# City of Bloomington
# Common Council

## Legislative Packet

## Wednesday, 21 June 2017

## Special Session
*immediately followed by a*
## Committee of the Whole

For legislation and material regarding
Ordinance 17-25, please consult the
14 June 2017 Legislative Packet.

All other legislation and material contained herein.

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**To:** **Council Members**
**From:** **Council Office**
**Re:** **Weekly Packet Memo**
**Date:** **June 21, 2017**

# Packet Related Material

**Memo**
**Agenda**
**Calendar**
**Notices and Agendas:**

- **Notice of Common Council Special Session** to be held at 6:30 p.m. on Wednesday, June 21, 2017 immediately before the previously scheduled Committee of the Whole

**Legislation and Background Material for First Reading at the Special Session and Discussion at the Committee of the Whole on Wednesday, June 21, 2017 (along with One Ordinance Previously Introduced at the Regular Session on June 14, 2017) – *Listed in the Order Items Appear on the Committee of the Whole Agenda*:**

- ***Introduced at the Special Session on June 21st and found in this Council Packet* – Ord 17-32** To Authorize Disposition of a Portion of the Switchyard Park Property (1901 South Rogers Street)
  - Memo to the Council, Paula McDevitt, Administrator, Parks and Recreation
  - Map of Parcel

  *Contact: Paula McDevitt, 812-349-3700, mcdevitp@bloomington.in.gov*

- ***Introduced at the Regular Session on June 14th and found in the weekly Council Legislative Packet issued for that meeting* - Ord 17-25** To Amend the Zoning Maps from Single Family Residential (RS) to Industrial General (IG) - Re: 1.5 Acres Located at 1920 West Fountain Drive (Shelby Bloomington, LLC)

  *Contact: Eric Greulich at 812-349-3526, greulice@bloomington.in.gov*

- ***Introduced at Special Session on June 21st and found in this Council Packet*** **- <u>Ord 17-28</u>** To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code Re: Adding Section 20.05.0332 ("CU-13 [Conditional Use – Pocket Neighborhoods]") and Amending Sections 20.02.070 ("Residential Core [RC] – Conditional Uses"), 20.02.110 ("Residential Single-family [RS] – Conditional Uses"), and 20.11.020 ("Defined Words")
    - Memo to Council from James Roach, Development Services Manager, and Anahit Behjou, Assistant City Attorney
    - Memo from James Roach to the Plan Commission
    - Strikeout version of changes as presented to the Plan Commission

*Contacts:* *James Roach at 349- 3527 roachja@bloomington.in.gov*
*Anahit Behjou at 349-3565, behjoua@bloomington.in.gov*

- ***Introduced at the Special Session on June 21st and found in this Council Packet*** **- <u>Ord 17-29</u>** To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code Re: Adding Section 20.05.110 ("Accessory Dwelling Units") and Amending Section 20.11.020 ("Defined Words")

    - Memo to Council from James Roach, Development Services Manager, and Anahit Behjou, Assistant City Attorney
    - Memo from James Roach to the Plan Commission
    - Letter from CONA
    - Strikeout version of changes as presented to the Plan Commission

*Contacts:* *James Roach at 349- 3527 roachja@bloomington.in.gov*
*Anahit Behjou at 349-3565, behjoua@bloomington.in.gov*

# Memo

## Three Ordinances to be Introduced at a Special Session Next Week will Join One Ordinance Introduced Last Week for Discussion at the Committee of the Whole Immediately Following the Special Session on Wednesday, June 21, 2017

There is a Special Session immediately followed by a Committee of the Whole next Wednesday. Three ordinances will be introduced at the Special Session and discussed at the Committee of the Whole. Those ordinances are included in this packet and summarized below. One ordinance, which was introduced last week, will also be discussed at the Committee of the Whole and can be found online as indicated above.

## Ordinances for Discussion at the Committee of the Whole (with Three Introduced at the Special Session Earlier Next Wednesday)

### Item One – Ord 17-32 – Authorizing Disposition of a Portion of the Switchyard Park Property for Affordable Housing Under a 99-Year Lease

**Ord 17-32** is the first item for discussion at the Committee of the Whole next Wednesday and will be introduced at the Special Session to be held earlier that evening. The ordinance would authorize the disposition of a small portion of the Switchyard Park property (1901 South Rogers) by a 99-year lease to be developed and used for affordable housing.

According to the material submitted with the ordinance, the Parks and Recreation Department and the Redevelopment Commission purchased property from the Triple C Corporation in the course of development of the Switchyard Park. There is a small part of the property that contains a house (located at 1901 South Rogers) that is not needed for development of the park and "could be leased for the development of affordable housing."

This ordinance takes one step in a set of statutory procedures that will carry out this transfer and new use of the property. The first formal step took place at the Board of Park Commissioners meeting on May 23rd when the Board set forth the proposal and process through adoption of a resolution which, in brief:

- Declared the intent to dispose of the property, which was not necessary for development of the park;

- Forwarded an ordinance to the Council, which repeats that declaration (in accordance with IC 36-10-4-18) and the intent to lease the property for affordable housing;
- Approved an agreement with an engineering firm to subdivide the parcel; and
- Upon adoption of the aforementioned ordinance, sought permission from the Mayor to pursue an alternate leasing procedure (under IC 36-1-11-12) that entails preparation of a Request for Proposals that would provide for the long-term lease on terms envisioned by the City.

## ITEMS TWO AND THREE -- ADUS AND POCKET NEIGHBORHOODS

The Plan Commission has certified to the Council two ordinances, both of which are intended to expand the community's housing options. The first ordinance, Ord 17-28, adds Pocket Neighborhoods to the City's suite of housing options while the second ordinance, Ord 17-29, allows for Accessory Dwelling Units. Both are described below. The articulated purpose of both ordinances is to increase existing housing options in a way that is congruent with surrounding residential neighborhoods.

### Item Two -- Ord 17-28 – Pocket Neighborhoods

Ord 17-28 adds an allowance for "Pocket Neighborhoods" to the UDO. A "Pocket Neighborhood" is one in which homes are clustered around a common space. This allows for a gradual increase in density, while minimizing the pressure on infrastructure. In recent years, the Council has considered and approved two petitions for pocket neighborhood-type configurations: one the Bloomington Co-Housing Project and one for the Eco-Village (also known as "Dandelion Village"). To date, neither of these projects has been built out. It is staff's understanding that the projects have not been built due to problems associated with financing. This ordinance change is not a response to a particular request; instead the Administration brings this forward in the interest of getting the code language in place in anticipation of future Pocket Neighborhoods.

**Definition**

The ordinance defines "Pocket Neighborhoods" as "[a] cluster of at least five attached or detached single family dwellings located within a common development that utilize shared access, parking and common spaces. Pocket neighborhoods can include homes on individual lots, homes owned as

condominiums, or leased homes. The term Pocket Neighborhood shall not include a Manufactured or Mobile Home Park." In contrast to ADUs, Pocket Neighborhoods are being proposed as a conditional use. This would require any petition for a conditional use to be considered either by the Board of Zoning Appeals or a Hearings Officer, to comply with the general conditional use standards,[1] and to comply with the particular Pocket Neighborhood Conditional Use standards outlined below.

**Pocket Neighborhood (PN) Conditional Use Standards**

Ord 17-28 proposes the following conditional use standards specific to Pocket Neighborhoods.

- **RC and RS Zones**: Pocket Neighborhood Conditional Use Standards apply in Residential Core (RC) and Residential Single-Family (RS) zones.
- **Lot size**: The minimum size is 1 acre; the maximum size is 5 acres. Larger developments would be reviewed as PUDs.
- **Density Limits**:
    - 6 houses/acre in RC
    - 5 houses/acre in RS
- **Maximum House Size**: 1,000 square feet.

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[1] The relevant General Standards attaching to conditional uses are captured in BMC 20.05.023(b) and provide that conditional uses shall not be approved unless the following standards are met.
(1) The proposed use and development must be consistent with the growth policies plan and may not interfere with the achievement of the goals and objectives of the growth policies plan;
(2) The proposed use and development will not create a nuisance by reason of noise, smoke, odors, vibrations, or objectionable lights;
(3) The proposed use and development will not have an undue adverse impact upon adjacent property, the character of the area, or the public health, safety and general welfare;
(4) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, stormwater management structures, and other services, or that the applicant will provide adequately for such services;
(5) The proposed use and development will neither cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
(6) The proposed use and development will not result in the excessive destruction, loss or damage of any natural, scenic or historic feature of significant importance;
(7) The hours of operation, outside lighting, and trash and waste collection must not pose a hazard, hardship, or nuisance to the neighborhood;
(8) Signage shall be appropriate to both the property under consideration and to the surrounding area. Signage that is out of character, in the board of zoning appeals' determination, shall not be approved; and
(9) The proposed use and development complies with any additional standards imposed upon that particular use by this chapter.

- **Central Open Space**: All PNs must include a centralized open space of at least 400 square feet/unit. Parking areas cannot be counted toward this open space requirement, but buildings and clubhouses can be.
- **Width:Depth**: Units must have a maximum 1:3 width-to-depth ratio for the first floor.
- **Setbacks**
    - Minimum of 10' between dwelling units in the PN
    - Parking lot set back of at least 30' from the right-of-way
    - PNs in the RC zone must include one unit that is built at the build-to line
- **Examples of Architecture**: Petitioner must submit a minimum of three examples.
- **Bufferyards**: Required along the rear and side lot lines. Specifically, the ordinance requires a minimum the Bufferyard to be Type 1 (minimum 10' setback; deciduous tree canopy to be planted for every 30' of boundary between subject and adjoining property).
- **Landscaping**: Must comport with all UDO landscaping requirements.
- **Parking**: A minimum of one parking space/unit and a maximum of two spaces/unit. Parking is to be configured to limit curb cuts and "most efficiently" park vehicles. Parking may occur on shared lots or driveways. Shared driveways may access individual garages.
- **Sidewalks**: Required on adjacent streets and to connect dwelling units to the public sidewalk.
- **Bicycle Parking**: Minimum of 1 class 2 bicycle parking space is required/dwelling unit. Secure garages may count toward this requirement; however, a minimum of 4 bike parking spaces must be provided.
- **Compatibility**: The ordinance requires that "[s]ite plan and architecture shall be designed in a way to foster community and neighborhood interaction through use of such elements as common spaces, porches, and shared design elements."

**Growth Policies Plan**

As recounted below, statute requires the Council to pay reasonable regard to the GPP, among other factors, in approving a text amendment to the UDO. As explained in Planner Jim Roach's memo to the Plan Commission, the current GPP does not speak to Pocket Neighborhoods specifically; however, under the GPP's policy to "Protect and Enhance Neighborhoods," the document advises that "Bloomington's neighborhood character can evolve in a gradual and compatible way to allow additional density through subdividing lots, and the creation of granny flats and duplexes." (GPP, p. 17)

**On Conditional Use**

Planning staff advises that Pocket Neighborhoods are being provided as a conditional use, rather than a by-right use because the nature of the Neighborhoods warrants a higher level of scrutiny to ensure compatibility with the surrounding areas, adequate screening, accessibility, and associated matters while giving neighbors an opportunity to comment on the change.

