festivals
- Incorporate Opportunities for Public Art

PREPARED BY:
CITY OF BLOOMINGTON / BLOOMINGTON REDEVELOPMENT COMMISSION

CONSULTANT TEAM:
ANDERSON • BOHLANDER, LLC – CRAWFORD, MURPHY & TILLY – BLEDSOE RIGGERT COOPER JAMES

TRADES DISTRICT – SITE & INFRASTRUCTURE IMPROVEMENTS
PLAN VIEW RENDERING

BLACKLINE

EXISTING PHOTO - WEST ELEVATION

BEDC - The Dimension Mill Proposed Modifications - 02.09.17

BLACKLINE

EXISTING PHOTO - EAST ELEVATION

BEDC - The Dimension Mill Proposed Modifications - 02.09.17

BLACKLINE

EXISTING PHOTO - NORTH ELEVATION

BEDC - The Dimension Mill Proposed Modifications - 02.09.17

BLACKLINE

EXISTING PHOTO - SOUTH WEST ELEVATION

BEDC - The Dimension Mill Proposed Modifications - 02.09.17

BLACKLINE

EXISTING PHOTO - SOUTH ELEVATION

BEDC - The Dimension Mill Proposed Modifications - 02.09.17

APPENDIX B

THE DIMENSION MILL

CITY OF BLOOMINGTON / BLOOMINGTON ECONOMIC DEVELOPMENT CORPORATION

VIEW LOOKING WEST ON TRADE STREET

Concept C.2 - August 2, 2017

THE TRADES DISTRICT

BLACKLINE

THE DIMENSION MILL

CITY OF BLOOMINGTON / BLOOMINGTON ECONOMIC DEVELOPMENT CORPORATION

AERIAL VIEW LOOKING NORTH

Concept C.2 - August 2, 2017

THE TRADES DISTRICT

BLACKLINE

THE DIMENSION MILL

CITY OF BLOOMINGTON / BLOOMINGTON ECONOMIC DEVELOPMENT CORPORATION

VIEW LOOKING NORTH AT MILL PLAZA

Concept C.2 - August 2, 2017

THE TRADES DISTRICT

BLACKLINE

THE DIMENSION MILL

CITY OF BLOOMINGTON / BLOOMINGTON ECONOMIC DEVELOPMENT CORPORATION

THE MILL ENTRY - VIEW LOOKING SOUTH ON MADISON STREET

Concept C.2 - August 2, 2017

THE TRADES DISTRICT

BLACKLINE

THE DIMENSION MILL

CITY OF BLOOMINGTON / BLOOMINGTON ECONOMIC DEVELOPMENT CORPORATION

VIEW LOOKING SOUTH-WEST AT MADISON STREET

Concept C.2 - August 2, 2017

THE TRADES DISTRICT

BLACKLINE

THE DIMENSION MILL

CITY OF BLOOMINGTON / BLOOMINGTON ECONOMIC DEVELOPMENT CORPORATION

VIEW LOOKING EAST AT MILL PLAZA

Concept C.2 - August 2, 2017

THE TRADES DISTRICT

BLACKLINE

CITY OF BLOOMINGTON
economic & sustainable development

MEMORANDUM

To: Common Council Members

Cc: Alex Crowley, Director, Economic and Sustainable Development
Thomas Cameron, Assistant City Attorney

From: Brian Payne
Date: September 11, 2017
Re: Update on Implementation Progress of the Green Building Ordinance, Chapter 2.29.040 - Evaluation and upgrade of existing and subsequently-acquired buildings.

Green Building Ordinance Requirements

In addition to prescribing requirements for new construction and major renovations of city buildings, the GBO also stipulates that "all occupiable city buildings should eventually be brought up to at least LEED - EB: O&M Silver standards."[1]

The ordinance also prescribes an evaluation process for "determining the extent and timing by which occupiable City buildings should be upgraded to LEED standards."[2] The evaluation consists of two phases:

(1) Phase I - Basic Inventory: During Phase I, the city shall conduct a limited study of all existing buildings to discern which buildings qualify for Phase II of the evaluation process.
(A) During Phase I, the city shall collect data on existing city buildings, including, but not limited to:
(i) age of the building;
(ii) number of employees who occupy the building daily;

[1] Bloomington Municipal Code 2.29.040 § (a).
[2] Id.

(iii) number of public who visit the building daily;
(iv) existing utility bills;
(v) number of square feet; and
(vi) building type

(B) Phase I shall be completed within one year after the adoption of the ordinance from which this chapter derives.

(2) Phase II - Analysis: During Phase II, the city shall examine systems that effect building performance.

(A) During Phase II, the city's analysis shall include, but not be limited to the efficiency of the following building features:

(i) the building envelope, including the walls, windows, roofs and doors;
(ii) the heating, ventilation and air conditioning system (HVAC) including all fans, boilers, and compressors and the energy that they use;
(iii) the lighting systems including the amount of energy used per square foot for lighting, and the amount of time that the light is on versus the amount of time it is needed; and
(iv) the interior finish systems, their maintenance and the impact they may have on the interior environment.

(B) After the foregoing systems are examined, the city shall perform a cost- benefit analysis of the costs of bringing each building up to LEED Silver. In the interest of maintaining close control of the cost, the city shall pursue the LEED Silver standard only when the payback period is no more than 10 years. In the event the cost-benefit analysis shows the anticipated payback to be more than 10 years, the persons responsible for the project shall recommend to the board having authority over the project which level of LEED certification is appropriate for that particular project. If no level of LEED certification is possible, then the project under consideration shall implement as many components of the LEED program as feasible.

(C) For all existing buildings, Phase II shall be completed by December 31, 2020. Starting January 1, 2011, at least one building per year shall be subjected to Phase II analysis.[3]

Implementation Progress and Plan

City Hall has already received LEED-EB: O&M Silver accreditation. For other occupiable buildings, the City awaits finalization of the Guaranteed Energy Savings Contract to guide future analyses of LEED-EB: O&M Silver viability. Our current next steps include: recertification of City Hall; Police HQ, BCT, Allison Juke Box. With the Guaranteed Energy Savings Contract audits underway, we need to recalibrate to make sure we leverage that GESG fully to stay current with the Green Building Ordinance.

[3] Bloomington Municipal Code 2.29.040.

LEED v4 for BD+C: New Construction and Major Renovation

Project Checklist

Project Name:
Date:

Y	?	N			
			Credit	Integrative Process	1

0	0	0	Location and Transportation	16
			Credit	LEED for Neighborhood Development Location	16
			Credit	Sensitive Land Protection	1
			Credit	High Priority Site	2
			Credit	Surrounding Density and Diverse Uses	5
			Credit	Access to Quality Transit	5
			Credit	Bicycle Facilities	1
			Credit	Reduced Parking Footprint	1
			Credit	Green Vehicles	1

0	0	0	Sustainable Sites	10
Y			Prereq	Construction Activity Pollution Prevention	Required
			Credit	Site Assessment	1
			Credit	Site Development - Protect or Restore Habitat	2
			Credit	Open Space	1
			Credit	Rainwater Management	3
			Credit	Heat Island Reduction	2
			Credit	Light Pollution Reduction	1

0	0	0	Water Efficiency	11
Y			Prereq	Outdoor Water Use Reduction	Required
Y			Prereq	Indoor Water Use Reduction	Required
Y			Prereq	Building-Level Water Metering	Required
			Credit	Outdoor Water Use Reduction	2
			Credit	Indoor Water Use Reduction	6
			Credit	Cooling Tower Water Use	2
			Credit	Water Metering	1

0	0	0	Energy and Atmosphere	33
Y			Prereq	Fundamental Commissioning and Verification	Required
Y			Prereq	Minimum Energy Performance	Required
Y			Prereq	Building-Level Energy Metering	Required
Y			Prereq	Fundamental Refrigerant Management	Required
			Credit	Enhanced Commissioning	6
			Credit	Optimize Energy Performance	18
			Credit	Advanced Energy Metering	1
			Credit	Demand Response	2
			Credit	Renewable Energy Production	3
			Credit	Enhanced Refrigerant Management	1
			Credit	Green Power and Carbon Offsets	2

0	0	0	Materials and Resources	13
Y			Prereq	Storage and Collection of Recyclables	Required
Y			Prereq	Construction and Demolition Waste Management Planning	Required
			Credit	Building Life-Cycle Impact Reduction	5
			Credit	Building Product Disclosure and Optimization - Environmental Product Declarations	2
			Credit	Building Product Disclosure and Optimization - Sourcing of Raw Materials	2
			Credit	Building Product Disclosure and Optimization - Material Ingredients	2
			Credit	Construction and Demolition Waste Management	2

0	0	0	Indoor Environmental Quality	16
Y			Prereq	Minimum Indoor Air Quality Performance	Required
Y			Prereq	Environmental Tobacco Smoke Control	Required
			Credit	Enhanced Indoor Air Quality Strategies	2
			Credit	Low-Emitting Materials	3
			Credit	Construction Indoor Air Quality Management Plan	1
			Credit	Indoor Air Quality Assessment	2
			Credit	Thermal Comfort	1
			Credit	Interior Lighting	2
			Credit	Daylight	3
			Credit	Quality Views	1
			Credit	Acoustic Performance	1

0	0	0	Innovation	6
			Credit	Innovation	5
			Credit	LEED Accredited Professional	1

0	0	0	Regional Priority	4
			Credit	Regional Priority: Specific Credit	1
			Credit	Regional Priority: Specific Credit	1
			Credit	Regional Priority: Specific Credit	1
			Credit	Regional Priority: Specific Credit	1

0	0	0	TOTALS	Possible Points:	110

Certified: 40 to 49 points, **Silver:** 50 to 59 points, **Gold:** 60 to 79 points, **Platinum:** 80 to 110

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, August 9, 2017 at 6:30pm with Council President Susan Sandberg presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
August 9, 2017

Roll Call: Ruff, Chopra, Granger, Sandberg, Piedmont-Smith, Volan, Rollo
Absent: Sturbaum

ROLL CALL
[6:30pm]

Council President Susan Sandberg gave a summary of the agenda.

