

City of Bloomington Common Council

Legislative Packet

Wednesday, 29 June 2016

Regular Session

*For legislation and background material regarding
Ordinance 16-12, please consult the
[15 June 2016 Legislative Packet](#).*

*For legislation and background material regarding
Resolution 16-07, and Ordinance 16-18, please consult the
[22 June 2016 Legislative Packet](#).*

All other material contained herein.

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To: Council Members
From: Council Office
Re: Weekly Packet Memo
Date: June 24, 2016

Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

None

Legislation for Second Reading at the Regular Session on Wednesday, June 29th:

- **Ord 16-12** To Vacate Public Parcels - Re: Two 12-Foot Wide Alley Segments and Two Fifty-Foot Wide Street Segments Located at the Northwest Corner of West 11th Street and North Rogers Street (Duke Energy, Petitioner)
*Contact: Christy Langley at 812-349-3423, langleyc@bloomington.in.gov
William J. Beggs, Representative of Petitioner, at 812-332-295*
Please see the [Weekly Council Legislative Packet](#) issued for the June 15th Regular Session this package of legislation, summaries and related material.
- **Res 16-07** To Extend the Bloomington Urban Enterprise Zone for an Additional One Year Beyond Current Expiration Date
*Contact: Linda Williamson at 812-349-3477 or williali@bloomington.in.gov
Jason Carnes at 812-349-3419 or carnesj@bloomington.in.gov*
Please see the [Weekly Council Legislative Packet](#) issued for the June 22nd Special Session and Committee of the Whole for the legislation, summary and related material.
- **Ord 16-18** Authorizing and Approving a PILOT Agreement for Evergreen Village at Bloomington
*Contacts: Jeff Underwood at 812-349-3416 or underwoj@bloomington.in.gov
Philippa Guthrie at 812-349-3547 or guthriep@bloomington.in.gov
Thomas Cameron at 812-349-3557 or cameront@bloomington.in.gov*

Please see the [Weekly Council Legislative Packet](#) issued for the June 22nd Special Session and Committee of the Whole for the legislation, summary and related material.

Legislation and Background Material for Consideration during the June 29th – July 6th – July 13th Legislative Cycle of the Council

- ***First Reading on June 29th – Ord 16-14*** To Amend Title 15 of the Bloomington Municipal Code – Re: Alley Parking; No Parking Zones; No Truck Parking Zones; Limited Parking Zones; Loading Zones; Removal and Impoundment of Vehicles; Pedestrian Crosswalks; Parking Permit Fees; Mayoral Authorization to Suspend Enforcement of Garages as Well as Meters; Fees for Law Enforcement Recordings; Class B, C, D, E, and H Traffic Violations; and, Appeals of Parking and Other Violations
 - Memo from Patty Mulvihill, City Attorney and Andrew Cibor, Transportation and Traffic Engineer
 - Maps

*Contacts: Patty Mulvihill at 812-349-349-3426 or mulvihip@bloomington.in.gov
Andrew Cibor at 812-349-3598 or cibora@bloomington.in.gov*

- ***First Reading on June 29th - Ord 16-16*** To Amend Title 4 (Business Licenses and Regulations) of the Bloomington Municipal Code - Re: Amending 4.16.010 (Solicitors - Definitions), 4.28.160 (Mobile Vendors - Standards of Conduct), and 4.30.150 (Pushcarts - Standards of Conduct)
 - Memo from Patty Mulvihill, City Attorney
 - BMC Title 4 (Business Licenses and Regulations) Annotated with Proposed Changes

Contact: Patty Mulvihill at 812-349-349-3426 or mulvihip@bloomington.in.gov

Material Regarding Tax Abatement for a Mixed Use Project at 405 South Walnut Street; 114, 118, and 120 East Smith Avenue; and, 404 South Walnut Street (H.M. Mac Development, LLC, Petitioner)

- Memo to Council from Linda Williamson, Director, and Jason Carnes, Assistant Director for Small Business, Economic and Sustainable Development Department
- Map and Aerial Photo of Site and Surrounding Area;
- Application for Tax Abatement;
- Statement of Benefits for Abatement on Real Estate;
- Estimate of Property Tax Calculations;

- Building Elevations and Renderings from Above; and
- Tax Abatement Program: General Standards.
- ***Introduction and Discussion on July 6th - Res 16-11*** To Designate an Economic Revitalization Area, Approve the Statements of Benefits, and Authorize a Period of Abatement for Real Property Improvements - Re: Properties at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street (H.M. Mac Development, LLC, Petitioner)
 - EDC Res 16-02 (*forthcoming*)
- ***First Reading on June 29th - Ord 16-17*** To Designate an Economic Development Target Area (EDTA) - Re: Property Located at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street and Identified by the Monroe County Parcel ID Numbers 015-35020-00, 015-35010-00, 015-35030-00, 015-10000-00, 015-33130-00 (H.M. Mac Development, LLC, Petitioner)
 - EDC Res 16-01 (*forthcoming*)

Minutes from Regular Sessions:

- April 19, 2006
- January 18, 2006
- October 5, 2005
- June 15, 2005

Memo

One Ordinance and Two Resolutions Ready for Second Reading and Three Ordinances Ready for Introduction at the Regular Session on Wednesday, June 29th

The agenda for the Regular Session next Wednesday includes three items under Second Readings and three ordinances under First Readings. The legislation under Second Readings can be found online as indicated above and includes an advertised public hearing for Ord 16-13 (Vacation of Right-of-Way for Duke Energy). The three ordinances ready for First Reading next week are included in this packet and summarized herein. Please note that one, Ord 16-17, is part of a tax abatement proposal and is accompanied by a resolution (Res 16-11) which is key to understanding the ordinance, but is not scheduled for introduction until Wednesday, July 6th.

First Readings:

Item One – Ord 16-14 – Periodic Changes to Title 15

Ord 16-14 makes various changes to Title 15, “Vehicles and Traffic.” These changes are the result of feedback from the Traffic Commission, Planning and Transportation Department, the Police Department, the Fire Department, City Legal, and, the City Clerk. Title 15 is a title that is subject to frequent change and revision. Long ago, the Council requested that the Administration propose changes to this Title in manageable installments, rather than by way of protracted, “omnibus” legislation. Ord 16-14 represents the first such installment this year. The following provides a brief review of these changes and tracks the order of changes outlined in the ordinance.

Changes to Alley Parking (Section 1) and Loading Zones (Section 8): Car and Truck Parity

At present, trucks are afforded 30 minutes to load and unload in an alley, while cars are only permitted 5 minutes. Similarly, the current rules for loading zones provide that trucks have up to 30 minutes to load and unload materials while cars are allowed five minutes to pick up and drop off passengers. As a number of businesses have informed the City that they use cars for delivery purposes, and to load and unload materials, Ord 16-14, eliminates the distinction between cars and trucks when it comes to parking in alleys and in loading zones, making the 30 minute limit apply to all “vehicles.” In alleys, the 30-minute limit refers to “loading or unloading goods or persons,” while in loading zones, the limit refers the delivery and pick-up of “materials.”

Changes to “No Parking Zones” (Sections 2-3) and Limited Parking Zones (Sections 5-6)

Ord 16-14 adds six new “No Parking” Zones and deletes various “No Parking” spaces and zones to reflect actual parking practice.

New “No Parking Zones” and “Limited Parking Zones”

- **First Street:** In response to safety concerns expressed by MCCSC, parents, and adjacent property owners around Binford-Rogers Elementary Schools, at its [January 2016 meeting](#), the Traffic Commission recommended the following parking adjustments (*See* attached map). Please be advised that at least one property owner is not pleased with this change and may speak against it.

No Parking

- from High to dead end 160’ east of High (north side; any time)

- from High to dead end 160 east of High (south side; 8-10am and 3-5pm, M-F)

Limited Parking

- from High to Clifton (south side; 30 min, 8am-5pm, M-F). To help with the picking up and dropping off of children.

- **Third Street:** As reflected in the staff memo from Mulvihill and Cibor, the following 5 “No Parking” spaces and 3 “Limited Parking” spaces are being added to local code to reflect actual practice (i.e., these spaces are already being implemented as spaces for either no or limited parking.)

No Parking

- from Rogers to 185’ east of Fess (south side; any time)
- from 235’ east of Fess to 155’ west of Woodlawn (south side; any time)
- from 105’ w. of Woodlawn to 95’ w. of Ballantine (south side; any time)
- from 50’ west of Ballantine to 140’ west of Jordan (south side; any time)
- from 120’ west of Jordan to College Mall Road (south side; any time)

Limited Parking

- from 185’ east of Fess to 235 east of Fess (south side; 15 min; any time)
- from 105’ west of Woodlawn to 155’ west of Woodlawn (south side; 15 min; any time)
- from 50’ west of Ballantine to 95’ west of Ballantine (south side; 15 min; any time)

(As also reflected in the staff memo, Ord 16-14 deletes three “No Parking” zones and three “Limited Parking” zones to reflect actual practice.)

- **Fourth Street:** These changes come at the request of the Traffic Commission and reflect an allowance for parking on a short segment of Hillsdale. With the below changes, while the whole of Fourth Street from Roosevelt to Hillsdale was previously “No Parking,” now approximately one space will be provided on East 4th. This is within the Zone 3 Residential Permit Parking Zone. If approved, this space will require a Residential Zone permit. See [December 2015 Traffic Commission meeting](#) minutes for details. See also map for details.

No Parking

- from Roosevelt to Clark (both sides; any time)
- from 280’ west of Hillsdale Drive to Hillsdale Drive (both sides; any time)

(As reflected in the staff memo, the ordinance also deletes a “No Parking” zone from Roosevelt to Hillsdale.) *Please see* attached map for details.

- **Fairview:** This change comes at the request of a citizen, due to the commercial nature of this block and was approved by the Traffic Commission in [January](#)

[2016](#). When customers park on both sides of the street, passage becomes difficult. The minutes from the Traffic Commission meeting indicate that Juannita's Restaurant is not opposed to this change and they feel they have sufficient on-site parking, as well as free public parking along Kirkwood Avenue. *See* map for details.

No Parking

- from Sixth to Kirkwood (east side; any time)

- **Gentry Street**: This comes at the recommendation of the Traffic Commission at its [February 2016 meeting](#) and responds to concerns articulated both by Parking Enforcement over a lack of parking controls along Gentry and concerns from businesses along Gentry. This stretch has experienced a problem with storage parking. As Engineer Cibor relayed at the June 24 Internal Work Session, parking will still be allowed underneath the Hyatt Hotel awning. *See* map for details.

No Parking

- from Fourth to Kirkwood (east side; any time)

- from Fourth to 75' south of Kirkwood (west side; any time)

- **Walker Street**: This is the codification of a 90-day order to improve sight distance. The order was issued on December 15, 2015. *See* map for details. This is a short 75' stretch.

No Parking

- from 310' N. of First to 260' N. of First (east side; any time)

Addition of a "No Truck Parking" Zone (Section 4)

Ord 16-14 adds a new section to the municipal code to provide for a "No Truck Parking" Zone. This codifies a 90-day order issued on November 21, 2015 in response to a nearby property owner's (Kenn Nunn's) safety concern regarding the parking of trucks on Franklin Road from Third Street to the end of Franklin Road. The proposed no truck parking on this stretch will apply to the south side of the street and will apply at all times.

Addition of a New Loading Zone (Section 7)

Ord 16-04 adds a new loading zone to provide for a zone in front of a dry cleaning business, *Kinser Cleaners*, located in the 1300 block of East Third Street.