The Plan Commission voted in favor of the Pocket neighborhood ordinance on 12 June, 2017, 8-0-0.

## Item Three -- Ord 17-29 – Accessory Dwelling Units

Ord 17-29 authorizes, and establishes requirements for, accessory dwelling units (ADUs). Variously known as ADUs, "granny flats," "mother-in-law suites," and "tiny homes," ADUs are typically smaller habitable units either free standing or connected to a primary dwelling. ADUs are intended to provide supplementary, yet independent, living space. Such space might be occupied by classes of persons such as an aging parent, a caregiver, an adult child, or a renter. ADUs are commonly characterized as affordable housing.

The topic of ADUs is not new. Since at least 2005, ADUs have emerged in community and policy discussions. Indeed, the current UDO actually provides a definition for ADUs, but that not term is not used or otherwise referenced, in the regulations of the UDO. That regulations associated with ADUs never made their way into the UDO is likely due to the complexity and concerns associated with these particular types of dwellings. So, at present, while ADUs are defined in the UDO, they are not permitted.[2] Ord 17-29 changes that by allowing a limited number of regulated ADUs in residential single-family neighborhoods.

### Intent

As explicated in the purpose section of this new provision, the intent of this change is to "permit the creation of legal ADUs that are compatible with residential neighborhoods while also supporting the housing needs of the City's workforce, seniors, families with changing needs, and others for whom ADUs present an affordable housing option."

### Pilot Nature

The ordinance is being proposed as a pilot project with the total number of ADUs to be capped at 30. These ADUs will be subject to regulations regarding lot size, separation, design standards, and occupancy standards. Such regulations are intended to ensure compatibility with surrounding neighborhoods by limiting the size, scope, and impact of ADUs. As the threshold of 30 is approached, and the period for the pilot closes, Planners will assess the overall effort to discern what parts of the initiative are working well and what parts warrant further change. The intent of the pilot is to provide Planners an opportunity to observe how the regulations work in practice.

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[2] Specifically, ADUs are not allowed as an accessory structure. Insofar as ADUs are sometimes referred to as "tiny homes," tiny home are permitted as a primary structure in the UDO, but not as an accessory.

**Definition**

Ord 17-29 defines an ADU as "a residential dwelling unit but not a mobile home, camper, or recreational vehicle, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Accessory dwelling units shall only be established in accordance with the standards set forth in the Unified Development Ordinance."

**Key Regulations**

This pilot will be governed by certain key regulations related to size, occupancy, and location. Provided a person meets the requirements outlined in the proposed new regulations, they will eligible for an ADU by right. As proposed, ADUs will *not* be conditional uses. Key regulations of Ord 17-29 are as follows:

- **Residential Single Family Zoning Districts**: ADUs will be allowed in the following single-family zoning districts: Residential Core (RC), Residential Estate (RE), and Residential Single Family (RS)
- **Owner-Occupancy Required**: The ordinance requires that an ADU will be allowed only where an owner-occupier lives in either the primary residence or the ADU. Owner-occupancy will be determined by the existence of a Homestead exemption on file with the Monroe County Auditor's office. Only property owners who have a Homestead exemption on file will be eligible to have an ADU.
- **One ADU/Property**: Only one ADU will be allowed per property
- **Minimum Lot Size**: ADUs will not be permitted to be sited on a lot that is smaller for the minimum lot size allowed in each zoning district. Those minimum lot sizes are as follows:

| | |
|---|---|
| *Residential Core (RC)*: | 7,200 square feet (sf) min lot area<br>55 sf min width |
| *Residential Estate (RE)*: | 108,900 sf minimum lot area<br>200 sf min width |
| *Residential Single-Family (RS)*: | 8,400 sf min lot area<br>60 sf min width |

- **Maximum Size**:[3]

  *Attached ADUs* – 600 sf or no more than 35% of structure, whichever is less

  *Detached ADUs* – 440 sf
- **Maximum of 2 Bedrooms Per ADU**
- **Setbacks**

  *Attached ADUs* – The setbacks are the same as the setbacks required for a primary structure.

  *Detached ADUs* – The setbacks are the same as the requirements that attach to accessory structures, except that the ADU can be as close to the street as the primary structure.
- **Height**

  *Attached ADUs* – are subject to the same height requirements as the primary structure.

  *Detached* ADUs – maximum height is limited to 25'
- **Separation**: ADUs cannot be located any closer than 300' from each other. Distance is measured from lot line to lot line. The intent is to prevent a concentration of ADUs in any one area.

- **Foundation Requirement**: Ord 17-29 requires that detached ADUs comport with the architectural and foundation requirements of BMC 20.05.16. The presence of wheels (not retracted, and not attached to a foundation) would transform the structure into a mobile home. Notably, the UDO the UDO prohibits the use of a mobile home, manufactured home, recreational vehicle, semitractor trailer, boat or motor vehicle as an accessory structure in any zoning district. 20.05.004(b)

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[3] The proposed ordinance outlines a maximum. Know that there are also minimums when it comes to dwelling size. While the UDO does not outline a dwelling size minimum, aside from 950 sf for a manufactured home, building codes do state a minimum. The Monroe County Building Code incorporates the Indiana Administrative Code 675 IAC 14-14. The IAC incorporates the International Building Code which requires that every dwelling unit must have at least one habitable room that shall not have less than 120 sf of gross floor area. There are additional space requirements for cooking rooms, bathrooms, and bedrooms. All told, an ADU could be built and be as small as about 350 square feet. (Specifically, the IAC adopts the 2003 International Residential Code and Chapter 43 of the 2006 International Residential Code. Chapter 43 is the "Referenced Standards" Chapter and refers to standards such as American Architectural Standards Institute, American Concrete Institute, etc. Notably, the 2015 IRC removes the 120 square feet requirement; however, Indiana has not adopted the 2015 IRC.)

- **Reduced "Family" Size Requirements**: In RC, RE, and RS zones "family" is defined as no more than three adults and their dependent children. Ord 17-29 restricts this further for ADUs in these zones, allowing only for two adults and their dependent children. Together, this means that on a lot where an ADU is present, up to five *unrelated* adults may be occupy the two dwellings (3 in the primary, 2 in the ADU). The number of persons on a lot with an ADU could be higher if all persons in one of the units were related, as this would constitute a family.

- **Requirement for Recorded Commitment**: Ord 17-29 requires a person wishing to establish an ADU to first obtain a Certificate of Zoning Compliance (CZC). In order to obtain a CZC, an applicant for an ADU must record a zoning commitment with the County committing that the: 1) the ADU will not be sold separate from the primary dwelling unit; and 2) the CZC will be in effect only as long as the owner of record is occupying either the primary residence or the ADU. This is a deed restriction that runs with the land and is binding upon subsequent purchasers.

  Upon sale of the property, a subsequent purchaser could continue the use of an ADU provided the purchaser is an owner-occupier. If a subsequent purchaser is not an owner-occupier – a rental company, for example – then the purchaser would not be eligible to continue the ADU and would have to remove it, as removal is defined in the ordinance.

  Note that, at the Plan Commission, a Commissioner suggested that a requirement for an annual affidavit of owner-occupancy should be part the recorded commitment.

- **Enforcement**. Violations of the proposed ordinance will result in revocation of the CZC. Revocation of the CZC triggers removal of the ADU. Removal includes, but is not limited to, removal of the second kitchen on the lot, including removal of kitchen appliances and cabinets. In separate communication, and during Plan Commission deliberations, Mr. Roach indicated that while removal of the second kitchen may be sufficient to constitute removal of the ADU as a whole, there may be instances where that is not the case, instances in which removal includes removal of elements *beyond* the kitchen, or even removal of the entire ADU structure altogether.

Any removal must be sufficient for Planners to determine that there is only one unit on the lot.

- **Fines**. If the terms of the ordinance are not met and the owner failed to comply, Planning would asses a fine pursuant to BMC 20.10.040. Roach advises that an example of such a scenario would be where the property is no longer owner-occupied and the property owner fails to remove the ADU in a timely manner.

**Monitoring Compliance**

While not proposed for codification, in Mr. Roach's memo to the Plan Commission, he explains that Planning and Transportation will track each ADU individually and that, "[a] yearly follow up will be conducted to ensure that the property is still owner occupied and will inform HAND is the ADU is being rented." (p. 121) CONA and at least one Plan Commissioner expressed concern that the monitoring of ADUs include added rigor. That concern is explained more fully below.

**Rentals of ADUs**

If the owner-occupier lives in the primary dwelling and rents the ADU, the ADU must be registered with the HAND department and receive the appropriate certification prior to occupancy. This requirement is made clear in the proposed ordinance. Furthermore, where an attached ADU is rented, such ADU may be required to have a separate fire wall, separate HVAC, and separate electric service as required by applicable building codes.[4]

**Effect of Neighborhood Covenants**

Many neighborhood covenants limit property owners to one dwelling per lot. Such restriction would eclipse the possibility of siting an ADU on a lot where such a covenant is in effect. The ADU ordinance would not, and could not, abrogate that. Neighborhood covenants are private agreements between private parties and the City has no authority over such agreements.

[4] Know that, at this time, it is unclear if or how ADUs would be eligible for short-term rentals.

**Addressing**
At the Plan Commission, the question arose regarding access of ADUs to emergency service providers. Plan staff worked with Fire Inspection Officer Tim Clapp to address these concerns. ADUs should be given an address with a sufficiently descriptive suffix, such as "side" or "rear."

**Parking**
There are no additional parking requirements associated with ADUs.

**Concerns from the Council of Neighborhood Associations (CONA)**
CONA has actively followed the Plan Commission's deliberations on ADUs and has expressed a number of concerns associated with the proposal. Those concerns are outlined in a letter from CONA to the Plan Commission, included in this legislative packet. Below is a review of some of those concerns, please refer to CONA's letter for a more complete enumeration.

- **Uneven distribution of ADUs as a function of the location of neighborhood covenants.** CONA points out that most neighborhood covenants are in newer developments, not core neighborhoods. According to CONA, this will put undue pressure on older, core neighborhoods to be the sites for ADUs.
- **Conditional Use as Preferable Approach.** CONA recommended that ADUs be provided as a conditional use, not by right. A conditional use would be subject to review by the BZA, the general conditional use standards of 20.05.023, and the conditional use standards specific to ADUs.

  BZA review would mean that each petition for an ADU would be reviewed on a case-by-case basis and that neighbors would be afforded the opportunity to weigh in on each of these petitions as part of the BZA hearing. In Roach's memo to the Plan Commission he responds to a question posed earlier by a Plan Commissioner regarding the administrative burden of such an approach. Roach makes clear that it is difficult to anticipate the pace with which ADUs would be sought; however, each petition would require Plan to staff to review and issue a report to the BZA in interest of each petition. Roach further advises that the Administration feels that size, separation, occupancy limits, and owner-occupier requirements are sufficient safeguards to protect neighborhoods. He advises that shifting the allowance of ADUs to a conditional use "injects a measure of unpredictability into the process." (p. 123).