AGENDA SUMMATION
[6:31pm]

Councilmember Dorothy Granger moved and it was seconded to approve the minutes of June 28, 2017. The motion was approved by voice vote.

Councilmember Steve Volan moved and it was seconded to approve the minutes of July 28, 2017. The motion was approved by voice vote.

APPROVAL OF MINUTES
[6:33 pm]
June 28, 2017 (Regular Session)
July 28, 2017 (Special Session)

Granger reminded people about the upcoming Hoosier to Hoosier resale event.

Councilmember Dave Rollo announced that Geoff Wilson from the Ploughshares Fund would be speaking at Universalist Church about nuclear policies and advocacy in October.

Councilmember Isabel Piedmont-Smith reminded folks that it was the three-year anniversary of the shooting of Michael Brown in Ferguson, Missouri.

Volan spoke about his college visits with his nephew and how West Lafayette was converting all of its one-way streets to two-way streets. He suggested that it was time for Bloomington to do the same.

Sandberg announced that the last Public Safety Local Income Tax Committee (PS-LIT) meeting would be held on August 10, 2017, and spoke about its importance. She also announced an upcoming concert that her band was hosting with guest stars Councilmember Ruff and his talented son Hank.

REPORTS
- COUNCIL MEMBERS [6:34pm]

Adam Wason, Public Works Director, gave the Council an update on the new sanitation fees and schedule. He gave an overview of the changes.

Volan asked if there were any numbers for the recycle bin size.
Wason said that more people chose the smaller carts for the solid waste carts, but he did not have the same information for the recycling bins.

Piedmont-Smith asked about placement of the bins.
Wason said that they would have to work with households that had limited placement options.
Piedmont-Smith asked about large cardboard boxes that would not fit into recycling bins.
Wason said that people would have to break them down to fit them into their carts.

- The MAYOR AND CITY OFFICES [6:44pm]

For Approval

Councilmember Andy Ruff asked for clarification about weight limits.

Wason said that as long as it fit into the bin, and the bin could shut, there was no weight limit.

Rollo asked if smoke detectors were considered hazardous waste.

Volan said that the solid waste district had a list of items that were hazardous.

- PUBLIC

There was no public comment.

APPOINTMENTS TO BOARDS AND COMMISSIONS

There were no appointments to boards or commissions.

LEGISLATION FOR SECOND READING AND RESOLUTIONS [6:58pm]

Resolution 17-34 -- To Approve a Guaranteed Savings Contract - Re: Installation of Solar Panels by Energy Systems Group, LLC

Volan moved and it was seconded that Resolution 17-34 be introduced and read by title and synopsis only. The motion was approved by voice vote. City Clerk Nicole Bolden read the legislation by title and synopsis.

Volan moved and it was seconded that Resolution 17-34 be adopted.

Jacqui Bauer, Sustainability Coordinator, Economic and Sustainable Development, introduced the legislation. She explained that the City was specifically interested in beating the deadlines set by the state legislature in Senate Bill 309 in order to maximize the financial benefits of solar panels. She said that the administration wanted to increase the City's solar capacity to five total megawatts in city facilities by the end of the year. She said that the legislation that evening would allow the contracts to be signed so the work could start on installing solar panels on all of the City facilities by the end of the year.

Council Questions:

Volan asked if there was a plan for storage of energy, such as batteries.

Bauer said that it was something they were looking into for the future, but their current focus was on getting the systems up and running.

Volan asked if the contract rates would apply for city installations completed after December.

Bauer clarified that the project implementation for the solar piece would be completed by December, and that the other dates noted in the presentation referred to the larger energy savings contract.

Volan asked for more information on the required timeline for paperwork.

Bauer said that residents had a deadline of September 15, 2017 to get signed up so that the City could make sure all of their paperwork could be processed with Duke Energy. She noted that the Solarize Residential component was available to all of the surrounding counties as well as Monroe.

Volan asked if there was a limit to the number of installations the City could do.

Bauer said no, but it was possible the availability of panels could be a problem.

Volan asked how long the information sessions for Solarize Bloomington were and for confirmation of the upcoming session dates and times.

Bauer answered that they were an hour long and noted the dates and times.

For Approval

Resolution 17-34 [*cont'd*]

Rollo asked how long the estimated payback time would be from the City's net metering program.

Bauer said that they were still working on the numbers, but estimated about 20 years.

Rollo asked if the City had explored the idea of owning its own utilities as other municipalities had done.

Bauer said that it had not been explored in great detail and that it was a very difficult process.

Piedmont-Smith asked for a review of the financing for the project.

Jeff Underwood, City Controller, explained that the City would enter into a financing agreement with Energy Savings Group (ESG) that would have ESG pay the upfront costs, and the City pay them back through a variety of financing tools over 20 years. He said that every energy project would have a measure to make sure that the savings equaled the payback.

Piedmont-Smith asked if what the City paid ESG back over time could exceed what the City gained in energy savings.

Underwood said that what ESG guaranteed was a minimum savings amount that would then go to pay the debt service. If the savings amount did not reach the minimum promised by ESG, the City would not owe the shortfall.

Piedmont-Smith clarified that, at minimum, the City would break even on the deal, and asked if ESG had something in the contract to benefit its own financial interests.

Underwood said that ESG did and agreed that it was built into the financial agreements.

Granger asked if this was similar to what Monroe County did in the previous year and if it was with the same company.

Underwood said that it was the same type of agreement but a different company.

Public Comment:

Jean Capler asked the Council or staff to comment on the life expectancy and maintenance costs of the solar panels.

Underwood said the panels had a 25-year warranty that included maintenance.

Council Comment:

Councilmember Allison Chopra said she thought it was a great program and thanked staff for their hard work.

Granger thanked Bauer for spearheading the project.

Volan said that it was a good time for the City to go solar and that he liked the idea of a City-owned utility.

Rollo said that it was a wonderful program with great potential.

Vote on Resolution 17-34 [7:23pm]

The motion to adopt Resolution 17-34 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

For Approval

Volan moved and it was seconded that Resolution 17-28 be introduced and read by title and synopsis only. The motion was approved by voice vote. Clerk Bolden read the legislation by title and synopsis, with a committee Do Pass recommendation of 5-1-2.

Resolution 17-28 -- To Adopt the City's Comprehensive Plan

Volan moved and it was seconded that Resolution 17-28 be adopted.

Scott Robinson, Planning Services Manager, introduced the Comprehensive Plan. He said the Council could adopt, reject, or amend the plan. Staff recommended approval of the Comprehensive Plan. He noted that the discussion for that evening was for the scheduling of the review of the plan.

Sherman explained that there were three proposed tracks[1] that were presented to the Council for their consideration of the City's Comprehensive Plan.

Chopra moved and it was seconded to adopt the schedule referred to as Track Three for review of the Comprehensive Plan.

The motion to adopt the schedule referred to as Track Three for review of the Comprehensive Plan received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Vote on Resolution 17-28 [7:41pm]

Volan moved and it was seconded that Ordinance 17-23 be introduced and read by title and synopsis only. The motion was approved by voice vote. Clerk Bolden read the legislation by title and synopsis, giving the committee Do Pass recommendation of 3 - 3 – 3, the Do Pass recommendation of 9 - 0 – 0 on Amendment 01, and noting the Motion to Postpone to August 9th Regular Session was adopted 7 - 0 – 0.

Ordinance 17-23 – To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles and Traffic" - Re: Adding Active Transportation Facility Definitions; Amending Bicycle Operation Parameters; Deleting Prohibition of Coasters, Skateboards and Roller Skates on Streets and Replacing It with Regulation of Coasters; Deleting Bicycle License Requirements, Bicycle License Issuance, Bicycle License Records, and Prohibition of License Decal Removal; Amending Bicycle Rentals; Deleting Bicycle Paths Established and Replacing It with Bicycle Lanes Established; Deleting Right-of-Way of Bicycle Riders on Bicycle Lanes and Replacing It with Use of Bicycle Lanes; Adding Penalties for Violations to Bicycle Parking; Amending Violation and Penalties for Bicycles, Skateboards and Other Foot-Propelled Vehicles from a Class E to a Class G Violation; Adding a Vulnerable Road Users Section and Opening Vehicle Doors Section to the Miscellaneous Traffic Rules; Amending the Class C, D, and G Traffic Violation Sections; and, Deleting the Class E and F Traffic Violation Sections.

Volan moved and it was seconded that Ordinance 17-23 be adopted.

Andrew Cibor, Transportation and Traffic Engineer, gave a review of the history of the ordinance, and how it came to the Council that evening.

Neil Kopper, Project Engineer, went through some of the definitions in the ordinance, as well as some of the language in potential amendments. He also presented information on other cities that were similar to Bloomington for comparison.

Beth Rosenbarger, Bicycle and Pedestrian Coordinator, discussed issues of transportation and equity, specifically as it related to cycling on sidewalks.

For Approval

[1] Attached

Ordinance 17-23 (*cont'd*)

Council Questions:

Rollo asked if staff had considered limiting which sidewalks bicycles could be ridden on rather than issuing a blanket allowance.

Rosenbarger said that legally there could be some changes to limit riding to multi-use paths only. However, she said that it would be difficult for the average citizen to know which paths to use.

Rollo said that signage would be appropriate.

Rosenbarger said that it came down to behavior rather than location.

Rollo asked about an article he read that suggested cyclists were invisible to motorists when they were on the sidewalk.

Cibor said that generally staff would support having other facilities for bike riding. He said that it would be possible to limit the areas where people could bike on sidewalks and that it would entail a lot of signs and markings. He said that the study suggesting cyclists became invisible to motorists was important to be aware of, and that it might also apply to multi-use paths. He noted that other portions of the code addressed the dangers of approaching driveways and intersections.

Kopper added that people already rode on sidewalks, so the hope was to teach appropriate behavior for cyclists.

Volan asked if it was incumbent upon the cyclists to observe traffic in driveways and alleys.

Staff confirmed that it was.

Ruff asked staff if the same concerns for on-road cycling existed with alleyways and intersections.