Reconfiguring the Residential Neighborhood Parking Permit Fee Structure to Reflect Residency (Section 9)

Currently, all Residential Parking permits and visitor permits are \$25. Ord 16-14 creates a tiered fee structure based on residency: Monroe County residents will pay \$25; Indiana residents will pay \$50; and, out-of-State residents will pay \$75. This residency-based fee structure is intended to reflect that Monroe County residents pay a wheel tax when registering their vehicle. This wheel tax is devoted to the maintenance and repair of County roads. The City receives a portion of this tax. As Ms. Mulvihill mentioned at 24 June Internal Work Session, this fee structure has been contemplated for a number of years. Getting this fee structure in place now will allow the new fees to be in place before the August permitting process, when the students return. Mulvihill advises that during the 2015 school year, 529 permits were issued to out-of-State residents; 1,766 to Indiana, but out-of-County residents, and 701 to Monroe County residents.

Allowing the Mayor to Suspend Enforcement of Parking Garages as Well as Meters (Section 10)

At present, the Mayor is authorized to suspend enforcement of parking meters during holidays, in the event of inclement weather, or under other circumstances the Mayor deems appropriate. Ord 16-14 allows the Mayor to also suspend enforcement of payment at parking garages.

Fees for New or Replacement Hang Tags and Garage Access Cards and for Garage Access Reactivation Fee (Section 11)

This provision eliminates the fee for the cancellation of a parking permit lease and adds in a fee for garage access card re-activation (\$5). Otherwise, the cost of replacement for hang tags and garage access cards -- \$10 -- remains the same.

Adding Violations that Trigger Towing (Section 12)

Currently, local Code provides 15 instances in which a vehicle may be towed. Ord 16-14 adds two more: vehicles parked at yellow-painted curbs and equipment or machinery left parked on a public street without prior approval from the Board of Public Works.

Eliminate the Requirement that Pedestrians Cross at Crosswalks in Certain Areas (Sections 13 and 18)

At present, the BMC requires that “no pedestrians shall cross a roadway other than in a crosswalk.” (BMC 15.60.050). The BMC also establishes 39 crosswalks at various City intersections. While local Code prohibits crossing anywhere on a roadway except for a crosswalk, State law does not attach such a requirement. In fact, State law directs that,

“[a] pedestrian crossing a roadway at a point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.” Because State law does not require crossing at such walks and because the public is confused by such a requirement, the Bicycle and Pedestrian Safety Commission, with City Legal’s endorsement, requests that the mandatory crosswalk provision be removed. For that reason, Ord 16-14 removes the crosswalk requirement and also removes “Jaywalking” as a listed Class E traffic violation. Know that this recommendation came from the Bicycle and Pedestrian Commission and was supported by the Traffic Commission.

Charge for Law Enforcement Recordings (Section 14)

Last year, the Indiana General Assembly made a number of changes attaching to the retention of law enforcement recordings. Such recordings include the ever-increasing use of body cameras. When such records are requested by the public, law requires the redaction of certain material, such as faces of minors and victims of violent crimes. The redaction process is time and labor intensive. For this reason, Ord 16-14 raises the fee for requests for such recordings from \$20 to \$150, the maximum allowed under State law.

Penalty for Forgery of Parking Permits: A Class B Violation (Section 15)

To penalize and deter the creation of fraudulent parking permits, Ord 16-14 makes it a Class B violation to do so. A Class B violation carries a fine of \$100.

Allow Clerk to Hear Appeals of Violations at \$50 and \$100 (Sections 15, 16, and 19)

At present, the City Clerk is authorized to hear parking ticket appeals that are \$20 Class D Violations. Ord 16-14 places appeals of \$50 and \$100 tickets also with the Clerk’s Office so that these parking violations are given the same due process as the Class D violations.

Expansion of Time in Which to Appeal a Parking Ticket & Expansion of Time for Ticket Escalation (Sections 15, 16, 17, and 19)

At the request of the Clerk, Ord 16-14 expands the time in which a person may appeal a parking ticket, from seven to fourteen days. This is the time frame provided by those who receive parking tickets on the IU campus. As a consequence, the ordinance also necessarily extends the period in which a Class D violation escalates from \$20 to \$40: fourteen days – instead of seven – are now provided before the fine escalates.

Item Two – Ord 16-16 – Amending Title 4 of the BMC (Business Licenses and Regulations) Following the United States Supreme Court’s *Reed* Decision in 2015 and to Conform with Recent Changes in Title 20 (Unified Development Ordinance)

Ord 16-16 amends Title 4 of the BMC (Business Licenses and Regulations) following the City’s recent response to the United States Supreme Court’s decision in *Reed v. Town of Gilbert* last year. As the memo from Patty Mulvihill, City Attorney, explains, this ordinance both:

- follows the City’s approach towards *Reed* in regard to commercial speech as it surfaces in Title 4; and also
- conforms references and regulations regarding sandwich board signs in Title 4 with recent changes made in Title 20 (Unified Development Ordinance - UDO).

The ordinance amends Chapter 4.16, regarding Solicitors, to remove reference to “commercial speech” as it appears in the definition of “Solicitor.” The legislation follows the City’s approach to the *Reed* decision earlier this spring. That decision invalidated most sign regulations around the country (including ours) because one of the categories of signs was based upon the content of the sign (i.e. the type of message conveyed) which, the court concluded, was a form of speech that made the ordinances subject to a higher level of judicial scrutiny. That heightened (i.e. strict) scrutiny required regulations to be founded upon a more important (i.e. compelling) governmental interest and be subject to a more rigorous (i.e. a narrowly tailored) relationship between the means and ends of the regulation. As Stacy Jane Rhoads mentioned in her summary of the *Reed* decision earlier this year, that standard is very difficult to meet.¹

Although not decided in the *Reed* opinion, in consideration of the arguments of some legal scholars, City Legal anticipates an erosion of the distinction between “commercial” and “non-commercial” speech and, in the interest of being “overly cautious,” has rid Title 20 of the distinction between the two and, with this ordinance, will extend that approach to Title 4.

¹ Please see the [Council Legislative Packet](#) issued for the May 4, 2016 Regular Session for the material, and particularly the summary regarding [Ordinance 16-01](#), for more on the legal context.

The ordinance also amends the “Standards of Conduct” provisions of Chapter 4.28 (Mobile Vendors) and Chapter 4.30 (Pushcarts) to bring the sandwich board sign regulations in line with the recent changes in Title 20 (UDO). In that regard, the changes:

- Correct the citations to sandwich board regulations found in Title 20; and
- Require that the signs:
 - Be placed at least: 2’ from the food truck; 4’ from any obstructions which impede pedestrian, wheelchair, bicycle or vehicular access (e.g. newspaper boxes, trees and their grates, etc); and, at least 8’ from a building corner or pedestrian crosswalk;
 - Be placed in manner that complies with the ADA; and
 - Not be placed within the right-of-way of the B-Line Trail.

Item Three (Along with the Accompanying Resolution) –

Res 16-11 and Ord 16-17 - Proposing a Tax Abatement for the Construction of a New Mixed Use, Commercial and Residential Project at 405 South Walnut Street; 114, 118, and 120 East Smith Avenue; and, 404 South Walnut Street (H.M. Mac Development, LLC, Petitioner)

This portion of the packet describes a proposed tax abatement for the demolition of five buildings and construction of two, four-story, mixed use, commercial and residential buildings at 405 South Walnut Street; 114, 118, and 120 East Smith Avenue; and, 404 South Walnut Street (also known at the Chocolate Moose site). The summary is based upon legislation, a memo, and other supporting material provided by Linda Williamson, Director, and Jason Carnes, Assistant Director for Small Business, Economic and Sustainable Development (ESD) department.

H. M. Mac Development, LLC is the Petitioner for this project (with Steven Hoffman as the principal). The memo describes H.M. Mac Development, LLC as a “Bloomington-based property management and development company ... (with) residential and commercial developments in the downtown and surrounding area.

In 2015, the City granted an Enterprise Zone Investment Deduction (EZID) and a tax abatement for two projects by Big O Properties across the street from this proposal and, through the deliberations, signaled that the right project in this area of South Walnut Street would be ripe for an abatement. This project is poised to be the next and is before the Plan Commission for its third hearing on July 11th. According the material for the

second hearing at the Plan Commission on June 6th,² the existing buildings would be demolished and, earlier this spring, three of them were reviewed by the Historic Preservation Commission for potential historic designation. After considering the matter and learning, in part, that the Chocolate Moose would continue in an expanded form indoors (but still with a walk-up window on Walnut Street), the Commission chose not to designate them as historic.

In their place, the petitioner wishes to construct two, four-story, mixed use retail and residential buildings. Building One, on South Walnut, will have 7,000 sf of retail space (primarily for the Chocolate Moose) on the first floor and 18 residential units on the upper three floors with a total of 50 bedrooms (which are broken down as follows: nine 4-bedroom units; five 2-bedroom units; and, four 1-bedroom units).³

Building Two, on South Washington, will have 87 parking spaces in the basement and first floor, and 36 residential units on the upper three floors with a total of 96 bedrooms (which are broken down as follows: nine, 4-bedroom units; twelve, 3-bedroom units; nine 2-bedroom units; and, six 1-bedroom units).⁴ In addition, the second floor will have a central courtyard with a “living wall,” a surface for projecting movies, and a pool deck. The third floor will have a workout room overlooking the pool and a sun deck which, in all, is expected to “create ... a unique downtown living experience.”

Perhaps the most appealing element of the project is a workforce housing component. At the urging of the Administration, this project will offer five units of workforce housing for a period of 30 years to persons demonstrating that they work full time (at least 35 hours per week) and earn no more than the Living Wage (which, in 2016, equals \$12.32/hour or ~ \$25,600/year). The rent will be based upon 30% of the person’s annual wage, which translates into \$7,688 per year or \$641/ month for a 1-bedroom and \$1,282/ month for a 2-bedroom apartment.

The combination of the projected positive economic and revitalization impact this project will have on this area of South Walnut and the inclusion of some workforce housing underlie the recommendation for a 5-year phase-in on the property taxes.

Introduction to Tax Abatement Program and Procedures. I.C. 6-1.1-12.1 et seq. allows cities, towns, and counties to abate the incremental increase in the assessed

² Please the following link to see the materials for that meeting of the Plan Commission: <https://bloomington.in.gov/media/media/application/pdf/26234.pdf>

³ The Dwelling Unit Equivalent (DUE) is 17.80

⁴ The Dwelling Unit Equivalent (DUE) is 32.94

valuation of certain real and personal property resulting from applicable investments. For many decades, the City has taken advantage of these property tax incentives and, in 2011, revised its tax abatement program and policies (General Standards) with the adoption of Res 11-01 (attached).

Under these procedures, applicants must complete an application and supplementary documents that address State and local criteria, pay a \$100 fee, and have the Economic Development Commission (Commission) make a final recommendation before the matter comes forward to the Council. After the necessary designations, findings, and actions by the Council (which are discussed later in this summary), the applicant signs a Memorandum of Agreement (MOA)⁵ with the City and the City Clerk certifies a copy of the legislation to the Monroe County Assessor and Auditor for implementation of the abatement.

Then, by May 10th of each year during which the abatement remains in effect, the tax payer must file the proper forms with the ESD staff indicating whether they have complied with the promised benefits of the project and the terms of the MOA. The ESD staff, in turn, present a Report to the Commission and Council in June. Upon review, the Council may rescind the abatement if it finds the tax payer has not made reasonable efforts to comply with the promised benefits and may also void the abatement if the project is not initiated in a timely manner or the use is different than as approved.