- **On Student Owner-Occupiers**. As Roach detailed in his memo to the Plan Commission, one of the concerns highlighted by CONA was the specter of students both living in the primary structure and renting out the ADU to other students. Provided the student is listed on the deed and has not filed another Homestead deduction, s/he may be eligible for a Homestead deduction on the subject property. Provided further that the student lives in either the primary residence or the ADU, s/he may be able to lawfully have an ADU.
- **Setbacks**. CONA requested that setbacks for detached ADUs be greater than that for accessory structures. Specifically, in conversation with Planning, CONA requested the setback be located at 10'. However, Plan staff did not support that change as such a change would prohibit the conversion of an existing garage into an ADU. Furthermore, staff noted that in some instances the setback requirement required for a garage or detached ADU under this provision is not significantly different from that of a house; for example the ADU setback in the RC zone would be 5', while the setback requirement for a dwelling would be 6'. Plan staff further noted that in Residential Single-Family (RS) zone, the setback for a dwelling is 8' and the setback for a garage or ADU is 5'; Planning staff did not feel that a setback for an ADU that was greater than that for housing was appropriate.
- **Financing and Affordability**. At the Plan Commission meeting, members of CONA questioned whether ADUs would truly add more affordable housing to the community's housing stock. CONA pointed out that the financing of ADUs is subject to a commercial rate, a higher rate, making the specter of affordability perhaps less likely.
- **More Rigorous Monitoring**. As proposed, ADUs would be monitored on a yearly basis by Planning and Transportation, but this requirement is not codified. CONA recommended that the monitoring component be codified and stated with particularity (who checks, how often, etc.). This concern was echoed by at least one Plan Commissioner.

**<u>Growth Policies Plan</u>**

As recounted below, statute requires the Council to pay reasonable regard to the GPP, among other factors, in approving a text amendment to the UDO. The GPP includes one reference to ADUs. As recounted in Roach's memo to the Plan Commission, that reference is included in the GPP's Chapter on conserving community character and enhancing neighborhoods and reads that, "Bloomington's Neighborhood character can evolve in a gradual and compatible way to allow additional density through subdividing lots, and the creation of granny flats and duplexes." (GPP, p. 17)

The Plan Commission voted in favor of the ADU ordinance on 12 June 2017, 6-2-0. During Plan Commission deliberations, many Commissioners made clear that they anticipate that Council will make further changes, based on some of the concerns articulated above. Some Councilmembers have indicated to Council staff that they are contemplating amendments.

☞ As Ord 17-29 is scheduled for introduction and discussion next week and Second Reading on 28 June, Councilmembers who wish to propose amendments to this ordinance should work with Council staff on preparing those amendments as soon as practicable.

## Council Review

Council review of both Ord 17-28 (Pocket Neighborhoods) and Ord 17-29 (ADUs) is governed by State statute. Statute and local guidelines outline the factors that Council should consider in voting to an amendment to extant zoning text. Statute also tightly prescribes the timeline for Council, and subsequent Plan Commission review.

### Factors for Consideration

Both Ord 17-28 and Ord 17-29 are text amendments to the UDO. In reviewing text amendments to the UDO, statute requires that both the Plan Commission and the Council pay "reasonable regard" to the following:

(1) the comprehensive plan;
(2) current conditions and the character of current structures and uses in each district;
(3) the most desirable use for which the land in each district is adapted;
(4) the conservation of property values throughout the jurisdiction; and
(5) responsible development and growth. § 36-7-4-603; BMC 20.09.360(e)

**<u>Timeframes</u>**

Both the ADU changes and the Pocket Neighborhood changes are text amendments to the UDO. The process for developing and reviewing amendments to the UDO is governed by State statute, specifically I.C. § 36-7-4-602(b) and IC § 36-7-4-607(b)-(f). In brief, that process is as follows:

- Council has 90 Days from the date of Certification to Act
  The Council has 90 days from date of certification of Plan Commission action to act on the ordinance. In the event the Common Council fails to act, then the recommendation of the Plan Commission goes into effect at the end of that time period. The Plan Commission certified both of these ordinances to the Council on 16 June 2017; therefore, the 90-day period would expire on Friday, 16 September 2017. If the Common Council adopts the ordinance, as certified, within the 90-day period, the legislation goes into effect as any other ordinance.

- **Council Amendment or Rejection of the Ordinance(s)**
  If the Council rejects or amends one or both of the ordinances within the 90-day period, then the legislation and an accompanying statement explaining the rejection or tracking the amendments is forwarded to the Plan Commission. The Commission has 45 days from that time to approve or reject that action of the Council.

  → If the Plan Commission *approves* the action of the Common Council within those 45 days, then the legislation goes into effect upon the filing of a report of approval to the Common Council.

  → If the Plan Commission *fails to act* within those 45 days, then the legislation stands as passed by the Common Council at the expiration of the 45-day period.

  → If the Plan Commission *disapproves* the amendment or rejection of the Common Council within the 45-day period, then the legislation stands *only if* the Common Council confirms its action by another vote within 45 days after certification of Plan Commission disapproval.

**NOTICE AND AGENDA**
**BLOOMINGTON COMMON COUNCIL**
**SPECIAL SESSION AND COMMITTEE OF THE WHOLE**
**6:30 P.M., WEDNESDAY, JUNE 21, 2017**
**COUNCIL CHAMBERS**
**SHOWERS BUILDING, 401 N. MORTON ST.**

## SPECIAL SESSION

**I. ROLL CALL**

**II. AGENDA SUMMATION**

**III. LEGISLATION FOR FIRST READING**

1. Ordinance 17-32 -- To Authorize Disposition of a Portion of the Switchyard Park Property (1901 South Rogers Street)

1. Ordinance 17-28 -- To Amend Chapter 20 (Unified Development Ordinance) of the Bloomington Municipal Code - Re: Adding Section 20.05.0332 ("CU-13 [Conditional Use – Pocket Neighborhoods]") and Amending the Following Sections: 20.02.070 ("Residential Core [RC] – Conditional Uses"), 20.02.110 ("Residential Single-family [RS] – Conditional Uses"), and 20.11.020 ("Defined Words")

2. Ordinance 17-29 -- To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code - Re: Adding Section 20.05.110 ("Accessory Dwelling Units") and Amending Section 20.11.020 ("Defined Words")

**IV. COUNCIL SCHEDULE**

**V. OTHER BUSINESS**

**VI. ADJOURNMENT** *(to be immediately followed by a)*

## COMMITTEE OF THE WHOLE

**Chair: Dorothy Granger**

1. Ordinance 17-32 – To Authorize Disposition of a Portion of the Switchyard Park Property (1901 South Rogers Street)

Asked to attend: Paula McDevitt, Administrator, Parks and Recreation Department
Thomas Cameron, Assistant City Attorney

1. Ordinance 17-25 -- To Amend the Zoning Maps from Single Family Residential (RS) to Industrial General (IG) - Re: 1.5 Acres Located at 1920 West Fountain Drive (Shelby Bloomington, LLC)

Asked to attend: Eric Greulich, Zoning Planner
Representative of Petitioner

2. Ordinance 17-28 -- To Amend Chapter 20 (Unified Development Ordinance) of the Bloomington Municipal Code - Re: Adding Section 20.05.0332 ("CU-13 [Conditional Use – Pocket Neighborhoods]") and Amending the Following Sections: 20.02.070 ("Residential Core [RC] – Conditional Uses"), 20.02.110 ("Residential Single-family [RS] – Conditional Uses"), and 20.11.020 ("Defined Words")

Asked to attend: James Roach, Development Services Manager

3. Ordinance 17-29 – To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code - Re: Adding Section 20.05.110 ("Accessory Dwelling Units") and Amending Section 20.11.020 ("Defined Words")

Asked to attend: James Roach, Development Services Manager

*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 and Distributed: 16 June, 2017

**City of Bloomington**
**Office of the Common Council**

To Council Members
From Council Office
Re Weekly Calendar – 19-24 June 2017

**Monday, 19 June**

| | | |
|---|---|---|
| 12:00 | pm | Bloomington Entertainment and Art District, McCloskey |
| 12:00 | pm | Affordable Living Subcommittees, Hooker Conference Room |
| 5:00 | pm | Redevelopment Commission, McCloskey |
| 5:30 | pm | Plan Commission – Special Meeting, Chambers |
| 6:00 | pm | Bloomington Commission on Sustainability – Work Session, Kelly |

**Tuesday, 20 June**

| | | |
|---|---|---|
| 8:30 | am | Housing and Neighborhood Development Jack Hopkins Social Services Funding Technical Assistance Meeting, McCloskey |
| 11:30 | am | Plan Commission – Work Session, Kelly |
| 4:00 | pm | Board of Public Safety, McCloskey |
| 4:00 | pm | Bloomington Community Farmers' Market, Madison St. between 6th and 7th St. |
| 5:30 | pm | Bloomington Public Transportation Corporation, 130 W. Grimes Ln. |
| 5:30 | pm | Animal Control Commission, Kelly |
| 5:30 | pm | Commission on the Status of Children and Youth, Hooker Conference Room |

**Wednesday, 21 June**

| | | |
|---|---|---|
| 9:30 | am | Tree Commission, North Shelter, 1001 S. Henderson St. |
| 9:30 | am | Emergency Management Advisory Council, Chambers |
| 2:30 | pm | Affordable Care Act Committee, McCloskey |
| 4:00 | pm | Board of Housing Quality Appeals, McCloskey |
| 4:15 | pm | Economic Development Commission, Hooker Conference Room |
| 6:00 | pm | Council on Neighborhood Associations, Hooker Conference Room |
| 6:30 | pm | Common Council – Special Session *followed by a* Committee of the Whole, Chambers |

**Thursday, 22 June**

| | | |
|---|---|---|
| 12:00 | pm | Monroe County Suicide Prevention Coalition, McCloskey |
| 5:00 | pm | Bloomington Historic Preservation Commission, McCloskey |
| 5:30 | pm | Board of Zoning Appeals, Chambers |

**Friday, 23 June**

*No meetings scheduled for today.*

**Saturday, 24 June**

| | | |
|---|---|---|
| 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, 16 June 2017

401 N. Morton Street
Suite 110
Bloomington, IN 47404

City Hall
www.bloomington.in.gov/council
council@bloomington.in.gov

(ph:) 812.349.3409
(f:) 812.349.3570

# City of Bloomington
# Office of the Common Council

# NOTICE

## THE COMMON COUNCIL WILL HOLD A

## SPECIAL SESSION

**WEDNESDAY, JUNE 21, 2017**
**6:30 p.m.**
**COUNCIL CHAMBERS**
**CITY HALL, 401 N. MORTON**

THIS MEETING WILL BE IMMEDIATELY FOLLOWED BY A
**COMMITTEE OF THE WHOLE**
PREVIOUSLY SCHEDULED FOR THIS EVENING.

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.