Cibor agreed that there were similarities between multi-use paths and sidewalks.

Ruff asked if the proposed restrictions for Bloomington would be as stringent as, or more so than, any other community.

Kopper said that Bloomington would include every provision that had been seen in other communities.

Chopra asked what the current comprehensive plan said regarding cycling and healthy habits for the community.

Rosenbarger said that the Growth Policies Plan had some generalities about health and promoted multi-modal transportation.

Rollo asked what the minimum width was for each type of path or sidewalk.

Kopper said that there were some three or four-foot-wide sidewalks, but most were five or six-feet-wide at minimum. The minimum multi-use path width was eight-feet-wide, which was also true for trails.

Rollo asked if the requirement to dismount or exit the facility when passing a pedestrian allowed cyclists to ride in the grass.

Kopper said that he was not aware of anything that prohibited it.

Volan asked for a more detailed explanation of a presentation slide titled "Pedestrians and Bicyclists on the B-Line, April 2017," which Rosenbarger then provided.

Chopra asked if there was anyone from the City Legal Department who could explain per se negligence.

Barbara McKinney, Human Rights Director/Attorney, explained that if someone violated a rule and caused an injury, the fact that the person violated the rule would contribute to that person being fined or arrested.

For Approval

Ordinance 17-23 (*cont'd*)

Ruff asked if people could use the right of way when passing on bicycles, just as they do when walking.

Kopper said that he was not aware of anything that prohibited it.

Rollo asked why the City did not limit riding on sidewalks to places that lacked biking facilities, and prohibit it on other sidewalks.

Rosenbarger said that the intent of the proposal was to decriminalize rational and safe behavior. She said that it was not intended to make up for the lack of bicycle facilities but was meant to allow someone who was riding safely to avoid getting ticketed. She said that they did not want to encourage riding on sidewalks, but they recognized that not all riders felt safe on the streets.

Rollo asked how many tickets were issued for that type of behavior.

Rosenbarger did not know, but suggested that leaving the law on the books to be arbitrarily enforced was not good policy.

Volan asked if there was a plan and budget for signage.

Cibor said that if the ordinance passed with some of the proposed amendments, there was funding for ramp decals, but he did not have detailed information.

Piedmont-Smith asked what educational and outreach plans were in place.

Rosenbarger said they planned to use the website, video links, press releases, and bicycle maps. She said the city also worked with IU to make certain that the information was also shared on IU's websites and events. She mentioned bike month, social groups, and other outreach events.

Cibor added that staff would be able to reach out to schools and share information that way as well.

Rollo asked what staff would be needed for enforcement.

Rosenbarger said that there was a grant for targeted enforcement through the fall.

Kopper noted that the legislation would allow police to only focus on behaviors that were problematic.

Rosenbarger added that people would only get ticketed when the violation was directly observed by an officer.

Public Comment:

Jean Capler thanked the Council for its consideration of the ordinance and spoke in favor of being able to ride on sidewalks.

Carol Wise spoke in opposition to allowing bicycles on sidewalks.

Anne Bono, Greater Bloomington Chamber of Commerce Director of Advocacy and Public Policy, spoke in opposition to the ordinance.

David Sabbagh spoke in opposition to allowing bicycles on sidewalks.

Amendment 01 to Ordinance 17-23

Granger moved and it was seconded to adopt Amendment 01 to Ordinance 17-23.

Amendment 01 Synopsis: This amendment is sponsored by Cm. Granger and would replace the word "dog" with the words "service animal" as it appears in BMC 15.56.025 regarding "Regulation of Coasters." This change would be consistent with the use of the term "service animal" as it appears elsewhere in the code (see BMC 15.56.020 - Operating Bicycles).

For Approval

The motion to adopt Amendment 01 to Ordinance 17-23 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Vote to adopt Amendment 01 to Ordinance 17-23 [8:47pm]

Chopra moved and it was seconded that Amendment 02 to Ordinance 17-23 be introduced.

Amendment 02 to Ordinance 17-23

Amendment 02 Synopsis: This amendment is sponsored by Cm. Chopra with Councilmember Granger as co-sponsor. It would prohibit operating a bicycle (and, in other words, require the dismounting of a bicycle) on sidewalks along Kirkwood Avenue from Sample Gates to and including the Courthouse Square. In addition, this amendment states that signage shall be in place before enforcement of this requirement and that it be in the form of markings on the sidewalk (rather than sign placed on a pole).

Chopra explained why the amendment required markings on the pavement for dismount zones. She also explained that the areas in the amendment were very heavily traveled by pedestrians.

Granger added that it was not safe to have bicycle traffic on sidewalks in the downtown area. She said that she was open to expanding the streets as suggested in Amendment 04.

Volan asked what staff thought of the amendment.

Council Questions:

Rosenbarger said that they thought it was reasonable, but were apprehensive about codifying sidewalk marking requirements.

Volan asked the sponsors how they felt about loosening the marking requirements.

Chopra said that she did not want to see more vertical signs in the downtown area.

Sandberg asked if there were other areas in the city that might need dismount zones.

Chopra said that most of the other areas did not have the same level of congestion.

Sandberg said that she would be interested in expanding the dismount zone to include the entire downtown area.

Chopra said that the purpose of the amendment was to address areas of crowding, such as theater exits, not general safety issues, which could occur anywhere.

Rollo said that he supported the amendment.

Council Comment:

Ruff said that he was sensitive to staff's reservations, but he supported the amendment.

Granger moved and it was seconded to amend Amendment 02 to Ordinance 17-23.

Cibor commented that there were some other differences in the amendment from the proposed Amendment 04 that he did not want the Council to miss in their deliberations.

Piedmont-Smith said that she thought the sidewalk marking requirement was not feasible, and since the dismount zone was the same as Amendment 04, she would vote against Amendment 02.

Volan clarified a point about signage, and indicated that he was not inclined to support the amendment because of its similarity to Amendment 04.

For Approval

The motion to adopt the amendment to Amendment 02 to Ordinance 17-23 received a roll call vote of Ayes: 6, Nays: 0, Abstain: 1(Chopra).

Vote to adopt the amendment to Amendment 02 to Ordinance 17-23 [9:05pm]

Volan asked Ruff to comment on the amendment and how it dovetailed with Amendment 04.

Ruff said that it had the same streets listed as a dismount zone, but did not require pavement marking only.

Volan clarified that signage was not required in his amendment.

Ruff agreed.

Sandberg asked if Ruff would be willing to add a friendly amendment to address signage.

Ruff said that if someone wanted to come up with something he would add it to the amendment.

The motion to adopt Amendment 02 as amended to Ordinance 17-23 received a roll call vote of Ayes: 4, Nays: 3(Sandberg, Volan, Piedmont-Smith), Abstain: 0. FAILED

Vote to adopt Amendment 02 as amended to Ordinance 17-23 [9:05pm]

Rollo moved and it was seconded that Amendment 03 to Ordinance 17-23 be introduced.

Amendment 03 to Ordinance 17-23

Amendment 03 Synopsis: This amendment is sponsored by Cm. Rollo and would make it illegal for a person over the age of 13 to operate a bicycle on a sidewalk.

Rollo explained that the provision was meant to replace a past provision based on wheel size with a provision based on age.

Chopra asked if the amendment meant that all of the other restrictions passed that evening would only apply to children riding on sidewalks.

Rollo said yes, he thought it was a reasonable safety precaution.

Chopra asked if there was any other provision in the city code targeted at people under the age of 14.

Rollo said yes, they were required to wear bicycle helmets.

Council Questions:

Piedmont-Smith spoke about the difficulty of the issue, and said that she thought the upcoming Amendment 04 would be sufficient to allay concerns about biking on sidewalks. She said she was not in favor of Amendment 03 because limiting restrictions to children only was not sufficient.

Council Comment:

Chopra said that she was not in favor of the amendment.

Ruff said that he opposed the amendment because it nullified most of the goals of the overall policy change. He added that there was not any evidence that allowing cyclists on sidewalks created a hazard to pedestrians.

Volan said that he was not in favor of the amendment.

Rollo noted that adopting the ordinance as a whole would mean that it applied to all ages, including those under age 13. He also pointed to a study that provided evidence of hazards to cycling on sidewalks.

Granger said that she supported the amendment.

Ruff said that his comments were about the safety of pedestrians, not about the cyclists, and the logic of the amendment was flawed.

For Approval

Ordinance 17-23 (*cont'd*)

Sandberg said that she understood the intent of the amendment, but thought Amendment 04 could address the same issues in a better manner.

Chopra said that new, progressive policies were scary, and the Council needed to avoid decisions based on anecdotes based in fear.

Volan agreed with Chopra that the Council should not legislate based on fear. He said that he supported the ordinance overall but not the amendment.

Rollo said that a truly progressive policy would be implementing adequate infrastructure rather than offering a poor conflict of cyclists versus pedestrians.

Sandberg said that based on constituent feedback she would not support this amendment, but would support Amendment 04 if it were adjusted.

Vote to adopt Amendment 03 to Ordinance 17-23 [9:43pm]

The motion to adopt Amendment 03 to Ordinance 17-23 received a roll call vote of Ayes: 2(Granger, Rollo), Nays: 5, Abstain: 0. FAILED

Amendment 04 to Ordinance 17-23

Councilmember Andy Ruff moved and it was seconded that Amendment 04 to Ordinance 17-23 be introduced.

Amendment 04 Synopsis: This amendment is sponsored by Cms. Ruff and Piedmont-Smith and has been prepared in concert with the Planning and Transportation staff. It rewrites BMC 15.56.020 ("Operating bicycles") in order to address concerns about allowing the operation of bicycles on sidewalks. In brief, the changes clarify when and how a person operating a bicycle may pass (as opposed to dismounting and walking past) a pedestrian and also identify areas in the downtown where persons must dismount and walk their bicycle.

Ruff explained the amendment and thanked staff for the work that they put into developing the amendment.

Council Questions:

Volan asked for a summary of what the amendment changed in the proposed ordinance.