Eligibility. Both statute and local standards make certain projects ineligible for tax abatement. On a statutory level, IC 6-1.1-12.1-3(e)⁶ excludes certain uses, but allows

⁵ Note that while the General Standards refer to a Memorandum of Agreement (MOA), the resolutions refer to a Memorandum of Understanding (MOU). For purposes of consistency, the term MOA will be used throughout this summary.

⁶ IC 6-1.1-12.1-3 (e) states: Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

- (1) Private or commercial golf course.
- (2) Country club.
- (3) Massage parlor.
- (4) Tennis club.
- (5) Skating facility (including roller skating, skateboarding, or ice skating).
- (6) Racquet sport facility (including any handball or racquetball court).
- (7) Hot tub facility.
- (8) Suntan facility.
- (9) Racetrack.
- (10) Any facility the primary purpose of which is:
 - (A) retail food and beverage service;
 - (B) automobile sales or service; or
 - (C) other retail;

unless the facility is located in an economic development target area established under [section 7](#) of this chapter.

- (11) Residential, unless:

some of those excluded uses (e.g. certain retail and any market-rate residential) in the event the Council, as it does for this proposal, designates the property as an Economic Development Target Area (EDTA). Various statutory provisions also exclude projects where the filings or approvals are not done in a timely manner, but provisions such as I.C. 6-1.1-12.1-11.3 allow the Council to adopt resolutions after a public hearing waiving some of those requirements,⁷ but not those relating to the core requirement of filing of a statement of benefits or the Council’s making of the necessary findings of fact.

At a local level, the General Standards indicate that certain “factors” regarding the petitioner and project “may render (them) ineligible” for a tax abatement. Petitioners, in particular, should not:

- hold an outstanding obligation or debt to, be in default or arrears with, or be in litigation against, the City;

Projects, in particular, should not:

- be commenced⁸ prior to final approval;
- involve the demolition or removal of certain historic structures;
- require major public infrastructure improvements at additional cost to the City; or
- be inconsistent with the City’s long range plans for the area.

The remainder of this summary discusses the more substantive aspects of the City’s program and how these aspects apply to this project and the actions to be taken by the Council.

Evaluative Criteria in New Local Guidelines. The General Standards adopted by the City in 2011 set forth two basic and then some additional criteria for evaluating the eligibility of projects for tax abatement.

The basic criteria focus on “the creation of full-time, permanent living-wage jobs (and the) creation of capital investment as an enhancement to the tax base.”

(A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;

(B) the facility is located in an economic development target area established under [section 7](#) of this chapter; or

(C) the area is designated as a residentially distressed area.

(12) A package liquor store that holds a liquor dealer’s permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1.

⁷ These waivers apply to the failure to: file the Statement of Benefits before the public hearing on the tax abatement or initiation of the project; designate an Economic Revitalization Area before initiation of the project; make the required findings of facts before designating the ERA or, in some cases, authorizing the deduction; and, file a timely and complete deduction application.

⁸ I use the term “commenced” to cover the following phrase in the General Standards: “A building permit has been obtained or construction has been initiated.”

- While application only asserts the retention of 10 existing jobs and creation of 5 additional jobs, its investment in capital is substantial - \$11.5 million, which increases the taxes from ~ \$13,500 to ~\$237,349 annually. This investment is also consistent with the Downtown TIF Plan, which as the Williamson memo indicates, calls for:
 - “strengthen(ing) and intensify(ing) existing land uses within the area ...with a particular focus on ensuring greater employment opportunities, diverse mixes of retail and upper story residential, greater useage of vacant and underutilized buildings, and new infill development;” and,
 - Constructing or renovating a diverse mix of housing types “within easy walking distance” of daily destinations.

The section on additional evaluative criteria for tax abatement projects focus on whether the project makes a “significant contribution to overall economic vitality” of the City. It includes four illustrative criteria (see below), but also gives petitioners the opportunity to list other contributions to the City’s economic vitality that do not easily fit within those four. Those criteria and how materials indicate that this project meets them are summarized in the following bullet points (and are followed, later in this summary, by descriptions of other benefits tied to various statutory criteria):

- Quality of Life/Environmental Sustainability –
 - the project supports sustainable development and living by adding residential density in the urban core, where residents typically use less private transportation, less new public infrastructure, and less energy resources. It also contains “ ‘green friendly’ building materials, a living wall on the façade of Building 2, ... Energy Star appliances...(and) almost twice the number of (bicycle parking) spaces required by the municipal code;”
- Affordable Housing –
 - As noted above this project will offer five units of workforce housing for a period of 30 years to persons demonstrating that they work full time and earn no more than the Living Wage. The rent will be based upon 30% of the person’s annual wage.
- Community Service –
 - The building design will include “community art space” with display cases for community art work that, following discussions with the Project School next door, may be used to display “student art on a rotating basis.”
- Community Character –

- The memo indicates that the petitioner “will be one of the few companies developing mixed use properties” in this area and “tear down 5 small buildings that have stayed at that location for years to construct 2 very attractive mixed use buildings with hopes of contributing to community character” and spurring similar projects in the area.

Initiative Requires Three Pieces of Legislation Over Two Legislative Cycles

The tax abatement for this mixed use project will require two resolutions and an ordinance. The first resolution, **Res 16-11**, designates an Economic Revitalization Area (ERA), approves a Statement of Benefits, and authorizes a 5-year period of phased abatement on improvements to real property. Please note that, in this case, it does *not* declare the intent to waive any statutory requirements regarding the timing of the development in relation to the decision to grant the abatement.

The second resolution needed for tax abatements, **Res 16-12**, confirms the first one. *Please note that the IC 6-1.1-12.1-2.5 requires that the Council hold a legally-advertised public hearing before adopting this “confirming” resolution, which is currently scheduled for Wednesday, August 10, 2016.*

- *Please let the Council President or Council Office know if you will not be able to attend that Special Session.*

In accordance with statute, the City Clerk must not only provide the relevant notice, but also file a copy of the notice and information contained in the Statement of Benefits with officials responsible for fixing budgets, tax rates, and tax levies for all of the taxing units within the City’s jurisdiction.

The ordinance for these tax abatements (**Ord 16-17**) establishes an Economic Development Target Area (EDTA), which is necessary for the proposed retail and market-rent residential uses to be eligible for tax abatements.

Resolution Designating the ERA, Approving a Statement of Benefits, Authorizing a Period of Abatement of 5 Years for Improvements to Real Estate, and Taking Other Actions Regarding this Project

As mentioned above, **Res 16-11** makes a number of statutory determinations for this mixed use project. The following paragraphs summarize those determinations.

ERA. The first determination designates the property as an Economic Revitalization Area (ERA), which entails a finding that the property is not susceptible to normal growth

and development. This designation shall be in place no longer than December 31, 2024, unless further action is taken by the Council. In that regard, the memo indicates that:

- “South Walnut Street has been slower to redevelop than other areas in the downtown (which) (i)n staff’s view ... is due to older, obsolete buildings, and aging infrastructure”; and
- site is also included in the Consolidated Economic Development Area (Consolidated TIF District).⁹

ERA in TIF District. Since this site lies within the Consolidated TIF District, statute also requires that the Council approve the ERA designation in light of that fact. TIF Districts are a local financing device authorized by statute, which set aside increases in taxes on real estate¹⁰ above a base year which are then used to invest in the area according to the plan for the district. Any abated property taxes would not be deposited in the TIF and, therefore, would not be available for that purpose. After reading all of the accompanying material, the following support the conclusion that the abatement would not adversely affect the TIF:

- the current tax revenue is relatively small (about \$13,504 per year) and the increase in new tax liability is significant (a little under 18-fold increase to \$237,349 per year),
- the proposed abatement is limited to a phased, 5-year period;
- the project does not require any major public investment; and
- the project is expected to encourage other investment in the area.

Statement of Benefits. The second set of determinations approves the Statement of Benefits for this project. In so doing, the resolution finds that the stated benefits are a reasonable and probable outcome of the development and, in their totality, justify the tax abatement.

Those stated benefits (which, in this case, are for improvements to real estate) include:

- investing \$11.5 million more on this site and increasing the Assessed Value (AV) of this parcel almost 5-fold, from a current AV of \$3 million to an estimated \$14.5 million; and
- retaining 10 employees (with total salaries of \$400,000) and adding 5 new employees (with total salaries of \$165,000).

⁹ It appears this site lies within the following incentive districts intended to encourage development - the Community Revitalization Enhancement District (CRED), Bloomington Urban Enterprise Zone, and the Consolidated Economic Development Area (Consolidated TIF District).

¹⁰ Although authorized by statute, steps have not been taken to capture personal property taxes for this TIF district fund.

Additional Reasonable Requirements. Statute authorizes the City to impose additional, reasonable requirements on the project beyond those listed in the Statement of Benefits, as long as those benefits are cited in the resolution. Failure to make reasonable efforts to comply with these requirements, like the commitments in the Statement of Benefits, may become a basis for rescinding the abatement. These additional requirements include:

- the capital investment of at least \$11.5 million for real estate improvements to be completed within twelve months of the completion date as listed on the application (July 2017 – per Statement of Benefits);
- five units of workforce housing units will be maintained for at least 30 years;
- the development and use of the improvements will be done in a manner that complies with local code;
- Petitioner will comply with the reporting and other requirements set forth in statute, local code, and the MOA.

Period of Abatement – Real Estate. The next action relates to the period of tax abatement for this project. Please note that State Statute provides for a 1-10 year period of abatement for real estate and personal property with, typically, a sliding scale of deductions, but also allows for an alternative schedule, with full deductions throughout the period of abatement.¹¹

Here, the resolution proposes a 5-year sliding deduction schedule for real estate (with a deduction of 100% in the first year, 80% in the second year, 60% in the third year, 40% in the fourth year, and 20% in the last year of the abatement).

According to the memo, factors favoring a 5-year period of abatement include:

- A desire to incentivize the workforce housing component of this project (which led the EDC to increase the period from 3 to 5 years – in light of a nearby project without that component receiving a 3-year abatement);
- The likely expansion of the Chocolate Moose upon construction with the increase of 3 new part-time and 2 new full-time employees for a payroll of \$165,000; and
- The positive effect of this investment on other investment in the area.

And, factors limiting the abatement to no more than five years include:

¹¹ IC 6-1.1-12.1-4 (for real estate), IC 6-1.1-12.1-4.5 (for personal property), and IC 6-1.1-12.1-17 (for alternative deduction schedule).

- The absence of a larger affordable housing component or more job creation.

Tax Calculations – Real Property. In the memo and as also provided in a separate sheet, Williamson and Carnes have provided estimates of the tax consequences resulting from the granting of this abatement.¹² Those calculations indicate that the owner of property would pay a total of approximately \$474,697 and would save approximately \$712,046 over the 5-year abatement on real estate and then pay approximately \$237,349 per year thereafter.

Additional Enforcement Provisions. The resolution provides for two enforcement provisions that were introduced with the adoption of the new General Standards in 2011. The first, as noted previously, requires the petitioner to enter into the MOA with the City that sets forth the petitioner’s obligations and the consequences for failing to comply with them. The second provides for what is called a “clawback” of payments in the event the petitioner ceases to operate at this site and the Council finds the petitioner intentionally provided false information concerning its plans to continue operation there.¹³

EDC Action. On July 15, 2016, the Economic Development Commission met and recommended these actions with the adoption of Res 16-02 (*forthcoming*).