Posted: Friday June 16, 2017

401 N. Morton Street
Suite 110
Bloomington, IN 47404

City Hall
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(ph:) 812.349.3409
(f:) 812.349.3570

**ORDINANCE 17-32**

**TO AUTHORIZE DISPOSITION OF A PORTION OF THE SWITCHYARD PARK PROPERTY (1901 SOUTH ROGERS STREET)**

WHEREAS, on May 23, 2017, the Board of Park Commissioners of the City of Bloomington ("Board") approved its Resolution 17-04, in which the Board decided to dispose of 1901 South Rogers Street, because it will not be necessary for the development of the Switchyard Park, and because the Board desires to see 1901 South Rogers Street developed as affordable housing; and

WHEREAS, Indiana Code § 36-10-4-18 provides that when the Board decides to dispose of real property, the Board must: (1) prepare an ordinance authorizing the disposition ("Ordinance"); and (2) submit that ordinance to the Common Council of the City of Bloomington ("Council"); and

WHEREAS, the Board has prepared the Ordinance, and submitted it to the Council; and

WHEREAS, Indiana Code § 36-10-4-18 provides that if the Council passes the Ordinance, 1901 South Rogers Street may be disposed of as any other property of the City is disposed of, with proceeds of the disposition credited to the Parks Department; and

WHEREAS, the Board has indicated that they intend to use the alternative lease procedure found in Indiana Code § 36-1-11-12;

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

SECTION 1. The Council approves the Ordinance that was provided to it by the Board pursuant to Indiana Code § 36-10-4-18 so that the property more commonly known as 1901 South Rogers Street can be disposed of via long term lease pursuant to Indiana Code § 36-1-11-12, developed, and used for affordable housing.

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

PASSED 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

The Parks Board has determined that a small corner of the future Switchyard Park will not be necessary for the development of the park, and that there is an opportunity to activate the corner as affordable housing. One step in the process to dispose of that corner, more commonly known as 1901 S. Rogers Street, is the submission of an Ordinance from the Parks Board to the Council, and the Council's approval of that Ordinance.

# CITY OF BLOOMINGTON
# MEMORANDUM

**TO:** **Members of the Common Council of the City of Bloomington**

**FROM:** **Paula McDevitt, Parks and Recreation Director**

**CC:** **Dan Sherman, Council Administrator/Attorney**

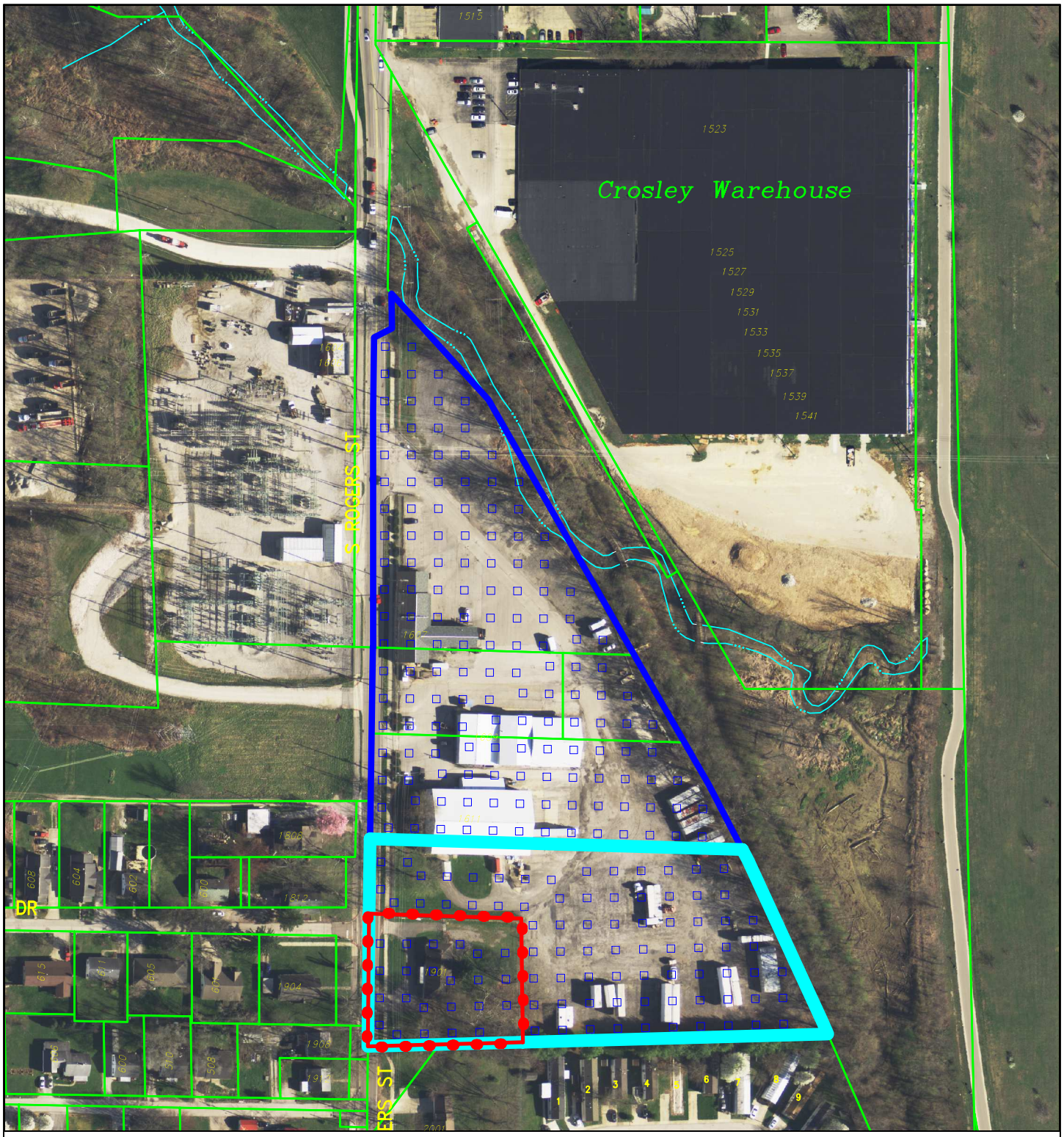
**RE:** **Approval to Authorize Disposition of a Portion of the Switchyard Park Property (1901 S. Rogers Street)**

**DATE:** **June 15, 2017**

The Parks and Recreation Department in conjunction with the City and the Redevelopment Commission acquired property from the Triple C Corporation as part of the Switchyard Park development. A small parcel on the Triple C property more commonly known as 1901 S. Rogers Street (attachment A) is not necessary for the development of the Switchyard Park and could be leased for the development of affordable housing.

In order to dispose of the property state law requires the Board of Park Commissioners to prepare an ordinance authorizing the disposition of the property and to submit it to the Bloomington Common Council. The Board of Park Commissioners approved the forwarding of this Ordinance at their May 23, 2017 board meeting.

Upon the approval of this Ordinance, the Board of Park Commissioners will proceed with platting the parcel, seek rezoning approval, and expects to ultimately use the alternative lease procedure found in Indiana Code § 36-1-1-12 to issue a Request for Proposals seeking proposals for affordable housing projects on this site.




Proposed Park Property Disposal
1901 S Rogers Street

Triple C Property

Southern Parcel

Proposed Split

N

City of Bloomington
Parks & Recreation

16 Jun 17

175 0 175 350 525

Scale: 1" = 175'

For reference only; map information NOT warranted.

**ORDINANCE 17-28**
**TO AMEND CHAPTER 20 (UNIFIED DEVELOPMENT ORDINANCE)**
**OF THE BLOOMINGTON MUNICIPAL CODE**
**Re: Adding Section 20.05.0332 ("CU-13 [Conditional Use – Pocket Neighborhoods]")**
**and Amending Sections 20.02.070 ("Residential Core [RC] – Conditional Uses"), 20.02.110**
**("Residential Single-family [RS] – Conditional Uses"), and 20.11.020 ("Defined Words")**

WHEREAS, the City wishes to promote and encourage a variety of housing options for all its residents; and

WHEREAS, adding Pocket Neighborhood standards will add sustainable and affordable housing options to the City's housing options; and

WHEREAS, Chapter 20 of the Bloomington Municipal Code should be revised to ensure compatibility of Pocket Neighborhoods with residential neighborhoods; and

WHEREAS, the revision will permit Pocket Neighborhoods as a conditional use within the Residential Core (RC) and Residential Single-Family (RS) zoning districts; and

WHEREAS, On June 12, 2017, the Plan Commission considered ZO-11-17, and made a positive recommendation in favor of the amendments to the UDO, as described herein;

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

SECTION 1. Section 20.02.070, entitled "Residential Core (RC); Conditional Uses," shall be amended by adding the term "Pocket Neighborhoods *."

SECTION 2. Section 20.02.110, entitled "Residential Single-family (RS); Conditional Uses," shall be amended by adding the term "Pocket Neighborhoods *."

SECTION 3. A new section, Section 20.05.0332, entitled "CU-13 (Conditional Use - Pocket Neighborhood)," shall be created, added to the Table of Contents, and shall read as follows:

20.05.0332 CU-13 (Conditional Use - Pocket Neighborhood)

Purpose: This Pocket Neighborhoods section is adopted to increase housing options within the City of Bloomington in a manner that will be sustainable, affordable and compatible with surrounding neighborhoods.

This conditional use standards section applies to the following zoning districts:

RS RC

(a) Bulk and Density standards
- (1) Minimum lot size: 1 acre
- (2) Maximum lot size: 5 acres
- (3) Maximum number of dwelling units
  - (A) RC: Maximum of six (6) dwellings per acre
  - (B) RS: Maximum of five (5) dwellings per acre
- (4) Maximum house size: One thousand (1000) square feet gross floor area
- (5) Setbacks
  - (A) Parking lot: A minimum setback of thirty (30) feet from right-of-way.
  - (B) A minimum setback of ten (10) feet between dwelling units within the Pocket Neighborhood.
  - (C) All other setbacks: per applicable zoning district
  - (D) Pocket Neighborhood within the RC zoning district shall include a minimum of one (1) dwelling unit that is built at the build-to-line.

(b) Architecture and landscaping

(1) All structures must meet the architectural requirements of the applicable zoning district.

(2) Central Open Space. All pocket neighborhoods shall include at least one centrally located open space area of at least four hundred (400) square feet per dwelling unit. Parking areas cannot be counted toward open space requirements. Community buildings or clubhouses can be substituted for part of the open space requirement.

(3) Dwelling units must have a maximum 1:3 width to depth ratio for the first floor.

(4) Petitioner shall submit a minimum of three (3) examples of representative architecture for dwelling units.

(5) Bufferyard: All pocket neighborhoods shall install a Bufferyard Type 1 along rear and side lot lines per 20.05.052 (f).

(6) Landscaping: Parking lot landscaping shall be provided per the requirements of 20.05.053.

(c) Parking and access

(1) Parking shall be provided at a minimum of one (1) parking space per dwelling unit and a maximum of two (2) parking space per dwelling unit.

(2) Parking shall be designed in a way to limit curb cuts and most efficiently park vehicles. Parking may take place on a shared, paved parking lot or in shared driveways. Shared driveways may access individual garages.

(3) Sidewalks are required on adjacent streets and to connect dwelling units to the public sidewalk.