Kopper said that most of it put the emphasis on giving pedestrians right of way, adding a dismount zone, and prohibiting passing within three feet. He added that there were also some small language changes.

Volan asked for clarification of when cyclists had to dismount.

Kopper said that it was when pedestrians were present and within three feet or if it was in the downtown area.

Rollo asked who would be enforcing the provisions and how many personnel it would take.

Ruff said that the provisions would decrease the enforcement burden and would allow officers to target undesirable behavior.

Rollo clarified that the amendment offered seven specific provisions that were more difficult to enforce than merely riding on the sidewalk.

Ruff said that it was not simpler, but that it decreased the overall scope.

Rollo asked how likely it was to be enforced.

Ruff said that officers would have the opportunity to issue tickets just as they could for moving violations.

Not Approval

Ordinance 17-23 (*cont'd*)

Chopra added that it would add enforcement opportunity and would provide a legal avenue for pedestrians to sue cyclists who might hit them in violation of the city code.

Piedmont-Smith moved and it was seconded to amend Amendment 04 to Ordinance 17-23 by including additional streets. The motion was approved by voice vote.

Granger moved and it was seconded to amend Amendment 04 to Ordinance 17-23 by changing the signage requirements. The motion was approved by voice vote.

Council Comment:

Rollo said that he supported the amendment but expressed concerns about enforcement.

Volan said that he supported the amendment.

Piedmont-Smith thanked Ruff and the staff for their work on the amendment. She said that the amendment put the onus on cyclists to act responsibly on sidewalks. She said she thought enforcement would be a problem.

Sandberg said that the issue was something that could be taken to constituents with some responsibility on the cyclist and that she supported the amendment.

Vote to adopt Amendment 04 as amended to Ordinance 17-23 [10:04pm]

The motion to adopt Amendment 04 as amended to Ordinance 17-23 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Amendment 05 to Ordinance 17-23

Piedmont-Smith moved and it was seconded that Amendment 05 to Ordinance 17-23 be introduced.

Amendment 05 Synopsis: This amendment is sponsored by Cm. Piedmont-Smith. It adds a new part to Section 3 (regarding BMC 15.56.020 ("Operating bicycles") that would, in most circumstances, prohibit anyone over the age of 15 from operating a bicycle on a sidewalk where a bicycle lane is available. The term "available" includes a bicycle lane that is unobstructed, serves the same direction of travel as the cyclists, and is located within the same right-of-way as the sidewalk.

Council Questions:

Volan asked for the opinion of staff.

Rosenbarger expressed concerns about diverse users in the community and different comfort levels.

Kopper added that the amendment was not clear on what was meant by right-of-way.

Piedmont-Smith offered to amend the language to clarify the right-of-way. She also said that she wanted to encourage more usage of bike lanes.

Piedmont-Smith moved and it was seconded to amend Amendment 05 to Ordinance 17-23. The motion was approved by voice vote.

Council Comment:

Ruff said that he did not support the amendment.

Rollo asked staff if there were counts of use of trails and paths for bicycle use.

Rosenbarger said they could do some on the streets and they had some installed around the city. She said that temporary counters for bicycles were possible, but pedestrians had to be counted manually.

For Approval

Ordinance 17-23 (*cont'd*)

Rollo said that he supported the amendment because he preferred that people use the bike lanes.

Chopra said that she did not support the amendment because it changed the purpose of the ordinance as a whole. She also noted that the amendment did not specify a penalty for violation.

Piedmont-Smith said that the penalty was listed in section three of the ordinance.

Volan said that he did not support the amendment.

Piedmont-Smith moved and it was seconded to amend Amendment 05 to Ordinance 17-23 by changing right-of-way to block. The motion was approved by voice vote.

Sandberg said that she supported the amendment because it encouraged bike lane use.

Vote to adopt Amendment 05 as amended to Ordinance 17-23 [10:23pm]

The motion to adopt Amendment 05 as amended to Ordinance 17-23 received a roll call vote of Ayes: 4, Nays: 3 (Ruff, Chopra, Volan), Abstain: 0. FAILED

Amendment 06 to Ordinance 17-23

Piedmont-Smith moved and it was seconded that Amendment 06 to Ordinance 17-23 be introduced.

Amendment 06 Synopsis: This amendment rewrites BMC 15.56.025 ("Regulation of Coasters") in order to address concerns about allowing the operation of coasters on sidewalks. In brief, the changes clarify when and how a person operating a coaster may pass (as opposed to dismounting and walking past) a pedestrian and also identify areas in the downtown where persons must dismount and walk their coaster.

Piedmont-Smith moved and it was seconded to amend Amendment 06 to Ordinance 17-23 by adding additional streets. The motion was approved by voice vote.

Piedmont-Smith asked if signage for dismount zones could include coasters.

Cibor said yes.

Granger moved and it was seconded to amend Amendment 06 to Ordinance 17-23 by changing the signage requirements. The motion was approved by voice vote.

Volan asked for the opinion of staff on Amendment 06.

Kopper said that staff was supportive.

Vote to adopt Amendment 06 as amended to Ordinance 17-23 [10:31pm]

The motion to adopt Amendment 06 as amended to Ordinance 17-23 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Council Comment:

Granger said that she voted on the amendments to make the legislation more palatable but she did not support the final product.

Volan said that it was a difficult decision but that he was going to vote yes.

Chopra said that she was going to vote yes because the ordinance made cycling more accessible. She also thanked staff.

For Approval

Ruff thanked staff for their work and said that he supported the ordinance.

Ordinance 17-23 (*cont'd*)

Rollo explained why he would be voting no on the ordinance.

The motion to adopt Ordinance 17-23 as amended received a roll call vote of Ayes: 5, Nays: 2 (Granger, Rollo), Abstain: 0.

Vote to adopt Ordinance 17-23 as amended [10:50pm]

Chopra invoked the 10:30pm rule of the Council.

Volan moved and it was seconded that Ordinance 17-24 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 3 (Granger, Sandberg, Volan), Nays: 4, Abstain: 0. FAILED

Ordinance 17-24 – To Amend Title 15 of the Bloomington Municipal Code (BMC) Entitles "Vehicles and Traffic" - Re: Deleting BMC Chapter 15.36 (Resident-Only Parking Permits)

There was no legislation for first reading.

LEGISLATION FOR FIRST READING

Jim Blickensdorf, Bloomington Parking Commission, spoke about Ordinance 17-23.

PUBLIC COMMENT

Sherman reminded the Council that budget hearings were scheduled for the following week starting at 6pm.

Volan asked if the Council could schedule the hearings for the same starting time as regular meetings in the future.

Sherman agreed to look into it for the following year.

COUNCIL SCHEDULE [10:55pm]

Granger clarified that the PS-LIT meeting the following night was at 6:30pm not 7:00pm.

The meeting was adjourned at 10:58pm.

ADJOURNMENT

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2017.

APPROVE:

_____
Susan Sandberg, PRESIDENT
Bloomington Common Council

ATTEST:

_____
Nicole Bolden, CLERK
City of Bloomington

For Approval

Alternatives to Consideration of the Comprehensive Plan – Modified Track 1 (~ Weekly) and Modified Track 2 (~Every Other Week)			
Day/Date	Modified Track One – ~ Weekly Meetings (along with Deadlines for Submitting Amendments and Distribution of Amendment Packets)	Modified Track Two – ~Every Other Week Meetings (along with Deadlines for Submitting Amendments and Distribution of Amendment Packets)	Track Three – Isabel's Proposal
Note: Meetings are Highlighted in Yellow			
August			
Fifth Week			
Tuesday, August 29th	Presentation Hearing[1] on Chapter 4: Downtown	Presentation Hearing on Chapter 4: Downtown	Presentation Hearing on Chapter 4: Downtown
September			
First Week Other Scheduled Meetings: Regular Session			
Tuesday, September 5th	*(Finish Previous Meeting's Work – if necessary) and hold* Presentation Hearing on Chapter: 6: Transportation and Chapter 7: Land Use		Deadline for amendments to Ch. 4
Friday, September 8th	Deadline for Amendments – Re: Chapters 4, 6 & 7		
Second Week Other Scheduled Meetings: Committee of the Whole			
Tuesday, September 12th	*(Finish Previous Meeting's Work – if necessary) and hold* Presentation Hearing on	*(Finish Previous Meeting's Work – if necessary) and hold* Presentation Hearing on	Consideration of amendments to Ch. 4 Presentation Hearing on Ch. 6 and Ch. 7

[1] Presentation Hearing includes: presentation by staff; questions by Council members; comment by the Public; comment by Council (after possible additional questions by Council); and any formal motions by the Council followed by a Motion to Recess until the next meeting. No formal motions on amendments are expected at these hearings.