An Ordinance Designating an Economic Development Target Area to Allow Retail and Market-Rate Residential Uses

Ord 16-17 designates this redevelopment project as an Economic Development Target Area (EDTA). The EDTA is a statutory designation that may only be applied to 15% of the City’s jurisdiction and allows tax abatements for uses that would not otherwise be eligible for them (See I.C. 6-1.1-12.1-3[e][10-11] and IC 6-1.1-12.1-17). In this case, the designation would allow both the proposed retail and market-rent residential uses to receive a tax abatement.

In order to grant this designation, State law requires that the Common Council find the property eligible either because of its historic character or because it has “become undesirable or impossible for normal growth and development.” In Williamson’s memo, the support for this designation rests on “the cessation of growth of this property, and the slow redevelopment rate of South Walnut Street, as factors impairing values and preventing normal development and use of the property.”

¹² These estimates are only approximations which are based upon the current AV of land and improvements, the 2015 tax rate, and the assumption that the AV will equal the amount of the investment.

¹³ These payments go to the County Treasurer for distribution to taxing entities per formula. (I.C. 6-1.1-12.1-12[e]-[f]).

The Economic Development Commission has, in accordance with State law, made a favorable recommendation on the designation which will be in place for no longer than December 31, 2014. See EDC Res 16-01 – *forthcoming*.

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, JUNE 29, 2016
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

I. ROLL CALL

II. AGENDA SUMMATION

- III. APPROVAL OF MINUTES:** April 19, 2006 (Regular Session)
January 08, 2006 (Regular Session)
October 05, 2005 (Regular Session)
June 15, 2005 (Regular Session)

IV. REPORTS (A maximum of twenty minutes is set aside for each part of this section.)

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public***

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. Ordinance 16-12 – To Vacate Public Parcels – Re: Two 12-foot Wide Alley Segments and Two Fifty-Foot Wide Street Segments Located at the Northwest Corner of West 11th Street and North Rogers Street (Duke Energy, Petitioner)

Committee Recommendation: Do Pass 0-3-5

2. Resolution 16-07 – To Extend the Bloomington Urban Enterprise Zone for an Additional One Year Beyond Current Expiration Date

Committee Recommendation: Do Pass 7-0-0

3. Ordinance 16-18 – Ordinance Authorizing and Approving a Payment in Lieu of Taxes (“PILOT”) Agreement with EV Bloomington Limited Partnership for Evergreen Village at Bloomington

Committee Recommendation: Do Pass 6-0-0

VII. LEGISLATION FOR FIRST READING

1. Ordinance 16-14 – To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” - Re: Alley Parking; No Parking Zones; No Truck Parking Zones; Limited Parking Zones; Loading Zones; Removal and Impoundment of Vehicles; Pedestrian Crosswalks; Parking Permit Fees; Mayoral Authorization to Suspend Enforcement of Garages as Well as Meters; Fees for Law Enforcement Recordings; Class B, C, D, E, and H Traffic Violations; and, Appeals of Parking and Other Violations
2. Ordinance 16-16 – To Amend Title 4 (Business Licenses and Regulations) of the Bloomington Municipal Code - Re: Amending 4.16.010 (Solicitors - Definitions), 4.28.160 (Mobile Vendors - Standards of Conduct), and 4.30.150 (Pushcarts - Standards of Conduct)
3. Ordinance 16-17 – To Designate an Economic Development Target Area (EDTA) - Re: Property Located at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street and Identified by the Monroe County Parcel ID Numbers 015-35020-00, 015-35010-00, 015-35030-00, 015-10000-00, 015-33130-00 (H.M. Mac Development, LLC, Petitioner)

(over)

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

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

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

IX. COUNCIL SCHEDULE

X. ADJOURNMENT

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

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

To Council Members
From Council Office
Re Weekly Calendar – 27 June – 02 July 2016

Monday, 27 June

12:00 pm Board of Public Works – Work Session, McCloskey
2:30 pm Council for Community Accessibility – Work Session, McCloskey
4:00 pm Council for Community Accessibility, McCloskey
5:00 pm Utilities Services Board, Utilities
5:30 pm Bloomington Human Rights Commission, McCloskey

Tuesday, 28 June

4:00 pm Bloomington Community Farmers' Market,
Corner of Sixth Street and Madison Street
4:00 pm Board of Park Commissioners, Chambers
5:30 pm Board of Public Works, Chambers

Wednesday, 29 June

7:30 pm Common Council – Regular Session, Chambers

Thursday, 30 June

There are no meetings scheduled for today.

Friday, 01 July

There are no meetings scheduled for today.

Saturday, 02 July

8:00 am Bloomington Community Farmers' Market, Showers Common,
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.*

ORDINANCE 16-14

**TO AMEND TITLE 15 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED "VEHICLES AND TRAFFIC"**

-- Re: Alley Parking; No Parking Zones; No Truck Parking Zones; Limited Parking Zones; Loading Zones; Removal and Impoundment of Vehicles; Pedestrian Crosswalks; Parking Permit Fees; Mayoral Authorization to Suspend Enforcement of Garages as Well as Meters; Fees for Law Enforcement Recordings; Class B, C, D, E, and H Traffic Violations; and, Appeals of Parking and Other Violations

WHEREAS, The Traffic Commission and City staff from the following departments recommend certain changes be made in Title 15 of Bloomington Municipal Code entitled "Vehicles and Traffic:" Planning and Transportation, Police Department, Fire Department, Legal Department, and the City Clerk;

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

SECTION 1. Section 15.32.020, "Alley parking", shall be deleted in its entirety and replaced with the following:

"No person shall park any vehicle in an alley for a period exceeding thirty minutes while loading or unloading goods or persons."

SECTION 2. Section 15.32.080, Schedule M, "No Parking Zones", shall be amended to add the following:

Street	From	To	Side of Street	Time of Restriction
First Street	High Street	Dead-End approximately 160 feet east of High Street	North	Any Time
First Street	High Street	Dead-End approximately 160 feet east of High Street	South	8:00 a.m. to 10:00 a.m. and 3:00 p.m. to 5:00 p.m. Monday - Friday
Fourth Street	Roosevelt Street	Clark Street	Both	Any Time
Fourth Street	280' west of Hillsdale Drive	Hillsdale Drive	Both	Any Time
Fairview Street	Sixth Street	Kirkwood Avenue	East	Any Time
Gentry Street	Fourth Street	Kirkwood Avenue	East	Any Time
Gentry Street	Fourth Street	75' south of Kirkwood Avenue	West	Any Time
Third Street	Rogers Street	185' east of Fess Avenue	South	Any Time
Third Street	235' east of Fess Avenue	155' west of Woodlawn Avenue	South	Any Time
Third Street	105' west of Woodlawn Avenue	95' west of Ballantine Road	South	Any Time
Third Street	50' west of Ballantine Road	140' west of Jordan Avenue	South	Any Time
Third Street	120' west of Jordan Avenue	College Mall Road	South	Any Time
Walker Street	310' N. of First Street	260' N. of First Street	East	Any Time

SECTION 3. Section 15.32.080, Schedule M, “No Parking Zones”, shall be amended to delete the following:

Street	From	To	Side of Street	Time of Restriction
Fourth Street	Roosevelt	Hillsdale Drive	Both	Any Time
Third Street	1 st Alley east of Lincoln Street	College Mall Road	South	Any Time
Third Street	Rogers Street	1 st Alley east of Walnut Street	South	Any Time
Third Street	Washington Street	Lincoln Street	South	Any Time

SECTION 4. A new Section, Section 15.32.085, “No Truck Parking Zones”, shall be created, and shall be reflected in the Table of Contents for Chapter 15.32. The new Section shall read as follows:

The streets or parts of streets described in Schedule M-1, attached hereto and made a part hereof, are designated as no truck parking zones. When appropriate signs are erected, no person shall park a truck greater than 19’ in length upon any of the streets or parts of streets at the times designated in the schedule.

SCHEDULE M-1

NO TRUCK PARKING ZONES

Street	From	To	Side of Street	Time of Restriction
Franklin Road	Third Street	End of Franklin Road	East	Any Time

SECTION 5. Section 15.32.090, Schedule N, “Limited Parking Zones”, shall be amended to add the following:

Street	From	To	Side of Street	Limit
First Street	High Street	Clifton Avenue	South	30 Min. (3)
Third Street	185’ east of Fess Avenue	235’ east of Fess Avenue	South	15 Min. (6)
Third Street	105’ west of Woodlawn Avenue	155’ west of Woodlawn Avenue	South	15 Min. (6)
Third Street	50’ west of Ballantine Road	95’ west of Ballantine Road	South	15 Min. (6)

SECTION 6. Section 15.32.090, Schedule N, “Limited Parking Zones”, shall be amended to delete the following:

Street	From	To	Side of Street	Limit
Third Street	Pull-off spaces east of Fess Avenue		South	15 Min. (6)
Third Street	Pull-off spaces west Ballantine Road		South	15 Min. (6)
Third Street	Pull-off spaces west of Woodlawn Avenue		South	15 Min. (6)

SECTION 7. Section 15.32.100(b), Schedule O, “Loading Zones”, shall be amended to add the following:

1300	Block of East Third Street, from 120’ to 140’ west of Jordan Avenue on the south side
------	---

SECTION 8. Section 15.32.100(a), shall be amended by deleting it in its entirety and replacing it with the following:

- (a) Loading zones shall be in effect twenty-four hours a day, seven days a week, except where otherwise noted in Schedule O. All vehicles shall be limited to a maximum of thirty minutes use to deliver and pick up materials.

SECTION 9. Section 15.37.050, "Fees", shall be amended by deleting it in its entirety and replacing it with the following:

All parking permits and visitor permits issued under this Chapter, except those issued under Sections 15.37.190 and 15.37.210, shall cost as follows:

Monroe County, Indiana Residents:	Twenty-five dollars per permit;
Non-Monroe County, Indiana Residents:	Fifty dollars per permit; and
Non-Indiana Residents:	Seventy-five dollars per permit.

SECTION 10. Section 15.40.020(b), shall be amended to add the words “and parking garages” immediately after the words “parking meters” in the second sentence, such that the provision shall read as follows:

- (b) The charge for the use of each on-street metered parking space shall be one dollar per hour between the hours of nine a.m. and nine p.m. every day, except Sundays and city holidays. Additionally, the Mayor may suspend enforcement of parking meters and parking garages during the holiday season, in the event of inclement weather, or under other circumstances the mayor deems appropriate and reasonable.

SECTION 11. Section 15.40.020, "Applicable times and charges", shall be amended to delete subsection (d) in its entirety and replace it with the following:

- (d) The following fees for parking permit leases, hang tags, replacement hang tags, garage access cards, and replacement garage access cards shall be as follows: subject to all conditions of this Chapter and the applicable lease:
 - (1) Hang tags (new or replacement) -- ten dollars;
 - (2) Garage access cards (new or replacement) -- ten dollars; and
 - (3) Garage access card reactivation fee -- five dollars.

SECTION 12. Section 15.48.010(a), "General provisions", shall be amended to add the following:

- (16) Any vehicle parked adjacent to a yellow-painted curb; and
- (17) Equipment or machinery, whether self-propelled or towed, parked on a public street without prior approval from the Department of Public Works and in violation of Section 15.32.060.

SECTION 13. Section 15.60.050, “Pedestrians”, shall be deleted in its entirety.