(4) A minimum of one (1) class-2 bicycle parking space is required per dwelling unit. Secure garages may count toward this requirement, but a minimum of four (4) class-2 bicycle parking spaces must be provided.

(d) Compatibility

(1) Site plan and architecture shall be designed in a way to foster community and neighborhood interaction through use of such elements as common spaces, porches, and shared design elements.

(2) Petitioners are encouraged to create lots for sale utilizing the Common Area Developments provisions of 20.07.100 (c).

SECTION 4. Section 20.11.020, entitled “Defined Words,” shall be amended by adding the following new defined term:

Pocket Neighborhood: “A cluster of at least five attached or detached single family dwellings located within a common development that utilize shared access, parking and common spaces. Pocket neighborhoods can include homes on individual lots, homes owned as condominiums, or leased homes. The term Pocket Neighborhood shall not include a Manufactured or Mobile Home Park.”

SECTION 5. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 6. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor, and after any required waiting and/or notice periods under Indiana law.

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

This ordinance amends Title 20 of the Bloomington Municipal Code (the Unified Development Ordinance) in two ways. First, it adds Section 20.05.0332 to provide for Pocket Neighborhoods as conditional uses in Residential Core (RC) and Single-family Residential (RS) zoning districts. Second, it modifies Section 20.11.020 to add a definition for Pocket Neighborhoods.

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 17-28 is a true and complete copy of Plan Commission Case Number ZO-11-17 which was given a recommendation of approval by a vote of 8_Ayes, 0_ Nays, and __0__ Abstentions by the Bloomington City Plan Commission at a public hearing held on June 12, 2017.

Date: June 16, 2017

Terri Porter, Secretary
Plan Commission

Received by the Common Council Office this 16th day of June, 2017.

Nicole Bolden, City Clerk

Appropriation Ordinance # _____

Fiscal Impact Statement Ordinance # _____

Resolution # _____

Type of Legislation:

| | | |
|---|---|---|
| Appropriation | End of Program | Penal Ordinance |
| Budget Transfer | New Program | Grant Approval |
| Salary Change | Bonding | Administrative Change |
| Zoning Change | Investments | Short-Term Borrowing |
| New Fees | Annexation | Other |

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

| | | | |
|---|---|---|---|
| Planned Expenditure | _____ | Emergency | _____ |
| Unforeseen Need | _____ | Other | _____ |

Funds Affected by Request:

| | | |
|---|---|---|
| Fund(s) Affected | | |
| Fund Balance as of January 1 | $ | $ |
| Revenue to Date | $ | $ |
| Revenue Expected for Rest of year | $ | $ |
| Appropriations to Date | $ | $ |
| Unappropriated Balance | $ | $ |
| Effect of Proposed Legislation (+/-) | $ | $ |
| Projected Balance | $ | $ |

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No _____

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

FUKEBANEI ORD=CERT.MRG

# MEMO:

**To: City of Bloomington Common Council**
**From: James Roach Development Services Manager**
**Anahit Behjou, Assistant City Attorney**
**Date: June 9, 2017**
**Re: <u>Request to Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code</u>**

The City of Bloomington is proposing two amendments to Title 20 of the Bloomington Municipal Code:

1) To Permit Accessory Dwelling Units within the City of Bloomington

Currently, no Accessory Dwelling Units ("ADU") are allowed within the City of Bloomington boundaries and the City wishes to allow this additional housing option in the City.

The City proposes to add 20.05.110 AU-01 [Accessory Dwelling Unit (ADU) Standards, Single-family] to Chapter 20.05. This new section will permit ADUs in all single family zoning districts. The new section would limit the size and scale of ADUs to ensure compatibility with established neighborhoods, and limit the number of ADUs to no more than 30 ADUs total within the City. The purpose of limiting the number to 30 is to provide the City with an opportunity to review the effectiveness of the ordinance. When the number of approved ADUs begins to approach 30, the Planning and Transportation department will analyze the approved ADUs and determine if the ordinance should be amended in any way to address unforeseen issues. Applicants must also sign and record a zoning commitment that will become part of the deed record acknowledging the rules and limitations on the ADU and agreeing that the ADU must be completely removed if the property no longer meets the requirements of the UDO.

2) To Permit the Creation of Pocket Neighborhoods within the City of Bloomington

Pocket Neighborhoods are clustered groups of houses gathered around a shared open space. They will add sustainable and affordable housing options to the City's housing inventory. The City is proposing to amend Chapter 20.05 by adding Section 20.05.0332, entitled "CU-13 (Conditional Use - Pocket Neighborhood)".

The new Section will permit Pocket Neighborhoods as conditional uses in the Residential Core and Residential Single-family zoning districts. Pocket Neighborhoods would need to be reviewed by the Board of Zoning Appeals ("BZA") or its Hearing Officer for compliance with the general standards for Conditional Uses and the specific new standards outlined below.

Moreover, the new Section provides for limiting the size and scale of Pocket Neighborhoods to ensure compatibility with established neighborhoods. Other standards in the amendment allow the BZA flexibility to determine compatibility with the neighborhood, limit external impacts, and prescribe common areas and greenspace.

The Plan Commission considered both amendments on June 12, 2017 and voted as follows:

ZO-09-17: Amendments to the City's Unified Development Ordinance to permit limited numbers of Accessory Dwelling Units (ADUs) within single-family zoning districts. Vote: 6-2-0

ZO-11-17: Amendments to the City's Unified Development Ordinance to permit Pocket Neighborhoods as conditional uses within the Residential Core (RC) and Single-family Residential (RS) zoning districts. Vote: 8-0-0

# ZO-11-17 MEMO:

**To:** **City of Bloomington Plan Commission**
**From:** **James C. Roach, AICP, Development Services Manager**
**Date:** **June 12, 2017**
**Re:** **Amendments to the City's Unified Development Ordinance to permit Pocket Neighborhoods as conditional uses within the Residential Core (RC) and Single-family Residential (RS) zoning districts.**

---

Pocket Neighborhoods can be called by many names including bungalow courts, co-housing, cottage courts or tiny house villages. They are a clustered group of houses gathered around a shared open space. The Planning and Transportation Department believes that Pocket Neighborhoods can be a great benefit to Bloomington, its citizens and its neighborhoods. Pocket Neighborhoods allow a gradual increase in density while creating neighborhoods with a reduced infrastructure burden through shared access instead of public streets and heightened community amenities. The Plan Commission has reviewed two PUDs in recent years that could be considered Pocket Neighborhoods, the Bloomington Co-Housing development and the Eco-Village/Dandelion Village development. Unfortunately, neither of these projects have yet been constructed.

The Planning and Transportation Department is proposing to amend the UDO to include Pocket Neighborhoods as conditional uses in the Residential Core and Residential Single-family zoning districts. Pocket Neighborhoods would need to be reviewed by the Board of Zoning Appeals or the Hearing Officer for compliance with the general standards for Conditional Uses and the specific new standards outlined below. This amendment attempts to limit the size and scale of Pocket Neighborhoods to ensure compatibility with established neighborhoods with the following regulations:

- Maximum dwelling size of 1000 square feet
- Minimum 1 acre
- Maximum 5 acres (larger developments would be reviewed as PUDs)
- Density limitations
    - 6 houses per acre in RC
    - 5 houses per acre in RS
    - Densities are roughly equivalent to the number of lots that could be constructed with a traditional subdivision

Other standards within the amendment allow the BZA flexibility to ensure compatibility with the neighborhood, limit external impacts, and require common areas and greenspace.

At the April Plan Commission meeting, the PC had several questions and concerns about the proposal. The Department believes this new draft addresses those concerns. We added specific language to ensure that parking lots could not be used to meet open space requirements. We also added requirements for petitioners to submit illustrative architectural renderings of anticipated homes and created a maximum width to depth ratio to limit traditional manufactured home style

of dwellings. We did not however add any requirements for owner occupancy or affordability. No other development or subdivision type in Bloomington requires owner occupancy. With recent changes in Indiana state law, affordability requirements are likely not feasible.

Bloomington's 2002 Growth Policies Plan does not make specific statements about Pocket Neighborhoods, but within the "Conserve Community Chapter" Policy 1 entitled "Protect and Enhance Neighborhoods" it does state that "Bloomington's Neighborhood character can evolve in a gradual and compatible way to allow additional density through subdividing lots, and the creation of granny flats and duplexes (page 17)." The GPP has many other policies about protecting neighborhoods and allowing for gradually evolving neighborhoods, increasing densities, and creating compact urban form in a compatible way.

For more information, we recommend www.pocket-neighborhoods.net

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**RECOMMENDATION:** The Planning and Transportation Department recommends that the Plan Commission forward a positive recommendation for ZO-11-17 to the City Council.

---

**Proposed Amendment:**

20.02.070 Residential Single-family (RS); Conditional Uses

Add "Pocket Neighborhoods*"

20.02.110 Residential Core (RC); Conditional Uses

Add "Pocket Neighborhoods*"

20.11.020 – Defined Words

Pocket Neighborhood: "A cluster of at least ~~two~~ five attached or detached single family dwellings located within a common development~~on the same lot~~ that utilize shared access, parking and common spaces. Pocket neighborhoods can include homes on individual lots, homes owned as condominiums, or leased homes. The term Pocket Neighborhood shall not include a Manufactured or Mobile Home Park."

**Proposed New Section:**

20.05.0332 CU-13 (Conditional Use - Pocket Neighborhood)

Purpose: This Pocket Neighborhoods section is adopted to increase housing options within the City of Bloomington in a manner that will be sustainable, affordable and compatible with surrounding neighborhoods.

This conditional use standards section applies to the following zoning districts:

RS RC

(a) Bulk and Density standards

(1) Minimum lot size: 1 acre

(2) Maximum lot size: 5 acres

(3) Maximum number of dwelling units

(A) RC: Maximum of six (6) ~~detached single family~~ dwellings per acre

(B) RS: Maximum of five (5) ~~detached single family~~ dwellings~~-~~ per acre

(4) Maximum house size: One thousand (1000) square feet gross floor area

(5) Setbacks

(A) Parking lot: A minimum setback of thirty (30) feet from right-of-way.

~~(A)~~(B) A minimum setback of ten (10) feet between dwelling units within the Pocket Neighborhood.

~~(B)~~(C) All other setbacks: per applicable zoning district

~~(C)~~(D) Pocket Neighborhood within the RC zoning district shall include a minimum of one (1) dwelling unit that is built at the build-to-line.

(b) Architecture and landscaping

(1) All structures must meet the architectural requirements of the applicable zoning district.

(2) ~~Common~~ Central Open Space. All pocket neighborhoods shall include at least one centrally located open ~~common~~ space area of at least four hundred (400) square feet per dwelling unit. Parking areas can not be counted toward open space requirements. Community buildings or clubhouses can be substituted for part of ~~counted towards~~ the open~~common~~ space requirement~~calculation~~.

(3) Dwelling units must have a maximum 1:3 width to depth ratio for the first floor.

~~(2)~~(4) Petitioner shall submit a minimum of three (3) example of representative architecture for dwelling units.