	Chapter 5: Housing and Neighborhoods	Chapter: 6: Transportation and Chapter 7: Land Use	
Thursday, September 14th		Deadline for Amendments – Re: Chapters 4, 6 & 7	
Third Week – Other Scheduled Meetings: Regular Session (on Tuesday)			
Monday, September 18th	*Finish Previous Meeting's Work – if necessary) and hold* Presentation Hearing on Chapter 3: Environment		
Tuesday, September 19th			Deadline for amendments to Ch. 6 and 7
Friday, September 21st	Deadline for Amendments – Re: Chapters 3 & 5		
Fourth Week – Other Scheduled Meetings: Budget Special Session and Committee of the Whole			
Monday, September 25th		*(Finish Previous Meeting's Work – if necessary) and hold* Presentation Hearing on Chapter 5: Housing and Neighborhoods	Consideration of amendments to Ch. 6 & 7 Presentation hearing on Ch. 5
Friday, September 29th	Distribution of Amendment Packet #1 covering Chapters 3, 4, 5, 6 & 7		

October			
First Week Other Scheduled Meetings: Committee of the Whole			
Tuesday, October 4th	*Finish Previous Meeting's Work – if necessary) and hold* Presentation Hearing on the remaining parts of the Plan: Introduction and Executive Summary; Community Profile; Chapter 1 Community Services & Economy; Chapter 2: Culture & Identity; and Appendix *This will be followed by general comments regarding the Plan and then a Motion to Schedule Consideration of Contents in Amendment Packet #1.*		Deadline for amendments to Ch. 5
Friday, October 7th	Deadline for Amendments – Re: Introduction and Executive Summary; Community Profile; Chapter 1; Chapter 2; and Appendix		
Second Week Other Scheduled Meetings: Special Session (Budget)			
Tuesday, October 10th			Consideration of amendments to Ch. 5 Presentation hearing on Ch. 3
Friday, October 13th	Distribution of Amendment Packet #2 covering Introduction and Executive Summary; Community		

	Profile; Chapter 1; Chapter 2; and Appendix		
Third Week Other Scheduled Meetings: Regular Session			
	Further Meetings and Deadlines will be subject to additional motions by the Council.		
Tuesday, October 17th		*(Finish Previous Meeting's Work – if necessary) and hold* Presentation Hearing on Chapter 3: Environment	Deadline for amendments to Ch. 3
Thursday, October 19th		Deadline for Submission of Amendments on Chapters 3 & 5	
Fourth Week Other Scheduled Meetings: Committee of the Whole			
Tuesday, October 24th			Consideration of amendments to Ch. 3 Presentation hearing on Executive Summary, Community Profile, Ch. 1&2, Appendix
Thursday, October 26th		Distribution of Amendment Packet #1 covering Chapters 3, 4, 5, 6 & 7	
November (and Last Two Work Days in October)			
Fifth Week of October and First Week of November – Other Scheduled Meetings: Regular Session			
Tuesday, October 31st		*(Finish Previous Meeting's Work – if necessary) and hold* Presentation Hearing on the remaining parts of the Plan: Introduction and Executive Summary; Community Profile; Chapter 1	Deadline for amendments to Executive Summary, Community Profile, Ch. 1&2, Appendix

		Community Services & Economy; Chapter 2: Culture & Identity; and Appendix *This will then be followed by general comments regarding the Plan and then a* *Motion to Schedule Consideration of Contents in Amendment Packet #1.*	
Thursday, November 2nd		Deadline for Submission of Amendments on Introduction and Executive Summary; Community Profile; Chapter 1; Chapter 2; and, Appendix	
Second Week Other Scheduled Meetings: Committee of the Whole			
Tuesday, November 7th		*Further Meetings and Deadlines will be subject to additional motions of the Council.*	Consideration of amendments to Executive Summary, Community Profile, Ch. 1&2, Appendix Review of document as a whole
Third Week Other Scheduled Meetings: Regular Session			
Thursday, November 9th			Final document issued on city website (staff will only have to add amendments passed Nov. 7th)
Wednesday, November 14th			Final vote at regular session.
Fourth Week No Meetings - Thanksgiving			
Fifth Week Other Scheduled Meetings – Committee of the Whole			
December			

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, August 23, 2017 at 6:30pm with Council President Susan Sandberg presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
August 23, 2017

Roll Call: Sturbaum, Ruff, Chopra, Granger, Sandberg, Volan, Piedmont-Smith, Sims, Rollo
Members Absent: None

ROLL CALL
[6:30pm]

Council President Susan Sandberg gave a summary of the agenda.

AGENDA SUMMATION
[6:31pm]

Sandberg officially welcomed new Councilmember Jim Sims.

REPORTS

- COUNCIL MEMBERS
[6:33pm]

Councilmember Steve Volan discussed the events of August 11th and 12th in Charlottesville and proposed it as a topic of conversation for the body during the meeting. He stated that such events could affect Bloomington in the future.

Councilmember Isabel Piedmont-Smith said that the actions in Charlottesville were unacceptable, as were the U.S. President's. She explained that Bloomington must prepare for the eventuality of white supremacist's coming to the community.

Volan added that Bloomington experienced a white supremacist shooting in his district in 1999.

Councilmember Jim Sims echoed the comments of Volan and Piedmont-Smith about the protests in Charlottesville. He thanked the community for electing him. He ensured constituents that he took all community concerns seriously, especially those involving civil rights, justice, and racial discrimination.

There were no reports from the Mayor or city offices.

- The MAYOR AND CITY OFFICES

- PUBLIC COMMENT
[6:39pm]

Jim Blickensdorf, with the City of Bloomington Parking Commission, welcomed Sims. He shared data about total parking citations in the months of June and July. He noted a downward trend in the number of total citations, which he labeled as alarming. He said he brought this data forward to the Council so that councilmembers could enquire about a shift in parking enforcement priorities or increasing the number of enforcement officers. He stated that enforcement was important not just for revenue but to ensure that visitors to the Bloomington area had parking spaces.

APPOINTMENTS TO BOARDS AND COMMISSIONS
[6:42 pm]

Councilmember Dorothy Granger moved and it was seconded to appoint Stephen Volan as Council Parliamentarian. The motion received a roll call of Ayes: 9, Nays: 0, Abstain: 0.

Volan moved and it was seconded to appoint Councilmember Jim Sims to the Utilities Service Board. The motion received a roll call of Ayes: 9, Nays: 0, Abstain: 0.

Granger moved and it was seconded to appoint Councilmember Andy Ruff to the Community Development Block Grant Funding Citizens Advisory Committee. The motion received a roll call of Ayes: 9, Nays: 0, Abstain: 0.

Sandberg appointed Councilmember Allison Chopra as Chair of the Jack Hopkins Social Services Funding Committee.

For Approval

Volan moved and it was seconded that Ordinance 17-33 be introduced and read by title and synopsis only. The motion was approved by voice vote. City Clerk Nicole Bolden read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING
[6:46 pm]

Ordinance 17-33 – An Ordinance of the City of Bloomington, Monroe County, Indiana, Amending zoning maps from industrial general to institutional and from industrial general to residential high-density multi-family regarding 1611 South Rogers Street, City of Bloomington

Volan moved and it was seconded that Resolution 17-35 be introduced and read by title and synopsis only. The motion was approved by voice vote. City Clerk Nicole Bolden read the legislation by title and synopsis.

LEGISLATION FOR SECOND AND SUBSEQUENT READINGS
[6:48 pm]

Volan moved and it was seconded that Resolution 17-35 be adopted.

Resolution 17-35 – To Approve Refunding Bonds of the City of Bloomington Park District in an Amount Not to Exceed Six Million Dollars to Refund the City of Bloomington, Indiana Park District Bonds of 2009

Jeffrey Underwood, Controller, explained that the resolution would refund the original 2009 Parks bond issued in the amount of $6.45 million for the Twin Lake's Recreational Center. He stated that there was $4.975 million remaining that would be refunded and estimated a gross savings of $350,000 (with a net present value of $290,000). He said the Parks Board approved the resolution the previous night during its meeting.

Council Questions:

Piedmont-Smith noted that the resolution contained a property tax clause and asked for comment.

Underwood explained that, though the bond would be paid for out of revenue from the Recreational Center, it was common to also ensure that the bond could be paid for with property taxes if revenues were insufficient. He said the city had no plans to pay for the bond with property taxes.

Councilmember Dave Rollo asked whether there were any plans to add any debt during the refunding process.

Underwood said no, and provided additional information about the process.

Piedmont-Smith asked for additional clarification regarding the issuance range within the ordinance.

Underwood explained that a variety of factors could influence the issuance amount and interest rate. He explained the bonds would not be issued if the city could not achieve a savings.

The motion to adopt Resolution 17-35 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Resolution 17-35
[6:53 pm]

For Approval

Volan moved and it was seconded that Ordinance 17-33 be introduced and read by title and synopsis only. The motion was approved by voice vote. Clerk Bolden read the legislation by title and synopsis.

Ordinance 17-33 – To Amend the Zoning Maps from Industrial General (IG) to Institutional (IN) and from Industrial General (IG) to Residential High-Density Multifamily (RH) - Re: 1611 S. Rogers Street (City of Bloomington)

Volan moved and it was seconded that the Council consider Ordinance 17-33 under second reading with the possibility that the ordinance could be passed at the same meeting at which it was introduced.

Council Questions:

Chopra asked why the ordinance was being considered at only one meeting instead of following the normal process.

Daniel Sherman, Council Attorney, responded that the Council was already familiar with the proposal. He added that the developer in question would be able to receive funding more promptly if the Council acted quickly.

Chopra stated she had not received any constituent concerns or feedback on the ordinance. She asked if any other councilmembers had received constituent feedback. No councilmembers had received any concerns. She added that the short time frame reduced the public's ability to weigh in on the issue.

Volan asked staff to explain the need to hear and deliberate on the ordinance at during the meeting.

Eric Greulich, Zoning Planner, said that he had received a few calls during the Plan Commission process, but none had been negative. He said he could not comment on the Council's own requirements for voting unanimously to hear the matter in one evening.

Volan asked Sherman to elaborate on the need to hear the ordinance in one meeting.

Sherman responded that getting control of the site, through the rezoning initiative, was important for the developer to acquire financing.

Volan repeated his question, asking if anyone else in the room could speak to the question.

Deborah Myerson, Executive Director of South Central Indiana Housing Opportunities (SCIHO), introduced herself, and asked for the Council to consider the ordinance before September 8th to help SCIHO bolster its application for funding.

Rollo asked what further review processes would be available as the development proceeded.

Greulich indicated that the review process would likely involve the Board of Zoning Appeals and possibly the Plan Commission. He noted that the development would not necessarily be required to go before the Plan Commission.

Councilmember Chris Sturbaum confirmed that the development would not be a planned unit development (PUD).

Greulich said that was correct.

The motion that the Council consider Ordinance 17-33 under second reading received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to consider Ordinance 17-33 under second reading [7:04 pm]

For Approval

Ordinance 17-33 (*cont'd*)

Greulich explained that the ordinance was a request from the Parks Department to rezone a portion of property that was purchased as part of the redevelopment for the McDoel Railroad Switchyard property. He noted the location and size of the property. He explained the requested zoning, which included Institutional (IN) and Residential High-Density Multifamily (RH). He explained that the existing zone for the property was Industrial General (IG), which was reflective of the past usage of the property. He said the rezoning to IN would help the Parks Department to better develop a proposed park on the site, while the rezoning to RH would allow for affordable housing to be built immediately adjacent to the park. He said the Plan Commission voted 5-0 to forward the request to the Council with a favorable recommendation.