SECTION 14. Section 15.60.080(a)(3), shall be deleted in its entirety and replaced with the following:

- (3) Law enforcement recording. The police, in accordance with the laws of the State of Indiana, shall furnish a copy of a law enforcement recording for a charge of one hundred and fifty dollars per recording.

SECTION 15. Section 15.64.010(b), "Class B Traffic Violations (Miscellaneous)", shall be amended to add the following violation to the existing table and the following subsection to follow the table:

Fine:	\$100.00	
Covers:		Alteration of or falsification of any permit issued under or purported to be issued under this Title.

- (1) A person may appeal the issuance of a traffic violation citation and corresponding fine provided the appeal is filed with the City Clerk's office within fourteen calendar days immediately following the issuance date of the traffic violation citation.
- (A) The City Clerk, or his or her designee(s), shall hear all appeals of Class B traffic violation citations.
 - (B) The City Clerk, or his or her designee(s), shall have the authority to declare any traffic violation citation which has been properly appealed null and void, or valid.
 - (C) If the City Clerk, or his or her designee(s), declare a properly appealed traffic violation citation to be null and void, then the traffic violation citation shall be dismissed from further prosecution.
 - (D) If the City Clerk, or his or her designee(s), declare a properly appealed traffic violation citation to be valid, then the traffic violation citation shall be due and payable as determined by either the City Clerk, or his or her designee(s).
 - (E) The decision of the City Clerk, or his or her designee(s), is final, subject to judicial determination if requested and is requested in a manner consistent with Indiana law.

SECTION 16. Section 15.64.010(c), "Class C Traffic Violations (Miscellaneous)", shall be amended to add the following below the existing table:

- (1) A person may appeal the issuance of a traffic violation citation and corresponding fine provided the appeal is filed with the City Clerk's office within fourteen calendar days immediately following the issuance date of the traffic violation citation.
- (A) The City Clerk, or his or her designee(s), shall hear all appeals of Class C traffic violation citations.
 - (B) The City Clerk, or his or her designee(s), shall have the authority to declare any traffic violation citation which has been properly appealed null and void, or valid.
 - (C) If the City Clerk, or his or her designee(s), declare a properly appealed traffic violation citation to be null and void, then the traffic violation citation shall be dismissed from further prosecution.
 - (D) If the City Clerk, or his or her designee(s), declare a properly appealed traffic violation citation to be valid, then the traffic violation citation shall be due and payable as determined by either the City Clerk, or his or her designee(s).
 - (E) The decision of the City Clerk, or his or her designee(s), is final, subject to judicial determination if requested and is requested in a manner consistent with Indiana law.

SECTION 17. Subsections 15.64.010(d)(1) and (2), shall be amended by deleting the words "seven" and replacing them with the words "fourteen".

SECTION 18. Section 15.64.010(e), "Class E Traffic Violations (Miscellaneous minor offenses)", shall be amended by deleting the following: "15.60.050 Jaywalking".

SECTION 19. Section 15.64.010(i), "Class H Traffic Violations", shall be amended to add the following below the existing table:

- (1) A person may appeal the issuance of a traffic violation citation and corresponding fine provided the appeal is filed with the City Clerk's office within fourteen calendar days immediately following the issuance date of the traffic violation citation.
 - (A) The City Clerk, or his or her designee(s), shall hear all appeals of Class H traffic violation citations.
 - (B) The City Clerk, or his or her designee(s), shall have the authority to declare any traffic violation citation which has been properly appealed null and void, or valid.
 - (C) If the City Clerk, or his or her designee(s), declare a properly appealed traffic violation citation to be null and void, then the traffic violation citation shall be dismissed from further prosecution.
 - (D) If the City Clerk, or his or her designee(s), declare a properly appealed traffic violation citation to be valid, then the traffic violation citation shall be due and payable as determined by either the City Clerk, or his or her designee(s).
 - (E) The decision of the City Clerk, or his or her designee(s), is final, subject to judicial determination if requested and is requested in a manner consistent with Indiana law."

SECTION 20. 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 provisions or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 21. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval of the Mayor and publication in accordance with State law.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2016.

ANDY RUFF, President
City of Bloomington

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 _____, 2016.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2016.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance seeks to amend several sections of Title 15 of the Bloomington Municipal Code in order to make changes suggested by the following entities: City of Bloomington Planning & Transportation Department, City of Bloomington Legal Department, the City of Bloomington Traffic Commission, and the City Clerk. Changes include: modifying alley parking restrictions; adding in new areas to the no parking zones; deleting areas from the no parking zones; creating a no truck parking zone; adding new areas to the limited parking zones; deleting areas from the no parking zones; adding in a new loading zone; modifying loading zone restrictions; changing the fees for Residential Neighborhood Parking Permits; allowing the Mayor to waive the enforcement of parking garage restrictions; adding fees for parking garage passes; clarifying the authority to tow and impound illegally parked vehicles and machinery; deleting sections related to pedestrian crosswalks; modifying the fees charged for copies of law enforcement recordings; penalizing the alteration or falsification of parking permits issued under Title 15; creating an appeal process for citations with \$50 and \$100 fines; increasing the time in which a person has to appeal citations from seven to fourteen days; and, increasing the length of time it takes for a Class D violation to escalate from a \$20 to \$40, from seven to fourteen days.

MEMO:

To: City of Bloomington Common Council

From: Patty Mulvihill, City Attorney

Andrew Cibor, Transportation & Traffic Engineer

Date: June 23, 2016

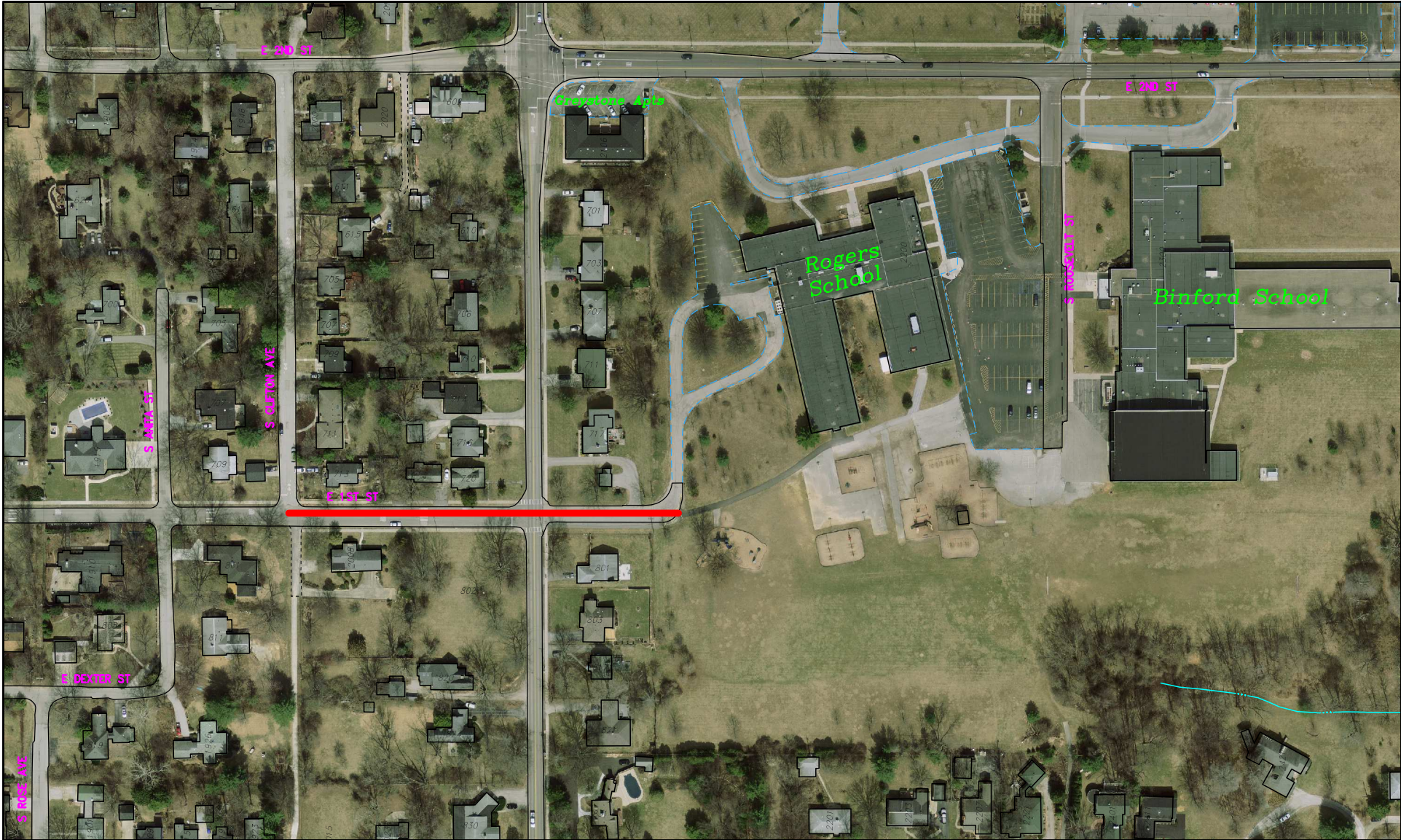
Re: Ordinance 16-14, Updates to Title 15 of the Bloomington Municipal Code

The attached ordinance is the first proposed update of Title 15 of the calendar year. It contains a few substantive changes that were originally discussed with the Common Council towards the latter part of 2015, but were pulled prior to the actual legislation being discussed in December. The ordinance also contains some new changes requested by the Traffic Commission, by City staff, or as a result of an effective 90 Day Order. Changes proposed by this Ordinance include:

- Amending the alley parking restrictions so that all vehicles (both trucks and cars) are permitted to park in an alley for loading and unloading purposes for no more than thirty minutes (currently cars are limited to only five minutes of parking while trucks are permitted to park for thirty minutes);
- Adding six (6) new no parking zones to Schedule M;
 - First Street – January 2016 Traffic Commission recommendation to address safety concerns around Binford-Rogers Elementary Schools
 - Fourth Street – December 2015 Traffic Commission recommendation to permit parking for a short segment west of Hillsdale
 - Fairview Street – January 2016 Traffic Commission recommendation per a citizen request
 - Gentry Street—March Traffic Commission recommendation
 - Walker Street – December 17, 2015 90 Day Order to improve sight distance
- Cleaning up five (5) parking spaces in Schedule M (no parking) along Third Street in order to reflect what is actually in place on the street currently;
- Deleting three (3) no parking zones in Schedule M along Third Street in order to reflect what is actually in place on the street currently and an additional one along 4th Street per the December 2015 Traffic Commission hearing;
- Creating a new no truck parking zone, denoted as Section 15.32.085, Schedule M(1), consistent with an issued November 21, 2015 90 Day Order addressing a nearby property owner’s safety concern;
- Adding one (1) new limited parking zones to Schedule N consistent with the January 2016 Traffic Commission recommendation to address safety concerns around Binford-Rogers Elementary Schools;