~~(3)~~(5) Bufferyard: All pocket neighborhoods shall install a Bufferyard Type 1 along rear and side lot lines~~yards~~ per 20.05.052 (f).

~~(4)~~ Landscaping: Parking lot landscaping shall be provided per the requirements of 20.05.053.

~~(5)~~(6) ~~All dwelling units must be securely attached to a permanent foundation.~~

(c) Parking and access

(1) Parking shall be provided at a minimum of one (1) parking space per dwelling unit and a maximum of two (2) parking space per dwelling unit.

(2) Parking shall be designed in a way to limit curb cuts and most efficiently park vehicles~~cars~~. Parking may take place on a shared, paved parking lot or in shared driveways. Shared driveways may access individual garages.

(3) Sidewalks are required on adjacent streets and to connect dwelling units to the public sidewalk.

~~(3)~~(4) A minimum of one (1) class-2 bicycle parking space is required per dwelling unit. Secure garages may count toward this requirement, but a minimum of four (4) class-2 bicycle parking spaces must be provided.

(d) Compatibility

(1) Site plan and architecture shall be designed in a way to foster community and neighborhood interaction through use of such elements as common spaces, porches, and shared design elements.

(2) Petitioners are encouraged to create lots for sale utilizing the Common Area Developments provisions of 20.07.100 (c).

**ORDINANCE 17-29**
**TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)**
**OF THE BLOOMINGTON MUNICIPAL CODE -**
**Re: Adding Section 20.05.110 ("Accessory Dwelling Units") and Amending Section 20.11.020 ("Defined Words")**

WHEREAS, Accessory Dwelling Units ("ADUs") are not allowed within the boundaries of the City of Bloomington ("City"); and

WHEREAS, there is a housing need for the City's workforce, seniors, families with changing needs, and others for whom ADUs could present an affordable housing option; and

WHEREAS, the City wishes to promote and encourage a variety of housing options for all its residents; and

WHEREAS, adding an ADU standard will add sustainable and affordable housing options to the City's housing options; and

WHEREAS, Title 20 of the Bloomington Municipal Code should be revised to ensure compatibility of ADUs with residential neighborhoods; and

WHEREAS, this change will permit a limited number of ADUs within single-family zoning districts and this limitation will allow for a better understanding of how ADUs impact neighborhoods and will allow the City to determine any unintended consequences; and

WHEREAS, On June 12, 2017, the Plan Commission considered ZO-09-17, and made a positive recommendation in favor of the amendments to the UDO, as described herein;

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

SECTION 1. A new section, Section 20.05.110, entitled "AU-01 [Accessory Dwelling Unit (ADU) Standards, Single Family]" shall be created, added to the Table of Contents, and shall read as follows:

**20.05.110 AU-01 [Accessory Dwelling Unit (ADU) Standards, Single-family]**

Purpose: It is the policy of the City of Bloomington to promote and encourage a variety of housing options for all its residents. This Accessory Dwelling Unit ("ADU") section is adopted to permit the creation of legal ADUs that are compatible with residential neighborhoods while also supporting the housing needs of the City's workforce, seniors, families with changing needs, and others for whom ADUs present an affordable housing option.

This section applies to the following zoning districts:

(a) Applicability: This section applies to the construction, remodeling and continuing use of an ADU as part of a single family dwelling use.
(b) Maximum Number: Not more than one (1) ADU may be located on one (1) property and no more than thirty (30) ADUs shall be approved pursuant to this section within the City Limits.
(c) Planned Unit Development: ADUs shall be considered a permitted accessory use, subject to the requirements of this section, in any Planned Unit Development that permits detached single family dwellings.
(d) Minimum Lot Size: ADUs shall not be established on a lot that is less than the minimum lot size of the zoning district.
(e) Separation: No ADU shall be approved on any lot that is closer than three hundred (300) feet from another ADU approved under this chapter. Distance shall be measured lot line to lot line.
(f) Site Plan: A single family dwelling unit that includes an ADU shall be treated as a single-family dwelling unit for purposes of site plan review.

(g) Utilities: All ADUs must be connected to the public water main and sanitary sewer, when adjacent to property, per City of Bloomington Utilities' Rules & Regulations or Construction Specifications. Where water or sanitary sewer mains are not adjacent to property and the primary dwelling on the lot utilizes a septic system, the ADU may utilize the septic system per Monroe County Health Department Standards.

(h) Design Standards:

(1) Detached ADU: Detached ADUs shall meet the architectural and foundation requirements for a single family dwelling within the applicable zoning district as found in 20.05.016.

(2) Maximum square footage of habitable space:

(A) Attached ADU: Six hundred (600) square feet or no more than 35% of structure, whichever is less;

(B) Detached ADU: Four hundred forty (440) square feet.

(3) Maximum bedrooms: In no case shall an ADU include more than 2 rooms that may be used as bedrooms.

(4) Minimum Setbacks:

(A) Attached ADUs: Per requirements for the primary structures of Chapter 20.02: Zoning Districts.

(B) Detached ADUs: Per requirements for the accessory structures of Chapter 20.02: Zoning Districts except that the front setback can be as close to the street as the primary dwelling unit.

(5) Maximum Height:

(A) Attached ADUs: Per requirements for the primary structures of Chapter 20.02: Zoning Districts.

(B) Detached ADUs: Twenty-five (25) feet

(i) Occupancy: ADUs shall only be permitted on a property where either the primary dwelling unit or the ADU is owner occupied. For the purposes of this section, the owner is defined as the individual, family, or group who holds the property tax homestead deduction for the property in accordance with Indiana state law. Any primary dwelling or ADU used as a rental unit shall register with the Department of Housing & Neighborhood Development (HAND) and receive appropriate certification prior to occupancy.

(j) Enforcement: Violations of the terms of this section shall result in revocation of the Certificate of Zoning Compliance for the ADU as well as fines per Section 20.10.040.

(k) Commitments: Before obtaining a Certificate of Zoning Compliance for an ADU an applicant shall record a commitment, consistent with the standards of Section 20.10.070, stating the following:

(1) The ADU shall not be sold separately from the primary unit.

(2) The Certificate of Zoning Compliance shall be in effect only so long as the primary dwelling unit, or the ADU, is occupied by the owner(s) of record as their primary residence.
If at any time the Certificate of Zoning Compliance is revoked or is no longer in effect, the ADU must be removed from the property. This can include, but is not limited to removal of any second kitchen on the lot, including all kitchen appliances and cabinets

SECTION 2. Section 20.11.020, entitled "Defined Words," shall be amended by deleting the term "Dwelling, Accessory Unit" and replacing it with the following:

Dwelling, Accessory Unit. "Accessory dwelling unit" means a residential dwelling unit but not a mobile home, camper, or recreational vehicle, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Accessory dwelling units shall only be established in accordance with the standards set forth in the Unified Development Ordinance.

SECTION 3. Section 20.11.020, entitled "Defined Words," shall be amended by deleting the term "Dwelling, Multifamily" and replacing it with the following:

Dwelling, Multifamily. "Multifamily dwelling" means any building, group of buildings or portion thereof containing two or more individual dwelling units where each unit is provided with an individual entrance to the outdoors or to a common hallway and in which the number of families in residence does not exceed the number of dwelling units provided. Multifamily dwelling units shall not include "Dwelling, Single-family Attached" or "Dwelling, Accessory Unit" as separately defined in this chapter.

SECTION 4. Section 20.11.020, entitled “Defined Words,” shall be amended by deleting the term “Dwelling, Single-family Attached” and replacing it with the following:

Dwelling, Single-family Attached. "Single-family attached dwelling" means a dwelling type consisting of two dwelling units attached side by side under one roof, that are located on separate lots, and that share a common wall, with each unit designed for and occupied by a single family, as defined in this chapter. A Single-family attached dwelling may also include a “Dwelling, Accessory Unit.”

SECTION 5. Section 20.11.020, entitled “Defined Words,” shall be amended by deleting the term “Family” and replacing it with the following:

Family. "Family" means an individual or a group of people all of whom are related to each other by blood, marriage, or legal adoption, and any other dependent children of the household. In the RE, RS, and RC zoning districts, and in single-family residential portions of planned unit developments, "family" also includes a group of no more than three adults, and their dependent children, living together as a single housekeeping unit in a dwelling unit. Except within dwelling units approved as Accessory Dwelling Units, where “family” shall include a group of no more than two adults, and their dependent children, living together as a single housekeeping unit. In all other districts, "family" also includes a group of no more than five adults and their dependent children, living together as a single housekeeping unit in a dwelling unit.

SECTION 6. Section 20.11.020, entitled “Defined Words,” shall be amended by deleting the term “Dwelling, Single-family Detached” and replacing it with the following:

Dwelling, Single-family Detached. "Single-family detached dwelling” means a single building per lot containing a single residential dwelling unit, including a "Dwelling, Manufactured Home," designed for and occupied by one family which is completely separate from any other building. The term "single-family detached dwelling" does not include a "Dwelling, Mobile Home." A single-family detached dwelling may also include an “Accessory Dwelling Unit.”

SECTION 7. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 8. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor, and after any required waiting and/or notice periods under Indiana law.

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

This ordinance amends Title 20 (the Unified Development Ordinance) of the Bloomington Municipal Code in two key ways. First, it adds a new section, Section 20.05.110, to provide for Accessory Dwelling Unit ("ADU") Standards. This addition will permit a limited number of ADUs within single-family zoning districts. The goal of limiting the number of ADUs is to allow the City to have a better understanding of the impact of ADUs on a neighborhood and to determine any unintended consequences. Second, the ordinance amends Section 20.11.020 to modify terms related to the new section on ADUs.

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 17-29 is a true and complete copy of Plan Commission Case Number ZO-09-17 which was given a recommendation of approval by a vote of 6 Ayes, 2 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on June 12, 2017.

Date: June 16, 2017

Terri Porter, Secretary
Plan Commission

Received by the Common Council Office this 16th day of June, 2017.

Nicole Bolden, City Clerk

Appropriation Ordinance # _____

Fiscal Impact Statement Ordinance # _____

Resolution # _____

Type of Legislation:

| | | |
|---|---|---|
| Appropriation | End of Program | Penal Ordinance |
| Budget Transfer | New Program | Grant Approval |
| Salary Change | Bonding | Administrative Change |
| Zoning Change | Investments | Short-Term Borrowing |
| New Fees | Annexation | Other |

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

| | | | |
|---|---|---|---|
| Planned Expenditure | | Emergency | |
| Unforeseen Need | | Other | |

Funds Affected by Request:

| | | |
|---|---|---|
| Fund(s) Affected | | |
| Fund Balance as of January 1 | $ | $ |
| Revenue to Date | $ | $ |
| Revenue Expected for Rest of year | $ | $ |
| Appropriations to Date | $ | $ |
| Unappropriated Balance | $ | $ |
| Effect of Proposed Legislation (+/-) | $ | $ |
| Projected Balance | $ | $ |

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No _____

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

FUKEBANEI ORD=CERT.MRG

# MEMO:

**To: City of Bloomington Common Council**
**From: James Roach Development Services Manager**
**Anahit Behjou, Assistant City Attorney**
**Date: June 9, 2017**
**Re: <u>Request to Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code</u>**

The City of Bloomington is proposing two amendments to Title 20 of the Bloomington Municipal Code:

1) To Permit Accessory Dwelling Units within the City of Bloomington

Currently, no Accessory Dwelling Units ("ADU") are allowed within the City of Bloomington boundaries and the City wishes to allow this additional housing option in the City.