Council Questions:

Chopra asked if the surrounding zones would remain IG.

Greulich confirmed that was the case.

Chopra asked if it would be safe for someone to live adjacent to the asphalt plant.

Greulich answered that he is not aware of any hazardous conditions.

Chopra asked for clarification as to the location of the two properties proposed to be rezoned.

Greulich displayed the location of the two portions of the property in question.

Chopra asked what the plans were for the IN area. Greulich displayed the conceptual plans for the area.

Chopra asked if IN was the typical zoning for a park.

Greulich explained that IG did not allow for a park, and IN was the closest match to the intended use for the property.

Sturbaum and Greulich clarified the location of certain portions of the property.

Rollo asked if there was a parking area planned for the property that would be in the flood plain.

Greulich said yes. He noted the process the plans for the area had been through, and added that the Environmental Commission did not have any concerns with the plans, as various precautions had been taken.

Sandberg asked Myerson to provide additional information about her vision for the residential component of the project. Myerson envisioned a total of sixteen affordable units on the property to be built in two phases. She noted the various community groups that might also be involved in the project. She explained the affordable component and what the eligibility requirements might be.

Volan asked how many stories the building would be.

Myerson said the building would be two stories.

Volan asked if there was an opportunity to build more units.

Myerson said that was considered but noted several concerns with adding more units, including parking availability and financing for the project.

Volan clarified that the building plan was to put in two separate buildings with eight units each. He asked why Myerson thought that all residents, including those with special needs, would have cars. Myerson responded that some residents might not have cars, but they might need a space for an aid to park. She said the main consideration for the number of units were the financing limitations.

For Approval

Ordinance 17-33 (*cont'd*)

Chopra asked whether nearby neighborhoods had been involved in the process for the rezoning.

Greulich said that he received calls from a wide area, due to the size of the lot that the city owned. He said he could not remember many calls from the neighborhoods to which Chopra had referred.

Rollo asked whether the units would be suitable for family housing.

Myerson said that there would be one and two-bedroom units, and listed the likely square footage of each unit type.

Sims asked where the retention areas for the water run-off would be located.

Greulich responded that would be addressed with the overall design of the park, but noted the features that were specific to the proposed housing.

Sturbaum asked about the level of affordability for the apartments.

Myerson responded that the rates went from fifty-percent of the area median income to up to eighty-percent.

Sturbaum asked if she intended to use section eight for the initiative.

Myerson explained that those with section eight vouchers would be welcome to live there.

Sturbaum and Myerson discussed the ranges of rent that might be charged for various units.

Volan asked what the hours would be for Switchyard Park.

Dave Williams, Operations and Development Director, said that all park facilities were open from 5 a.m. to 11 p.m.

Volan asked if the park's parking spaces would be in use after the park was closed and if those spaced could be used by residents overnight.

Williams responded by noting that some sort of permit system had been suggested. He said it was still being considered.

Volan said there was an opportunity to share parking space and it would be irresponsible not to do so.

Volan asked if all residents that would live in the units had special needs.

Myerson said no, and said a total of five units would be for disabled individuals.

Volan restated the idea that some of the parking space could be devoted to more housing.

Myerson repeated that limited funding was the reason behind the occupancy levels, not space limitations due to parking.

Volan asked whether a three-story building would require an elevator.

Myerson said no, but she said they wanted to make sure the building served the needs of the residents.

Piedmont-Smith confirmed that the request in front of the Council was for rezoning and not to consider any development proposal.

Greulich said that was the case.

Rollo asked whether the intended project would have a parking ration of 1:1.

Myerson said that was the preliminary design.

For Approval

Ordinance 17-33 (*cont'd*)

Sturbaum asked whether the Broadview Neighborhood would have an opportunity to provide input on the buffering for the project.

Greulich explained the various ways and times neighbors could voice concerns.

Chopra asked whether there would be a request for proposals (RFP) for the housing component of the project.

Greulich said yes.

Chopra asked if the assumption was that SCIHO would be the winning bid.

Greulich said he could not speak to that question.

Chopra asked why Council was hearing the matter.

Greulich said the city wanted to encourage affordable housing with the Switchyard Park project. He said there was at least one interested entity, but the RFP was required to go out and be open generally.

Chopra asked whether the RFP would only be for affordable housing.

Greulich suggested that the question might be better answered by someone from the Parks Department.

Chopra said she did not understand why the Council was hearing from SCIHO, who had not yet won the bid.

Greulich said that the request before the Council was for a zoning change, and the intent was to have a portion of the land available for an affordable housing project, whether completed by SCIHO or some other entity.

Rollo asked where the nearest grocery store was in relation to the property in question.

Greulich explained the various locations of nearby grocery stores and how people could travel to those stores.

Public Comment:

Jim Blickensdorf echoed concerns voiced by Volan related to parking and spoke about the possibility of shared parking.

Additional Council Questions:

Rollo asked if the site could accommodate future development or more density, possibly by shared parking similar to what had been suggested by Volan and Blickensdorf.

Greulich reiterated that the request before the Council was simply for a rezone. He said that once the property had been rezoned, it could be used in any number of ways. He suggested that the density could be addressed at a later date.

Volan asked whether the land in question would be conveyed and whether it would be sold at market rate or some reduced rate.

Greulich said he believed it would be handled through a long-term lease.

Paula McDevitt, Director of the Parks and Recreation Department, provided background on the parcel. She clarified that the parcel of land was a surplus in the plan for Switchyard Park, which was why it was under consideration for an affordable housing initiative.

Volan asked if SCIHO was merely one entity that might be submitting a proposal after the RFP was release.

McDevitt said that was correct.

Council Comment:

Granger thought the parking questions were premature as those issues were not under consideration as part of the request. She said she appreciated Ms. Myerson's input to give the Council a better idea of what was possible for the site, but said the Council was not voting on her development proposal at that meeting. She supported the rezoning to help things move toward some similar project.

For Approval

Ordinance 17-33 (*cont'd*)

Volan said he understood why Granger thought the parking discussion was premature, but he explained that if less land were needed for parking, then less land would need to be conveyed or leased to the eventual developer, which he saw as relevant to the discussion of the rezoning request. He reiterated the concerns he had related to parking, but said he supported the rezone.

Sturbaum said the site was a great location for affordable housing and he liked the cooperation between the various entities involved. He said the parking issue could be resolved gradually. He thought that Volan was probably correct about reduced parking, but that only time would tell. He supported the project in its existing form and planned to support it.

Sandberg said affordable housing projects should be considered differently than regular housing projects and could not therefore be held to the same high standards in terms of parking. She explained why certain individuals might not be able to go without a car. She reaffirmed her support for the initiative. She believed it was not time to talk about parking but rather focus the conversation on great places to live for people with limited means.

Rollo said he appreciated Volan's examination of whether more units could be built in the future. He said the location was great for the planned initiative. He thanked the administration for bringing the idea forward.

Piedmont-Smith said she supported the requested rezone. She requested that her colleagues keep to the topic at hand and ask relevant questions.

Chopra seconded Piedmont-Smith's comments. She hoped the Council would remember her comment when it came to the end of the budget cycle.

Volan said that how the site might be developed was relevant to the question of whether it should be rezoned, as well as to the question of why the Council should hear the matter at only one meeting. He said that one of the rationales for hearing the matter over one meeting was so that SCIHO, a potential developer, might be able to more quickly secure financing for the project. He added that the city tended to provide too much parking and that the housing in question should be classified as work force due to the allotted rent amounts.

Vote on Ordinance 17-33 [7:55 pm]

The motion to adopt Ordinance 17-33 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

For Approval

Volan moved and it was seconded that Ordinance 17-24 be introduced and read by title and synopsis only. The motion was approved by voice vote. Clerk Bolden read the legislation by title and synopsis, giving the Do Pass recommendation of 0-7-1 and other procedural history of the ordinance.

Ordinance 17-24 - To Amend Title 15 of the Bloomington Municipal Code (BMC) Entitled "Vehicles and Traffic" - Re: Deleting BMC Chapter 15.36 (Resident-Only Parking Permits)

It was moved and seconded that Ordinance 17-24 be adopted.

Andrew Cibor, Transportation and Traffic Engineer, provided information about the history of the resident-only parking permit program and explained why the ordinance had been originally proposed. One reason, he noted, was to bring the city into compliance with the U.S. Access Board Accessibility Guidelines. He said that staff had revised the ordinance after receiving feedback from the Council during previous meetings. He briefly summarized the relevant changes, including changes to the name of the program, to eligibility requirements, application and permit fees, and how the program would be administered.

Sturbaum asked for additional detail about the eligibility requirements. Cibor explained who, under the proposed ordinance, would be eligible for permits.

Councilmember questions:

Volan asked Mr. Cibor to elaborate on aligning the Resident-Only Parking Permits with ADA requirements.

Cibor explained what the ADA Guidelines called for and how the proposed ordinance would bring the city closer to complying with those guidelines.

Volan asked how disabled residents would be served by parking spaces that might be more than a block away from their homes.

Cibor explained that there was a minimum threshold requirement with the ADA, but no maximums, so the city could add more accessible spaces if needed.

Daniel Sherman, Council Attorney, provided clarification on a point of order, explaining that the Council might want to entertain a motion to amend Ordinance 17-24, either by substitution or otherwise.

Volan moved and it was seconded to adopt Amendment 01 (an Amendment by Substitution) to Ordinance 17-24.

Amendment 01 (an Amendment by Substitution) to Ordinance 17-24

Volan noted the Council had already been discussing the amendment by substitution, but had neglected to formally introduce it.

Volan moved and it was seconded to adopt Amendment 1 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24.

Amendment 1 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24

Volan presented the amendment highlighting the grandfather clause, purview of the initial permit decision, timeframe for removal of signage after a permit was revoked, and where revenue from the program would be deposited.