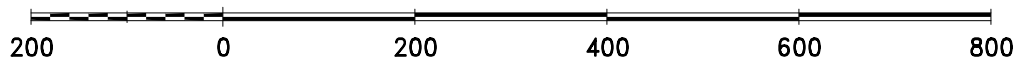
- Cleaning up three (3) limited parking zone spaces in Schedule N along Third Street in order to reflect what is actually in place on the street currently;
- Deleting three (3) limited parking zone spaces in Schedule N along Third Street in order to reflect what is actually in place on the street currently;
- Adding one (1) new loading zone to Schedule O in order to allow for a loading zone in front of a dry cleaning business located in the 1300 block of East Third Street;
- Amending the loading zone parking restrictions so that all vehicles (both trucks and cars) are permitted to park in a loading zone for loading and unloading purposes for no more than thirty minutes (currently cars are limited to only five minutes of parking while trucks are permitted to park for thirty minutes);
- Changing the fee structure for Residential Neighborhood Parking Permits so that residents of Monroe County shall pay \$25.00 per permit, Indiana residents who do not reside in Monroe County shall pay \$50.00 per permit, and non-Indiana residents shall pay \$75.00 per permit;
- Allowing the Mayor to suspend not only parking meter enforcement for inclement weather and holidays, but also allowing the Mayor to suspend enforcement of parking garages;
- Adding in fees for lost or misplaced parking permits or cards that allow access to the garage (lost tags and cards are \$10.00, and reactivated cards are \$5.00);
- Adding a provision which will allow the City to tow vehicles that are parked at yellow curbs and tow machinery left on a public street;
- Deleting the sections related to pedestrian crosswalks. The current regulations on crosswalks are designed so that pedestrians are only permitted to cross roadways in designated crosswalks. This requirement is significantly more stringent than State law requires and is not consistent with the opinions of City staff and the Bicycle and Pedestrian Commission. By deleting these sections, pedestrians and vehicles will be obligated to comply with the State's laws. This provision was supported by the Traffic Commission;
- Creating a new fee for obtaining a law enforcement recording in the amount of \$150.00 per recording;
- Creating a new \$50.00 penalty for illegally modifying or creating any parking permit issued in accordance with Title 15;

- Adding an appeal process for \$50.00 and \$100.00 tickets to be appealed to the City Clerk like all other parking tickets issued by the City so that these tickets are given the same due process protections as lesser tickets;
- Changing the appeal deadline for parking tickets from seven days to fourteen days, per the City Clerk's request, in order to align the parking ticket appeal process of the City with Indiana University; and
- Recognizing that increasing the time to appeal a ticket will necessitate the need to extend the time for when a parking ticket fine elevates, change the elevation time for \$20.00 tickets from seven days to fourteen days.




Section 15.32.080, Schedule M "No Parking Zones"
Section 15.32.090, Schedule N "Limited Parking Zones"

By: cibora
28 Jan 16

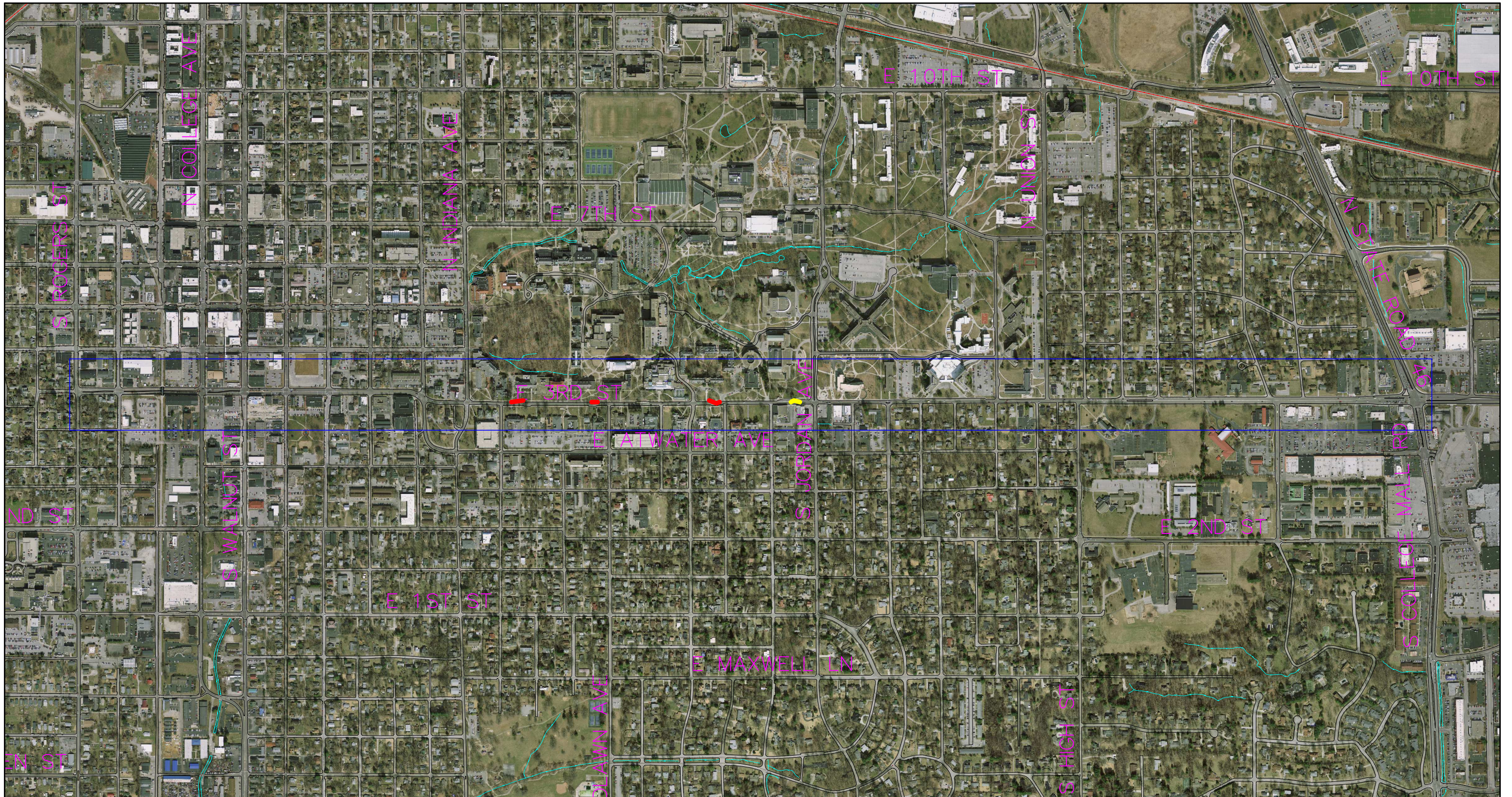


For reference only; map information NOT warranted.

City of Bloomington
Planning & Transportation



Scale: 1" = 200'



Section 15.32.080, Schedule M "No Parking Zones"
 Section 15.32.090, Schedule N "Limited Parking Zones"
 Section 15.32.100(b), Schedule O "Loading Zones"

By: cibora
 22 Jun 16



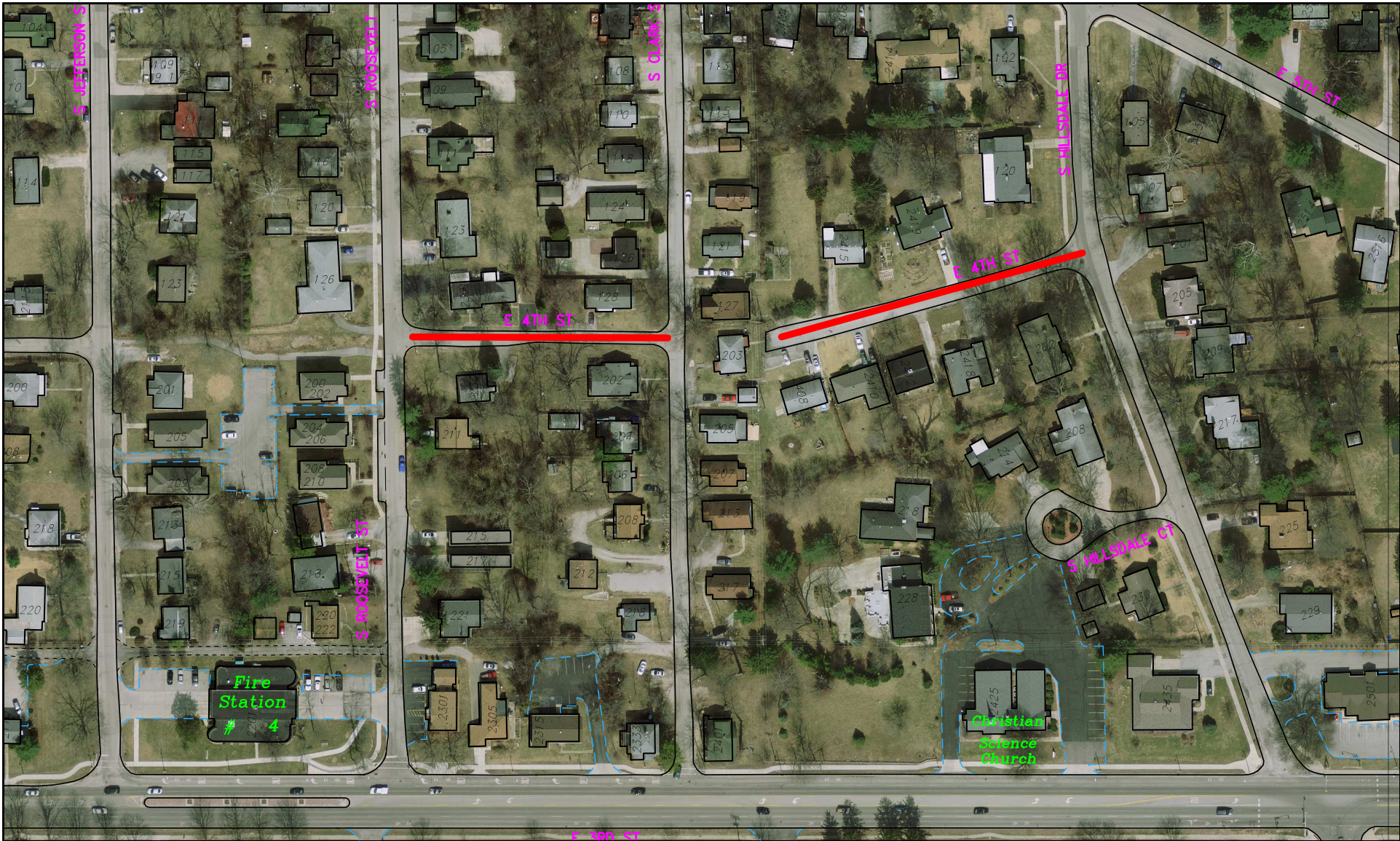
For reference only; map information NOT warranted.