The City proposes to add 20.05.110 AU-01 [Accessory Dwelling Unit (ADU) Standards, Single-family] to Chapter 20.05. This new section will permit ADUs in all single family zoning districts. The new section would limit the size and scale of ADUs to ensure compatibility with established neighborhoods, and limit the number of ADUs to no more than 30 ADUs total within the City. The purpose of limiting the number to 30 is to provide the City with an opportunity to review the effectiveness of the ordinance. When the number of approved ADUs begins to approach 30, the Planning and Transportation department will analyze the approved ADUs and determine if the ordinance should be amended in any way to address unforeseen issues. Applicants must also sign and record a zoning commitment that will become part of the deed record acknowledging the rules and limitations on the ADU and agreeing that the ADU must be completely removed if the property no longer meets the requirements of the UDO.

2) To Permit the Creation of Pocket Neighborhoods within the City of Bloomington

Pocket Neighborhoods are clustered groups of houses gathered around a shared open space. They will add sustainable and affordable housing options to the City's housing inventory. The City is proposing to amend Chapter 20.05 by adding Section 20.05.0332, entitled "CU-13 (Conditional Use - Pocket Neighborhood)".

The new Section will permit Pocket Neighborhoods as conditional uses in the Residential Core and Residential Single-family zoning districts. Pocket Neighborhoods would need to be reviewed by the Board of Zoning Appeals ("BZA") or its Hearing Officer for compliance with the general standards for Conditional Uses and the specific new standards outlined below.

Moreover, the new Section provides for limiting the size and scale of Pocket Neighborhoods to ensure compatibility with established neighborhoods. Other standards in the amendment allow the BZA flexibility to determine compatibility with the neighborhood, limit external impacts, and prescribe common areas and greenspace.

The Plan Commission considered both amendments on June 12, 2017 and voted as follows:

ZO-09-17: Amendments to the City's Unified Development Ordinance to permit limited numbers of Accessory Dwelling Units (ADUs) within single-family zoning districts. Vote: 6-2-0

ZO-11-17: Amendments to the City's Unified Development Ordinance to permit Pocket Neighborhoods as conditional uses within the Residential Core (RC) and Single-family Residential (RS) zoning districts. Vote: 8-0-0

# ZO-09-17 MEMO:

**To:** **City of Bloomington Plan Commission**
**From:** **James C. Roach, AICP, Development Services Manager**
**Date:** **June 12, 2017**
**Re:** **Amendments to the City's Unified Development Ordinance to permit limited numbers of Accessory Dwelling Units (ADUs) within single-family zoning districts.**

Accessory Dwelling Units can be called by many names: Granny Flats, mother-in-law suites, tiny houses, "fonzie flats", dawdy house, laneway house, or ADUs. ADUs are independent housing units created within single family homes or on the same lot. The Planning and Transportation Department believes that ADUs can be a great benefit to Bloomington, its citizens and its neighborhoods. ADUs can allow for aging homeowners to age in place by creating a unit for a nurse or caretaker. They can also allow families to create independent living spaces for aging parents or disabled children. ADUs can also provide an affordable housing option within already established neighborhoods. Not only are ADUs less expensive to build than traditional apartments, they can also allow the homeowner to keep their home affordable through a rental income.

The Planning and Transportation department is proposing to amend the UDO to permit ADUs in all single family zoning districts. This amendment attempts to limit the size and scale of ADUs to ensure compatibility with established neighborhoods.

- Maximum size of the ADU
- Minimum spacing between ADUs
- Maximum number of bedrooms with the ADU
- ADUs are only permitted on lots that meet the minimum lot size of the zoning district

In addition to the limitation on size and design, this amendment includes a cap of no more than 30 ADUs within the City. This cap will allow for some ADUs to be built while giving the City an opportunity to review the effectiveness of the standards of this ordinance. When the number of approved ADUs begins to approach 30, the Planning and Transportation Department will analyze the approved ADUs and determine if the ordinance should be amended in any way to address unforeseen issues. There is no timeframe for that reevaluation. It will depend on the pace of requests for ADUs. Based on that analysis, the ordinance may be changed, the cap may be raised, or the cap may be lifted altogether.

The proposed amendment allows for homeowners in the RE, RS and RC zoning districts to be approved for a single ADU on their lots, but only if that ADU meets the requirements of this section. ADUs are only permitted on lots where the main dwelling unit or the ADU is owner occupied. This will be verifies through use of the Indiana Homestead property tax deduction. Only lots that have a valid homestead deduction on file with the Monroe County Auditor are permitted to construct or operate an ADU.

Applicants must also sign and record a zoning commitment that will become part of the deed record acknowledging the rules and limitations on the ADU and agreeing that the ADU must be completely removed if the property no longer meets the requirements of the UDO.

Questions have been raised about how the Planning and Transportation Department will track compliance with ADU regulations. With the limited number of potential ADUs, a maximum of 30, the Department intends to track each one individually. A yearly follow up will be conducted to ensure that the property is still owner occupied and will inform HAND is the ADU is being rented. The draft ordinance requires recording of a zoning commitment so that all future property owners are aware of the ADU regulations, especially those for owner occupancy, and that the City may require the ADU to be removed if the terms of the ordinance are no longer met.

At the April Plan Commission meeting, PC members raised several questions and concerns about the ADU ordinance that this amended draft attempts to resolve. There was concern that there may need to be a definition for "Tiny House." There is no minimum size for a home in Bloomington and Tiny House is not a defined term in building codes. References to Tiny Houses have been removed from the ordinance. There was also question about separation requirements. Staff met with HAND and Monroe County Building Department staff to discuss this issue. The building codes are complicated and may depend on how the ADU is used. An ADU used by a family member where there is interior interaction between the units may have minimum separation requirements. An ADU that is rented may need to be separated with a fire wall and separate HV/AC systems and separate electric service.

There was questions about how loft space would be handled in terms of the maximum gross floor area. In discussions with the Monroe County Building Department, staff learned that most loft spaces in "tiny houses" would not meet building code requirements for minimum ceiling height and egress requirements. References to foundations have also been removed. This is already covered in other parts of the UDO and does not need to be repeated.

Some PC members questioned that if affordability was a goal of the ordinance, why is there not an affordability requirement in the ordinance? While affordability is one of many goals of the ordinance, recent changes to Indiana State law prohibit us from mandating affordability as part of a zoning requirement.

Go here for more discussion on ADUs and affordability:
https://accessorydwellings.org/2014/08/07/do-adus-provide-affordable-housing/

Staff from HAND, Planning and Transportation and the Mayor's office also met with CONA representatives since the last Plan Commission meeting. Those in attendance had several concerns about the draft ordinance and several suggestions on how to change it. Some concerns included:

- Full time students that are included on the deed of the property could be eligible for the homestead deduction and could then be permitted to build an ADU.
    - Staff confirmed with the Monroe County Auditor that as long as the person requesting the Homestead Deduction lives on the property, is an owner of the property, and has not applied for the deduction on any other properties, then they

would be eligible for the deduction. This could include owners that are full time students.

- Recently developed neighborhoods contain covenants and restrictions against second dwelling units on properties, thus ensuring that all ADUs built would be within older neighborhoods.
    - While it is true that many newer neighborhoods do contain covenants restricting the number of units on a lot, this is not enforced by the City. The City enforces the current zoning requirements. Induvial property owners are responsible for following or enforcing these private covenants.
- While ADUs may be less expensive to build than other housing types, future purchasers on homes and lots with ADUs may not be eligible for conventional mortgages because of the lack of comparable housing in Bloomington or the presence of an income generator on the lot.
    - Staff research has found that this is likely correct, however ADUs are still less expensive to build than other housing types and serve other community goals, such as allowing for intergenerational familes and ageing in place.
- Existing rental and occupancy rules are not adequately enforced today. This will just be worse with additional units and regulations to monitor.
    - This ordinance does not attempt to fix all concerns with Title 16 and occupancy enforcement. While the text of the ordinance does not lay out tracking and monitoring, the Planning and Transportation Department intends to follow up on legal ADUs on an annual basis to ensure compliance.
- The City may not able to require that one of units be owner occupied.
    - This issue has been researched and vetted by the Legal Department. The ordinance does not mandate owner occupancy of units. It provides for an added benefit to only owner occupied single family dwellings. This regulation is identical to other Indiana ADU ordinances in communities such as Indianapolis and Monroe County.
- “Hidden” addresses will be difficult for first responders to locate.
    - Staff met with the City Fire Department and the City’s addressing coordinator. The USPS has suffixes that can be attached to accessory apartments to provide for clear locations for first responders, such as “rear” and “basement.”

Some suggestions for changes to the ordinance that CONA presented at the meeting included

- Using a sunset provision instead of the 30 unit cap. *Staff has concerns that a sunset provision would make all lots where an ADU has been built a legal non-conforming (grandfathered) use and may make home sales, additions, and refinancing more difficult.*
- Mandating three unrelated adults across the entire property, not in each unit. *Staff has proposed further limiting the definition of “family” for ADUs to be no more than two (2) unrelated adults.*
- Mandating affordability. *Staff doubts that this is legal given recent changes to staff laws*
- Mandating bigger setbacks for freestanding ADUs (10') than for garages/sheds (5'). *A larger setback would prohibit the conversion of an existing garage on a property. In*

*addition, the setback for a garage or ADU (5 feet) is not much different than the setback for a house in the RC district (6 feet).*

- Prohibiting new structures from being built for ADUs. *This would restrict ADUs to homes with existing accessory structures or mandate that the ADU be an attached ADU.*
- Ensure that lots with ADUs still meet impervious surface coverage requirements. *No part of the ordinance permits a reduction in the maximum impervious surface coverage requirements*.
- Fines must be clearly identified. *The ordinance includes requirements for recording of a zoning commitment and requirements to unit removal and fines if the terms of the ordinance are not met.*

Their primary suggestion was to amend the ordinance to permit ADUs as conditional uses instead of "by right" uses. This issue also was discussed at the April Plan Commission meeting. The argument is that a conditional use process would allow ADUs but would also permit neighbors to voice their concerns about a proposed ADU in a public forum. The Department believes that the standards in place with this ordinance (maximum size, minimum separation, occupancy limitations, and owner occupancy requirements) ensure that ADUs are appropriate in all situations and that a conditional use process would inject a measure of unpredictability into the process. A Plan Commission member asked how a conditional use process would impact staff time and resources. For every proposed ADU, a report would have to be written and presented to the Board of Zoning Appeals. It is impossible to determine if this would be an excessive burden because we have no knowledge as to what pace homeowners will want to build ADUs.