Chopra asked if any reserved spaces were located in council district three.

Cibor said not that he was aware of.

Council Questions:

For Approval

Ordinance 17-24 (*cont'd*)

Granger asked if changing Parking Enforcement Manager to Transportation Traffic Engineer and placing excess revenue in the alternative transportation fund were similar to other permit programs.

Cibor responded that that was his understanding.

Rollo asked if the fee adjustments were included in the amendment.

Volan explained where those fee adjustments were located.

Piedmont-Smith asked why the amendment by substitution proposed by the administration would provide that revenue from the program would be deposited into the general fund.

Cibor responded that was what the existing code called for and the administration simply did not propose any changes. He said he was not necessarily opposed to depositing the revenue in a different fund.

Piedmont-Smith inquired if the money would be better placed in the general fund in order to pay for the staff who would be taking applications and conducting enforcement.

Cibor responded that one could make a case for either fund, but noted that by placing the money in the general fund it could cover expenses that range across departments.

Piedmont-Smith asked Cibor if parking enforcement was paid for through the alternative transportation fund.

Cibor said he believed some funding did come from that fund, but was not clear on exact details.

Volan suggested Blickensdorf could answer.

Blickensdorf clarified that funding was split based on division and that the new amendment would align the code with the current practice in the controller's office.

Sturbaum asked for a review of the history of the ordinance and its original intent.

Cibor responded that the ordinance's original purpose was to protect neighborhoods from losing character due to a lack of off-street parking for disabled residents.

Sturbaum commented that the background information was helpful to know when considering the grandfather clause.

Piedmont-Smith asked why Volan's proposed amendment included a change regarding who would make permit decisions from the Parking Enforcement Manager to the Transportation Traffic Engineer.

Volan explained that the program had been around for decades and was unique. He noted that very few of the permits existed, and thought that if the decision of whether to issue the permits were moved to Parking Enforcement, the permits might become more ubiquitous. He said he did not want to normalize the programs, but rather, the permits should be issued with particular deliberation.

Granger asked if Parking Enforcement would handle all other permits.

Volan affirmed that was the case.

Piedmont-Smith asked Cibor if he saw any downsides to permit decisions being the responsibility of his office.

Cibor responded that it was currently his responsibility to review the applications and he was comfortable with this process. But he also noted that Parking Enforcement assisted him with the paper work and many other steps, making him feel that his role might be unnecessary. He would prefer for the program to transfer to the Parking Enforcement Office.

For Approval

Ordinance 17-24 (*cont'd*)

Sandberg asked Volan if he would be willing to consider a friendly amendment after hearing from Cibor.

Volan responded that he took Cibor's statements to heart, but pointed to the unusual nature of the permit. He said that only 19 such permits existed and thought the city should be continue to be jealous of issuing them. He asked Mr. Cibor what the acceptance rate currently was.

Cibor responded that it was probably around fifty-fifty.

Volan stated he was ambivalent about an amendment but cited the process that led him to believe that the Planning and Transportation department would be best suited to handle the unique permit program.

Piedmont-Smith asked for clarification regarding the "in good standing" language in the grandfather clause.

Volan responded that language referred to someone having no tickets or abuse of the system on record.

Clerk Nicole Bolden noted that would be a difference from the residential neighborhood permits, which did not have such a requirement listed in Bloomington code.

Piedmont-Smith asked Volan if a parking ticket for a resident that did not apply to the space in question would put that resident out of good standing.

Volan said that good standing was undefined in the amendment's current form, but his intent was to allow individuals that currently had permits, but who might not qualify under the new requirements because they were not disabled, to keep their permits.

Sturbaum clarified that jaywalking tickets or a parking ticket would not apply to the clause. He suggested that someone would not qualify under the grandfather clause if that person had stopped paying for the pass previously.

Sandberg asked Volan if he would be willing to have Parking Enforcement be responsible for the permits but able to seek help from the Planning and Transportation if there were any doubts or questions.

Volan responded that would put the decision in the Parking Enforcement Manager's hands. He said that if the Council felt better about that person making the decision, he would recommend an amendment.

Sturbaum pointed out that the language in the clause would allow the Transportation Traffic Engineer to designate another office or individual.

Volan agreed that this was the case, stating that the Transportation and Traffic Engineer could designate the Parking Enforcement Manager.

Piedmont-Smith said that, in the past, the Council had meant for designee to refer to an individual in the same department.

Sherman clarified that the Council was creating intent, and the language would not have to be rewritten unless that intent was not followed, in which case the issue could be revisited in the future.

Cibor explained that the previous provision did not designate a specific person, but the proposed language did.

Sturbaum said that the Council was expressing its intent that the decision on permits remain in the Planning and Transportation department.

For Approval

Ordinance 17-24 (*cont'd*)
Public Comment:

Jim Blickensdorf noted concerns he had with the city complying with ADA Guidelines, as well concerns with the existing permit program. He shared thoughts on the proposed amendments, as well as his opinion that the permit should have to be renewed annually.

Council Comment:

Ruff asked to what extent Volan's proposed amendment left the existing program intact.

Volan answered that the proposed amendment protected current residents and users of the program that did not have a handicapped placard. He said it was his understanding that the Council originally opposed the elimination of the program to protect such residents.

Sturbaum commented that the original intent was to look at problems that old neighborhoods had in terms of parking. He said that the Council had rejected eliminating the program entirely. But he viewed the amendment by substitution as a hard-edged elimination of the program, as only those people with permanent disabilities would be eligible for a permit, which he viewed as a very high standard. He stated his support for the grandfather clause and for the overall objective of tightening up the number of permits.

Granger stated that she did not like the amendment by substitution. She said adding signage made a lot of sense, as did having revenue go into the same fund as other programs. She said she was not supportive of replacing the Parking Enforcement Manager with the Transportation and Traffic Engineer. Despite some misgivings, she said she would support it.

Piedmont-Smith stated she shared the concerns of the administration and Blickensdorf about following thought on the city's commitment to the ADA Guidelines. She viewed the grandfathering of existing permit holders as an impediment to meeting that commitment. Therefore she stated that she would not support the amendment to the Amendment by Substitution.

Volan stated that parking was an important concern for his district. He said that parking was also a difficult issue and that it was common for people to disagree on how it should be handled. He understood the irony in his emphatic remarks on reducing parking during discussion on Ordinance 17-33. He viewed the grandfather clause as an essential part of the body's ability to approve the amendment by substitution. Although that clause might affect very few people, Volan believed it was important to have a conversation about because several key principles were involved. He understood that his ask was large but he hoped that the Council would support the amendment regardless, as so few residents would be affected.

Sandberg announced that she had been informed that the designee could not be from another department so she asked Volan if he was willing to hear from the Council Attorney on that issue.

Sherman stated that Piedmont-Smith had been correct on the issue with the wording of designee. Sherman pointed out that one could designate work within that person's department but would not be able to do so within another department. He stated that wording could be adjusted to mitigate this issue.

For Approval

Ordinance 17-24 (*cont'd*)

Volan stated that his proposal would only apply to the issuance and revocation of permits but that the Parking Enforcement Manager could still oversee any other issue.

Cibor clarified that a permit could only be revoked through the Board of Public Works.

Volan clarified that he had misinterpreted the title and that Cibor was correct.

Chopra asked how many current permit holders would survive the proposed review process.

Cibor estimated that, assuming the grandfather provision was not in place, possibly half of the permit holders would still qualify for a permit due to a physical disability. He stated that number might be higher but that information was not previously requested.

Ruff commented that the amendment forged a reasonable compromise. He complimented Volan for working on the initiative. He confirmed his support.

Chopra stated that she would be passing during the vote because she did not feel strongly about the issue and it did not directly affect her district.

Sandberg affirmed her support as she felt the amendment did a good job of supporting the current permit holders and also did not serve as an impediment for tightening up parking in the future.

Volan thanked Blickensdorf and the Parking Commission for taking up the issue on short notice. He also extended his gratitude to Cibor for his help on the amendment. He thanked Stacy Jane Rhoads, Deputy Council Attorney, for her help in drafting the amendment and catching legal loopholes.

Vote to adopt Amendment 1 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24 [8:58 pm]

The motion to adopt Amendment 1 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24 received a roll call vote of Ayes: 6, Nays: 1 (Piedmont-Smith), Abstain: 2 (Chopra, Sims).

Amendment 2 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24

Sturbaum moved and it was seconded to adopt Amendment 2 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24.

Sturbaum explained his reasons for proposing the amendment, which including allowing residents who were aging in place to have an opportunity to apply for a permit. He talked about the unique problems faced by aging neighborhoods without adequate parking. He objected to throwing out the permit program entirely because he believed it would leave out those who need help getting to their homes. He said he wanted Bloomington to exceed the ADA Guidelines through keeping the intent of the program in place.

Council questions:

Rollo asked if evaluating a person to see if the person had a significant disability would be at the discretion of the Transportation and Traffic Engineer. He asked what would be required to determine the extent of the issue.

Sturbaum responded that common sense could be used to answer those questions.

Rollo pointed out that permits could be arbitrarily administered depending on who was administering them.

Sturbaum responded that if a person was denied a permit wrongfully the person could seek help at the Board of Public Works.

For Approval

Ordinance 17-24 (*cont'd*)

Sims said he did not believe that vagueness and the law fit well together. He stated that criteria should be used to determine the scope of the program.

Sturbaum read part of the amendment that described the conditions that would need to be met to receive a permit.

Chopra asked for comment on the legal advisability of the amendment.

Barbara McKinney, Human Rights Director/Attorney, stated that the amendment was likely defensible, however she had issues with the term aging. She found aging to be a vague word as it could theoretically apply to all people. She understood the intent of the word but was concerned that it was not defined.

Chopra asked how a staff member in Planning and Transportation would be in a position to judge someone's physical difficulties.

McKinney responded that such a position would involve a lot of responsibility, especially if placed in a department where such areas of concern were not areas of expertise for that department.

Chopra clarified whether a permanent disability placard was given by a physician, and if that physician was more qualified to make decisions on the subject of disabilities.