City of Bloomington
 Planning & Transportation



Scale: 1" = 800'



Section 15.32.080, Schedule M "No Parking Zones"

By: cibora
28 Jan 16



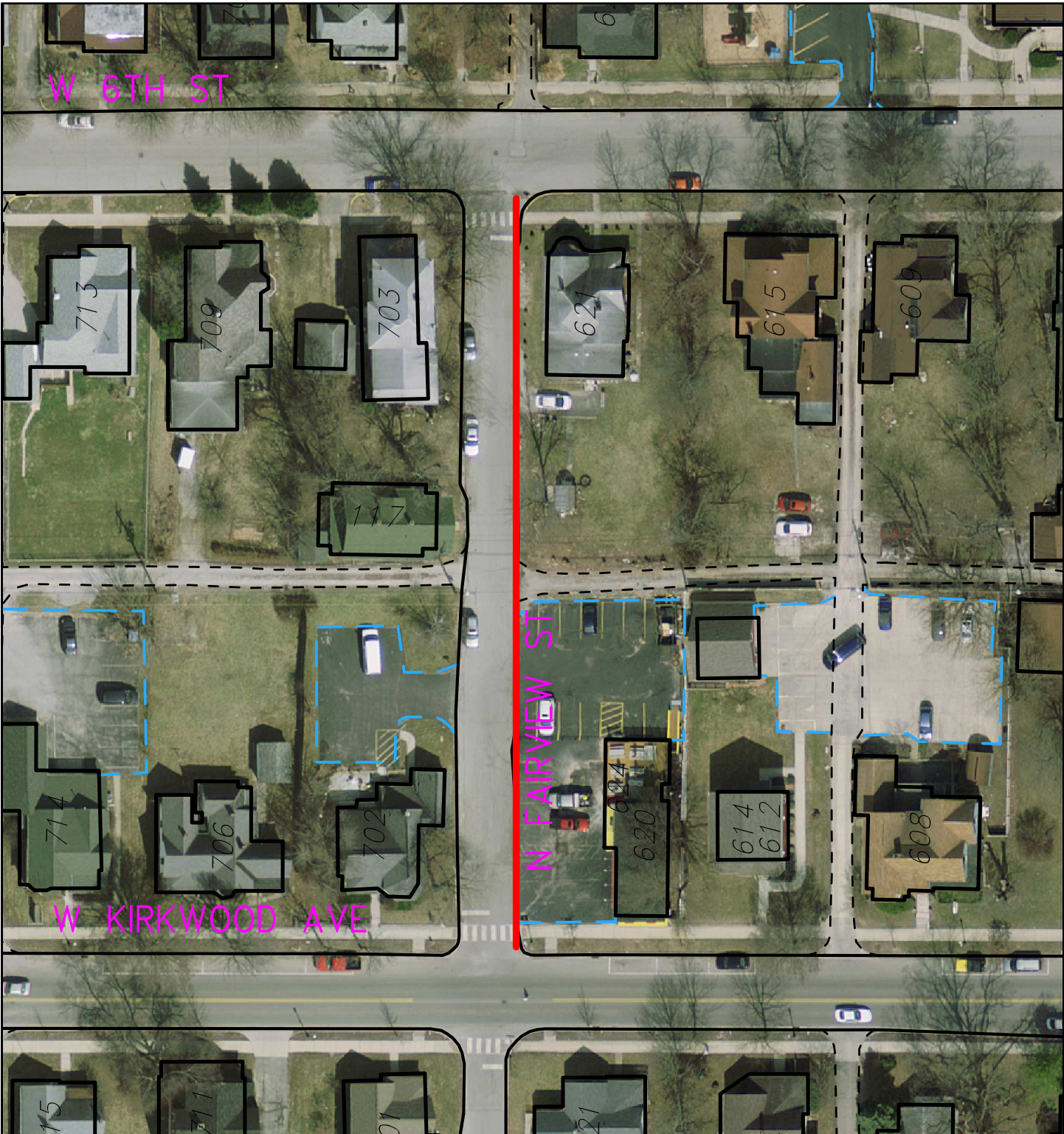
For reference only; map information NOT warranted.

City of Bloomington
Planning & Transportation

N

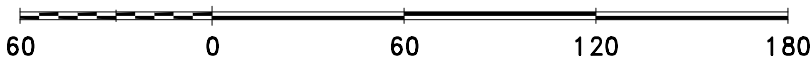


Scale: 1" = 150'



Section 15.32.080, Schedule M "No Parking Zones"

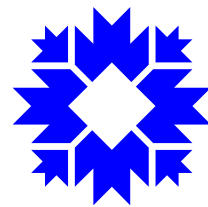
By: cibora
28 Jan 16



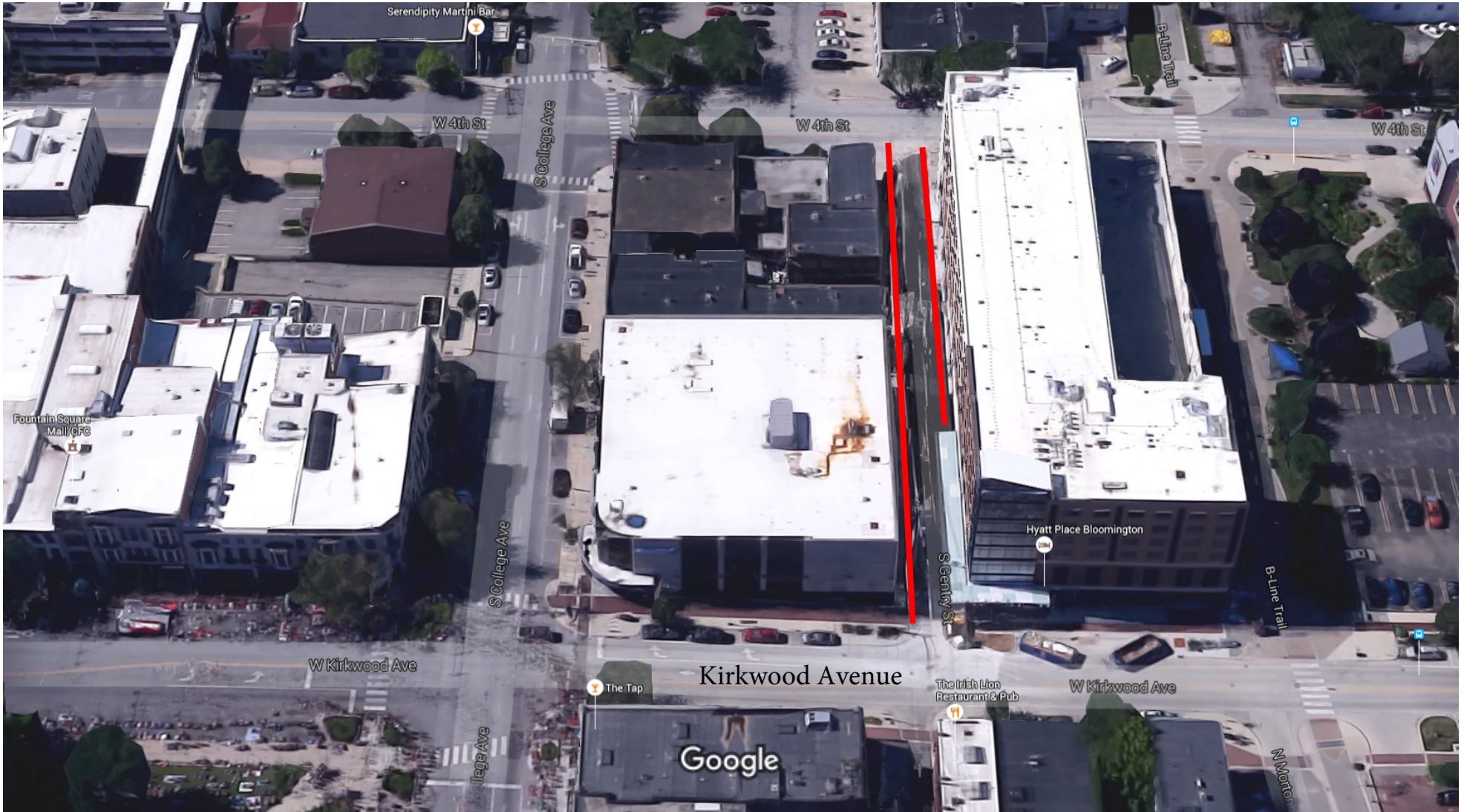
For reference only; map information NOT warranted.



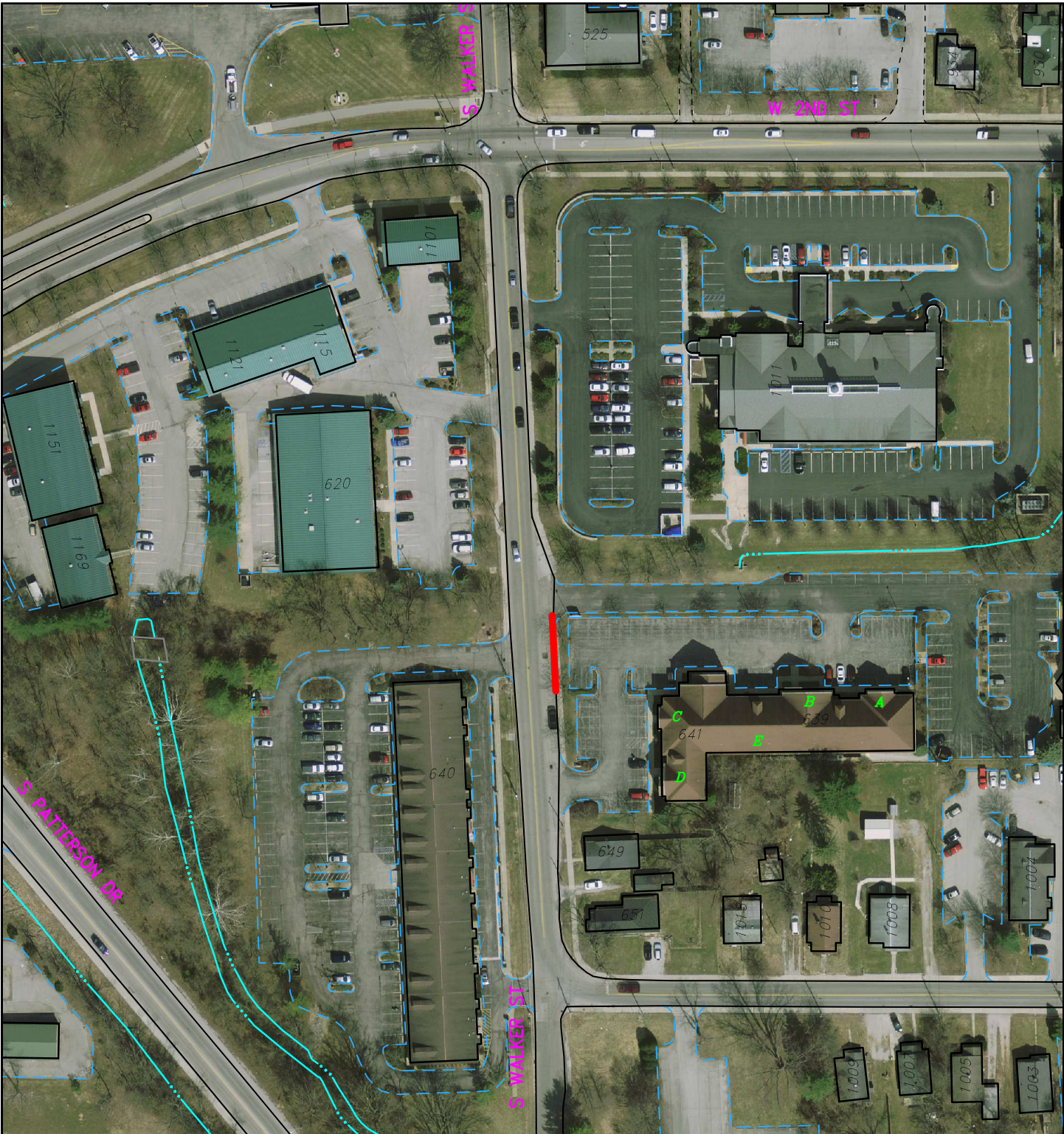
City of Bloomington
Planning & Transportation



Scale: 1" = 60'

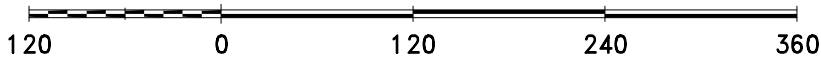


Imagery ©2016 Google, Map data ©2016 Google 20 ft



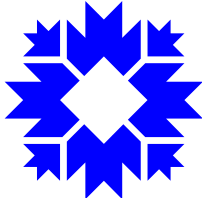
Section 15.32.080, Schedule M "No Parking Zones"

By: cibora
28 Jan 16



For reference only; map information NOT warranted.