Bloomington's 2002 Growth Policies Plan makes one specific statement about ADUs. The Conserve Community Chapter Policy to Protect and Enhance Neighborhoods, **"**Bloomington's Neighborhood character can evolve in a gradual and compatible way to allow additional density through subdividing lots, and the creation of granny flats and duplexes (page 17)." The GPP has many other policies about protecting neighborhoods and allowing for gradually increasing densities and creating compact urban form, but in a compatible way.

For more information, we recommend "Accessory Dwelling Units: Model State Act and Local Ordinances" by Rodney Cobb and Scott Dvorack. http://www.aarp.org/content/dam/aarp/livable-communities/documents-2015/ADU-report-AARP-APA.pdf

Also

https://accessorydwellings.org/

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**RECOMMENDATION:** The Planning and Transportation Department recommends that the Plan Commission forward a positive recommendation for ZO-09-17 to the City Council.

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**Proposed Amendment:**

20.11.020 – Defined Words

Accessory Dwelling Unit (ADU). See "Dwelling, Accessory Unit."

Dwelling, Accessory Unit. "Accessory ~~unit~~ dwelling unit" means a residential dwelling unit~~, including a "tiny home"~~ but not a mobile home, camper, or recreational vehicle, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Accessory dwelling units shall only be established in accordance with the standards set forth in the Unified Development Ordinance~~ and only in those zoning district where the use is listed as a special review use~~.

Dwelling, Multifamily. "Multifamily dwelling" means any building, group of buildings or portion thereof containing two or more individual dwelling units where each unit is provided with an individual entrance to the outdoors or to a common hallway and in which the number of families in residence does not exceed the number of dwelling units provided. Multifamily dwelling units shall not include "Dwelling, Single-family Attached" or "Dwelling, Accessory Unit" as separately defined in this chapter.

Dwelling, Single-family Attached. "Single-family attached dwelling" means a dwelling type consisting of two dwelling units attached side by side under one roof, that are located on separate lots, and that share a common wall, with each unit designed for and occupied by a single family, as defined in this chapter. A Single-family attached dwelling may also include a "Dwelling, Accessory Unit".

Family. "Family" means ~~a family consisting of~~ an individual or a group of people all of whom are related to each other by blood, marriage, or legal adoption, and any other dependent children of the household. In the RE, RS, and RC zoning districts, and in single-family residential portions of planned unit developments, "family" also includes a group of no more than three adults, and their dependent children, living together as a single housekeeping unit in a dwelling unit. Except within dwelling units approved as Accessory Dwelling Units, where "family" shall include a group of no more than two adults, and their dependent children, living together as a single housekeeping unit. In all other districts, "family" also includes a group of no more than five adults and their dependent children, living together as a single housekeeping unit in a dwelling unit.

Dwelling, Single-family Detached. "Single-family detached dwelling means a single building per lot containing a single residential dwelling unit, including a "Dwelling, Manufactured Home," designed for and occupied by one family which is completely separate from any other building. The term "single-family detached dwelling" does not include a "Dwelling, Mobile Home." A single-family detached dwelling may also include an "Accessory Dwelling ~~Accessory~~ Unit".

**Proposed New Section:**

20.05.110 AU-01 [Accessory Dwelling Unit (ADU) Standards, Single-family]

Purpose: It is the policy of the City of Bloomington to promote and encourage a variety of housing options for all its residents. This Accessory Dwelling Unit ("ADU") section is adopted to permit the creation of legal ADUs that are compatible with residential neighborhoods while

also supporting the housing needs of the City's workforce, seniors, families with changing needs, and others for whom ADUs present an affordable housing option.

This section applies to the following zoning districts:

RE RC RS

(a) Applicability: This section applies to the construction, remodeling and continuing use of an ADU as part of a single family dwelling use.
(b) Maximum Number: Not more than one (1) ADU may be located on one (1) property and no more than thirty (30) ADUs shall be approved pursuant to this section within the City Limits.
(c) Planned Unit Development: ADUs shall be considered a permitted accessory use, subject to the requirements of this section, in any Planned Unit Development that permits detached single family dwellings.
(d) Minimum Lot Size: ADUs shall not be established on a lot that is less than the minimum lot size of the zoning district.
(e) Separation: No ADU shall be approved on any lot that is closer than three hundred (300) feet from another ADU approved under this chapter. Distance shall be measured lot line to lot line.
(f) Site Plan: A single family dwelling unit that includes an ADU shall be treated as a single-family dwelling unit for purposes of site plan review.
~~(g) Foundation: All detached ADUs must be securely attached to a permanent foundation.~~
~~(h)~~(g) Utilities: All ADUs must be connected to the public water main and sanitary sewer, when adjacent to property, per City of Bloomington Utilities' Rules & Regulations or Construction Specifications. Where water or sanitary sewer mains are not adjacent to property and the primary dwelling on the lot utilizes a ~~sceptic~~ septic system, the ADU may utilize the septic system per Monroe County Health Department Standards.
~~(i)~~(h) Design Standards:
(1) Detached ADU: Detached ADUs shall meet the ~~design~~ architectural and foundation requirements for a single family dwelling within the applicable zoning district as found in 20.05.016.
(2) Maximum square footage of habitable space:
(A) Attached ADU: Six hundred (600) square feet or no more than 35% of structure, whichever is less;
(B) Detached ADU: Four hundred forty (440) square feet.
(3) Maximum bedrooms: In no case shall an ADU include more than 2 rooms that may be used as bedrooms.
(4) Minimum Setbacks:
(A) Attached ADUs: Per requirements for the primary structures of Chapter 20.02: Zoning Districts.
(B) Detached ADUs: Per requirements for the accessory structures of Chapter 20.02: Zoning Districts except that the front setback can be as close to the street as the primary dwelling unit.
(5) Maximum Height:
(A) Attached ADUs: Per requirements for the primary structures of Chapter 20.02: Zoning Districts.

(B) Detached ADUs: Twenty-five (25) feet

(i) Occupancy: ADUs shall only be permitted on a property where either the primary dwelling unit or the ADU is owner occupied. For the purposes of this section, the owner is defined as the individual, family, or group who holds the property tax homestead ~~exemption~~ deduction for the property in accordance with Indiana state law. Any primary dwelling or ADU used as a rental unit shall register with the Department of Housing & Neighborhood Development (HAND) and receive appropriate certification prior to occupancy.

(j) Enforcement: Violations of the terms of this section shall result in revocation of the Certificate of Zoning Compliance for the ADU as well as fines per Section 20.10.040.

(k) Commitments: Before obtaining a Certificate of Zoning Compliance for an ADU an applicant shall record a commitment, consistent with the standards of Section 20.10.070, stating the following:

(1) The ADU shall not be sold separately from the primary unit.

(2) The Certificate of Zoning Compliance shall be in effect only so long as the primary dwelling unit, or the ADU, is occupied by the owner(s) of record as their primary residence.

~~(3)~~ If at any time the Certificate of Zoning Compliance is revoked or is no longer in effect, the ADU must be removed from the property. This can include, but is not limited to removal of any second kitchen on the lot, including all kitchen appliances and cabinets~~, must be removed from the accessory dwelling unit.~~

# Council of Neighborhood Associations
## Accessory Dwelling Units Review

CONA members recognize the merits of Accessory Dwelling Units (ADUs). Nonetheless, great fear remains regarding the ability to implement and craft an ordinance that will be enforceable and legal while will not thwarting the quality of life in single family neighborhoods.

## Major Concerns

- Neighborhoods located close to the university and in the core neighborhoods surrounding downtown are already at higher densities than other areas of the city. ADUs will unduly burden these already dense core areas. Many areas outside the core neighborhoods are protected by neighborhood covenants and will not be subject to this new ordinance.
- ADUs create the temptation to build illegal dual rentals per single-family lot which will create unmanageable challenges for limited on-street parking along with the other hazards of over-occupied student housing.
- Core neighborhoods should not become more of a magnet for landlords as a consequence of the ADU ordinance. Residents in the poorer core neighborhoods are less likely to be able to afford to build new ADUs. Therefore, these neighborhoods will be targeted by landlords increasing the price of historically affordable housing stock and pricing residents out of their own neighborhoods.
- Existing HAND regulations are currently not adequately enforced. The city has acknowledged that there are currently ADUs that exist in Bloomington illegally. Without adequate enforcement, ADUs will become illegal dual rentals. ADUs should not become another opportunity to violate for profit. What will prevent an owner from living in a house for a few months while they work on an ADU and then move out after being granted a permit?

## Unanswered Questions

- Is it legal to require the owner to live in one of the structures? Does Indiana state law allow local zoning regulation of property ownership? The mandatory owner-occupied concept needs to be verified by solid and supportable research by the Legal Department.
- Subdivisions that have a covenant against more than one residential structure per lot will have a private means to prevent ADUs. This ordnance will create conflict between city regulations and subdivision covenants. Potentially, this places an onerous burden on neighbors to enforce subdivision covenants. Many newer subdivisions with exclusionary covenants are the areas where additional density is desirable.
- How will the deed restriction be tracked and enforced? Perhaps a sunset date in the ordinance might be better.

- How will the optional Homestead Exemption stop illegal ADUs from being built?
- Is it legal to only allow 30 test ADUs or will other property owners demand equal rights? Do you have to treat all property owners equally? How does this not establish a precedent
- How many unrelated people will be allowed to live on the single-family lot?
- How many unrelated people will be allowed to live in an ADU? As was proposed in the previous ADU ordinance, the whole property should be limited to not more than 3 unrelated adults. For clarity this should be in the ADU section. This would allow two adult owners to have one tenant or a single owner to have two.
- If the goal is to provide affordable housing, how will this be guaranteed? Should an affordable agreement contract be mandated?
- Will "hidden" addresses located off-street be hazardous for the health and safety of occupants and neighborhoods? How will police, fire and ambulances find these "hidden" addresses?

## Controls:

- Ordinance should be "Conditional Use" only—not by-right.
- ADUs should have rear buffering from neighboring houses. Rear Building Setback should be greater than accessory shed allowance of 5'. Rear setback for residential dwelling assures privacy and buffers noise, smells and mitigates the general impact of day to day living in neighborhoods.
- Maximum impervious surface coverage/greenspace should be maintained for each zoning district.
- Architectural standards should be mandatory. Design of ADUs should be contextual to the primary single family dwelling.
- Certificate of Appropriateness (COA) should be required in historic districts. ADUs should conform in all respects with historic district guidelines.
- No new structures should be built for the 30 unit test. New ADUs should be allowed <u>only</u> in existing garages and attached UDOs in existing homeowner's house. Existing illegal ADUs should not be rewarded by granting them an occupancy permit to bring them into compliance.
- Fines should be required for illegal ADUs. In addition to removal of kitchen, space should be used only as part of the original dwelling unit or as a permitted accessory, such as art studio, playhouse, storage.
- The review of homestead property tax credits affords a means to find violations; the ADU ordinance should mandate who checks, how often, and require enforcement. The regulation and ADU building will be with us long after its proponents are gone from Bloomington government and we do not want to see low priority, complaint driven enforcement. The 5 year rental inspection cycle is too long for this purpose.