McKinney said that was correct. She added that there was a contingency in the ordinance stating that if extenuating circumstances existed where no permanent disability placard was present, constituents could go to the Board of Public Works instead of a member of staff.

Chopra asked if, in light of this information, the discussion of the amendment was rendered moot.

McKinney stated the only difference between the amendment and the original text was that the amendment granted staff the power to decide whether or not constituents with extenuating circumstances could receive a permit, whereas the original ordinance granted that decision to the Board of Public Works.

Chopra asked if anyone in the city should have the power to say that someone else was or was not experiencing physical difficulty associated with aging.

McKinney stated that the exception was added to the text based on responses at previous council meetings, but if the Council decided it wanted to remove the exception she would be willing to change the text.

Piedmont-Smith suggested adding language to clarify Sturbaum's proposed amendment.

Sherman stated it was not possible to amend an amendment to an amendment. He said the council would need to pass on Amendment 2 and introduce a new amendment at a later date.

Volan asked whether Sturbaum's proposed amendment was already encompassed by the amendment by substitution. He asked Sturbaum to clarify his intent for the amendment.

Sturbaum stated his intent was to create the possibility for such permit decisions to be made at a lower level than the Board of Public Works. He noted he liked Piedmont-Smith's proposal of adding language related to verification by a medical professional.

Volan asked if the phrase, "difficulties associated with ageing" was intended to mean, "people over sixty".

Sturbaum pointed out that people broke down at different ages and setting a threshold would therefore not be effective or proper.

For Approval

Ordinance 17-24 (*cont'd*)

Sims asked what criteria would be used to determine if a person received a permit and who would make the decision.

Sturbaum suggested language could be added to expand upon the exact criteria needed, but reiterated that many people who had difficulties that fell short of a permanent physical disability should be able to ask for a permit.

Rollo expressed concerns that the employee forced to make such decisions might experience abuse at the hands of the public. He stated he would prefer to have the process be public where applicants could be vetted by a semi-judicial board.

Sturbaum said that some people might be uncomfortable going to the Board of Public Works for a simple permit request. He added that he believed the current ordinance was stacked against the individuals in question.

Piedmont-Smith agreed with Sturbaum about the intimidating nature of going before the Board of Public Works to discuss personal disabilities. She added that she supported the amendment but had asked the staff to draw up a new amendment that added that the physical condition would have to be verified by a doctor.

Volan asked Sturbaum his thoughts on Piedmont-Smith's addition.

Sturbaum appreciated the addition and said it added professionalism to the analysis of the application.

Chopra stated that the amendment was bizarre. She said that handicap tags and decals existed so that constituents would not need to go through processes like the one being discussed.

Piedmont-Smith stated she looked at the requirements for a handicap decal in Indiana. She read out loud that those requirements included using a wheelchair, walker, braces, or crutches, amongst other requirements. She said that she could imagine many other conditions, omitted from the list, which would make it difficult for someone to walk any great distance. She used the example of someone walking with a cane, who, according to Indiana Law, would not qualify for a handicap decal.

Rollo asked Cibor if he felt he was in a good position to make a judgement about physical disabilities associated with aging.

Cibor responded that he would be uncomfortable making the decision as it was currently outlined in Sturbaum's proposed Amendment 2, but that he might feel more comfortable with other amendments being drafted. He said that the more criteria added the better in terms of his decision-making process.

Sims asked McKinney if the City was prepared, from a medical confidentiality perspective, to handle these permit requests.

McKinney responded that while most documents the city dealt with were a matter of public record, medical information would remain private, only visible to applicable parties.

Sims added he was concerned about FMLA and HIPAA regulations and the security of such documents.

McKinney added that under the ADA all medical information received should be kept securely and confidentially, shown only to those on a need-to-know basis.

For Approval

Ordinance 17-24 (*cont'd*)

Chopra asked Cibor if his department was equipped and ready to deal with those types of requirements.

Cibor said they were not, although he worked with the Legal and Human Resources departments when necessary.

Chopra asked if he dealt with HIPAA regulations.

Cibor said no.

Sturbaum pointed out that medical records would be more secure going through Cibor's office than through the Board of Public Works. Confidentially, he said, could easily be established.

Piedmont-Smith asked Sturbaum if he would withdraw Amendment 2 and vote instead on Amendment 3 with the additional language that the physical difficulties must be verified by a medical doctor.

Sturbaum withdrew his motion to adopt Amendment 2 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24 without objection.

Amendment 3 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24

Piedmont-Smith moved and it was seconded to adopt Amendment 3 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24.

Rollo and Sherman clarified a correction on the amendment form.

Public Comment:

Jim Blickensdorf voiced concerns with the amendment and shared additional thoughts on the permit program.

Council Comment:

Piedmont-Smith said she voted against the previous amendment due to her concerns about ADA compliance. In terms of the present amendment, she felt the question at hand was an issue of how intimidating and off-putting the process of application and appeal should be. She added that the program was being inclusive and facilitating public space to those who need it, therefore expanding the current ADA requirements.

Sturbaum stated that the fear of abuse should not dissuade his peers from voting favorably for the amendment. In all the years of the permit program, he said, very few individuals tried to abuse the system.

Chopra stated she was against the amendment. She said the wording was fuzzy, which was the opposite of what good city code should be. If there was a discrepancy, she said, then it should be assigned to the appropriate hands. She stated that no one in Cibor's department should be evaluating someone's medical condition combined with that person's age. She said that she was not aware of the histories and complexities of handicap requirements but that she strongly believed there was a reason behind their specificity. She viewed the overlap between the requirements for a handicap placard and this permit as a redundancy.

Rollo stated that he believed the Council had originally been asked to reevaluate Ordinance 17-24 because it was a burden on staff members. He believed that asking a department to evaluate someone's physical condition was a great burden to staff whereas asking the Board of Public Works would be more optimal.

For Approval

Ordinance 17-24 (*cont'd*)

Ruff agreed that the amendment felt imprecise or fuzzy and that made him uneasy. Based on past history, he stated, the proposal should not increase the number of permits. He asked what doctor would not write a statement saying that someone was experiencing difficulties. He agreed with Sturbaum and Piedmont-Smith that some individuals might find it intimidating to go before the Board of Public Works.

Rollo provided a theoretical example of how the number of permits could increase. He agreed with Ruff that it would likely be easy for applicants to receive a doctor's signature with or without a serious problem.

Volan stated that if a request was rejected then the petitioner could appeal through the Board of Public Works. In his opinion, the amendment simply kept the applicant from having to go to the Board of Public Works to apply. He doubted that there would be an increase in the number of permits. He stated that Chopra made a good point about fuzzy law. On the other hand, he said, there was some code in the city that gave discretion to entities or groups. In the present case, he felt there was just enough specification in the amendment to earn his support.

Sturbaum stated that the ordinance had been fuzzy for thirty years, and that it was time to clean it up. Even though it was not as straightforward, the city had not been previously inundated with requests.

Sandberg affirmed her support for any measures taken by the city to address what she felt would become a more critical issue. She believed the permit would not apply to those looking to cheat the system or with temporary aches and pains, but rather would help those exceptional cases who needed some assistance.

Sims stated that he had asked for more clarification and, with Amendment 3, that clarification had been added. He stated it was unfair to assume that everyone had access to medical care. He was pleased with the compromise to create a more defined approach and felt confident supporting the amendment.

Vote to adopt Amendment 3 to Amendment 01
[9:51 pm]

The motion to adopt Amendment 3 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24 received a roll call vote of Ayes: 7, Nays: 2 (Chopra, Rollo), Abstain: 0.

Council Comment:

Ruff stated that a way to make the older urban neighborhoods more appealing for people to live in, for owner occupants in particular, would be to institute a neighborhood zone parking program. He did not view the residential private permit program as fundamentally different from the neighborhood zone parking program. Therefore, it would be difficult for him to oppose one and not the other. He supported initiatives to make older core neighborhoods more inviting and livable for potential residents. He appreciated the work and thought put into the initiatives by all staff members.

Granger stated she was not sure whether she supported the amendment by substitution. While she recognized the intent was to make Bloomington more ADA compliant, she felt the reality was that the program fundamentally changed the private parking program. She hated to see the loss of the program.

For Approval

Sturbaum pointed out that some Bloomington neighborhoods were laid out before vehicles, and did have peculiarities for the Council to address. Although the issue might affect few people, Sturbaum said, it was of tantamount importance to those individuals. He understood where Cibor was coming from in his request, but Sturbaum did not want to get rid of the program completely. He viewed the amendment by substitution as the solution to the issue. He admired those who contributed to the process.

Ordinance 17-24 (*cont'd*)

Volan commented that it was not good parking policy on the whole, but it was good enough. He said that it provided opportunities to make better parking policy. He added that the city was not losing the neighborhood parking program, just renaming it. He stated that the Council needed to either rename the phrase amendment by substitution or at the very least label such amendments as A, B, or C for the sake of clarity. He thanked staff members for their help in the process.

The motion to adopt Amendment 01 as amended (an Amendment by Substitution) to Ordinance 17-24 received a roll call vote of Ayes: 6, Nays: 2 (Ruff, Granger), Abstain: 1 (Chopra).

Vote to adopt Amendment 01 as amended (an Amendment by Substitution) to Ordinance 17-24
[10:02 pm]

The motion to adopt Ordinance 17-24 as amended received a roll call vote of Ayes: 8, Nays: 0, Abstain: 1 (Chopra).

Vote to adopt Ordinance 17-24 as amended
[10:04 pm]

Sherman spoke about the upcoming schedule.

COUNCIL SCHEDULE

Piedmont-Smith moved and it was seconded to hold a special session of the Council before the Committee of the Whole on August 30, 2017. The motion was approved by voice vote.

Vote to hold a special session of the Council
[10:07 pm]

The meeting was adjourned at 10:07 pm.

ADJOURNMENT

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2017.

APPROVE:

_____
Susan Sandberg, PRESIDENT
Bloomington Common Council

ATTEST:

_____
Nicole Bolden, CLERK
City of Bloomington

For Approval