City of Bloomington
Planning & Transportation



Scale: 1" = 120'

ORDINANCE 16-16

**TO AMEND TITLE 4 (BUSINESS LICENSES AND REGULATIONS)
OF THE BLOOMINGTON MUNICIPAL CODE -**

Re: Amending 4.16.010 (Solicitors - Definitions), 4.28.160 (Mobile Vendors - Standards of Conduct), and 4.30.150 (Pushcarts - Standards of Conduct)

WHEREAS, On June 15, 2015, the United States Supreme Court issued a ruling in the case of *Reed v. Town of Gilbert*, 135 S.Ct. 2218 (2015) wherein the Court found the Town of Gilbert's sign regulations unconstitutional because the ordinance at issue regulated different types of speech; and

WHEREAS, Bloomington Municipal Code § 4.16.010 regulates whether or not someone constitutes a "solicitor" based, in part, on whether or not the person speaks on a commercial or noncommercial matter; and

WHEREAS, As a result of the Supreme Court's decision in *Reed*, the City's Plan Commission proposed substantial changes to the City's sign regulations in Title 20 of the Bloomington Municipal Code, which were forwarded to the Common Council in the form of Ordinance 16-01; and

WHEREAS, After further amendments adopted by the Council and Mayor and return to the Plan Commission, Ordinance 16-01 went into effect with the filing of the report of the Plan Commission's approval of the amendments on June 10, 2016 in accordance with IC 36-7-607-4(e)(4); and

WHEREAS, Bloomington Municipal Code §§ 4.28.160 and 4.30.150 reference Bloomington Municipal Code provisions that were modified by Ordinance 16-01, making the references in said Sections incorrect;

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

SECTION 1. Bloomington Municipal Code Chapter 4.16, entitled "Solicitors," Section 010, entitled "Definitions", shall be amended by revising the definition of "Solicitation" in two ways:

- a) First, by deleting the "; or" at the end of part (a)(3) and replacing it with a period and deleting part (a)(4); and
- b) Second, by deleting part (b) (1) and renumbering subsequent parts accordingly.

SECTION 2. Bloomington Municipal Code Chapter 4.28, entitled "Mobile Vendors," Section 160, entitled "Standards of conduct," shall be amended by deleting part (e) and replacing it with the following provision:

- (e) Each mobile food vendor unit shall be limited to one sandwich board sign that meets the provisions of Sections 20.05.082(f)(2) and 20.05.082(f)(3) of the Bloomington Municipal Code regardless of the zoning district in which it locates.

SECTION 3. Bloomington Municipal Code Chapter 4.30, entitled "Pushcarts," Section 150, entitled "Standards of conduct," shall be amended by deleting part (e) and replacing with the following provision:

- (e) Each pushcart unit shall be limited to one sandwich board sign that meets the provisions of Sections 20.05.082(f)(2) and 20.05.082(f)(3) of the Bloomington Municipal Code regardless of the zoning district in which it locates.

SECTION 4. If any section, sentence, chapter or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any other section, sentence, chapter, provision or application of this ordinance which can be given effect without the invalid provision or application, and to the end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, with approval of the Mayor, and after any required notice, waiting periods, and/or publication under Indiana law.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this _____ day of _____, 2016.

ANDY RUFF, 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 _____, 2016.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2016.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance makes two changes to Title 4 of the Bloomington Municipal Code, entitled “Business Licenses and Regulations.” First, it removes the distinction between commercial and non-commercial speech in the definition of “solicitor” in order to be consistent with the City’s approach to U.S. Supreme Court’s holding in *Reed v. Town of Gilbert*. Second, it corrects citation references in the Mobile Food Vendor and Pushcart Chapters as they relate to sandwich board signs. With the recent overhaul of sign regulations in the Unified Development Ordinance the sandwich board sections referenced in Title 4 are no longer correct; this amendment corrects this error.

MEMO:

To: City of Bloomington Common Council

From: Patty Mulvihill, City Attorney

Date: May 27, 2016

Re: Amendments to Chapter 4 of BMC – Compliance with Ordinance 16-01

Thomas Cameron is the attorney who handles legal matters related to business licenses. Thomas recently noted that within the Solicitor Chapter of the Bloomington Municipal Code there are specific references to “commercial speech”. This reference is arguably a content regulation, which *may* be problematic given the Supreme Court’s decision in *Reed v. Town of Gilbert*.

The Supreme Court did not explicitly state in its recent ruling that the long-held distinction between commercial and non-commercial speech is no longer valid. In fact, the Southern District Court in Indiana recently considered the City of Indianapolis’s sign ordinance and the Court specifically held that the distinction between the two types of speech remain valid after *Reed*. However, there are some legal scholars who argue that future rulings on sign ordinances from the Supreme Court will erode the distinction between commercial and non-commercial speech.

When staff drafted Ordinance 16-01, the recently enacted sign regulations, it was cognizant of the potential for future decisions eroding the distinction between commercial and non-commercial speech. As such, the new sign regulations in the Unified Development Ordinance purposely do not make any distinction between commercial and non-commercial speech. In order to be consistent throughout the municipal code, and to be overly cautious, staff recommends eliminating the distinction between commercial and non-commercial speech in the Solicitor Chapter of Title 4.

Upon further review of Title 4 staff noted that both the Mobile Food Vendor Chapter and the Pushcart Chapter permit the display of sandwich board signs. Unfortunately, with the adoption of Ordinance 16-01 the citation reference in Title 4 no longer correctly identify the sandwich board sections in the recently updated Unified Development Ordinance. Additionally, with the creation of Food Truck Fridays and other public events we are seeing mobile food vendor units and pushcarts locating in parking lots, which makes placing their permitted sandwich boards on sidewalks problematic. As such, in addition to fixing the incorrect citation references, this ordinance also modifies the placement restrictions of sandwich boards as they relate to mobile food vendor units and pushcarts.

Attached you will find two documents for your review. The first is a reader-friendly version of the proposed amendments. When you see text with a strike through feature staff proposes it for deletion. When you see text highlighted in gray staff proposes it for addition. The second document is the proposed changes in ordinance format.

Excerpts from Title 4 of the Bloomington Municipal Code
– with changes proposed by Ord 16-16 - highlighted

► = Change in Upcoming Section

Strikeout = Deletion

Bold = Insertion

Title 4 BUSINESS LICENSES AND REGULATIONS [\[1\]](#)

Chapters:

- Chapter 4.04 - RESERVED
- Chapter 4.16 - SOLICITORS
- Chapter 4.18 - PAWNBROKERS
- Chapter 4.20 - SECONDHAND DEALERS*
- Chapter 4.22 - DEALERS IN VALUABLE METALS
- Chapter 4.24 - TAXICABS
- Chapter 4.26 - VELOCABS
- Chapter 4.28 - MOBILE VENDORS
- Chapter 4.30 - PUSHCARTS

FOOTNOTE(S):

--- (1) ---

Editor's note—Ord. No. 13-11, § 32, adopted Sept. 18, 2013, specified that all references in Title 4 be changed from "he" to "he/or she" and "his" to "his/her" wherever they appear. [\(Back\)](#)

Chapter 4.04 RESERVED [\[2\]](#)

FOOTNOTE(S):

--- (2) ---

Editor's note—Ord. No. 13-11, § 1, adopted Sept. 18, 2013, repealed Ch. 4.04, §§ 4.04.010—4.04.200, which pertained to business licenses generally and derived from §§ 15-1—15-3, 15-6, 15-7, 15-12, 15-13—15-18 of the prior code; Ord. No. 84-14, § 6 (part), 1984; and Ord. No. 89-31, §§ 1, 2, 1989. [\(Back\)](#)

Chapter 4.16 SOLICITORS [\[3\]](#)

Sections:

[4.16.010 Definitions.](#)

[4.16.020 Operations generally.](#)

[4.16.030 Business license—Required.](#)

[4.16.040 Business license—Application.](#)

[4.16.050 Business license—Prerequisites.](#)

[4.16.060 Business license—Duration and fee.](#)

- [4.16.070 Application fee—Refund on denial.](#)
- [4.16.080 Effect of cessation of business.](#)
- [4.16.090 Business license—Insurance and indemnity.](#)
- [4.16.100 Business license—Issuance.](#)
- [4.16.110 Business license—Transferability.](#)
- [4.16.120 Business license—Identification.](#)
- [4.16.130 Location restrictions.](#)
- [4.16.140 Prohibited hours.](#)
- [4.16.150 Standards of conduct.](#)
- [4.16.160 Penalties—Revocation of license.](#)

4.16.010 Definitions.

The following terms shall have the following meanings:

"Political" means on behalf of a political party or candidate or for the purpose of influencing legislation or personal belief.

"Religious" means on behalf of an established religion which means a particular system of faith and worship recognized and practiced by a particular church, sect or denomination.

► **Ord 16-16 - Section 1**

"Solicitation"

- (a) Means the act of any person traveling by foot, vehicle or any other type of conveyance who goes on private or public property to:
 - (1) Request, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value;
 - (2) Take or attempt to take orders for the sale of any goods, wares, merchandise or services of any kind, or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets;
 - (3) Sell and make immediate delivery of any goods, wares, merchandise or services of any kind or description; ~~or .~~
 - ~~(4) Communicate or otherwise convey ideas, views or beliefs or otherwise disseminate oral or written information to a person willing to directly receive such information, provided that such information is of a commercial nature.~~
- (b) Does not mean the following:
 - ~~(1) A person communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious or charitable nature;~~
 - ~~(2)1~~ A person seeking to influence the personal belief of the occupant of any residence regarding any political or religious matter;
 - ~~(3)2~~ A person seeking to obtain, from any occupant of any residence, an indication of the occupant's belief in regard to any political or religious matter;

Title 4 BUSINESS LICENSES AND REGULATIONS

- (4)3 A person conducting a poll, survey or petition drive in regard to any political matter;
- (5)4 A person carrying, conveying, delivering or transporting food or beverage products, newspapers or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products or goods and is entitled to receive the same;
- (6)5 A person whose business is to solicit dealers or permanent merchants in the usual course of business; or
- (7)6 Any person exempted from this chapter's requirement under Ind. Code 8-1-34-30.

"Solicitor" means a person, whether a resident of the city or not, engaged in solicitation.

"Special event" is any event so designated by the City of Bloomington Board of Public Works.

(Ord. 15-05, § 1, 3-26-2015)

4.16.020 Operations generally.

It is unlawful to locate as a solicitor in the city except in accordance with the provisions of this chapter.

(Ord. 15-05, § 1, 3-26-2015)

4.16.030 Business license—Required.

- (a) It is unlawful to locate as a solicitor in the city without first having secured a license to do so as provided by this chapter.
- (b) This chapter does not apply to any recognized participant of a special event.
- (c) It is not necessary to obtain a temporary use permit under Chapter 20 of the Bloomington Municipal Code in order to obtain a license to locate as a solicitor under this chapter.

(Ord. 15-05, § 1, 3-26-2015)

4.16.040 Business license—Application.

Any person desiring a license under this chapter shall submit a fully completed application to the city controller at least fourteen (14) days prior to the proposed date of operating as a solicitor. The application must set forth or have attached the following information as specified:

- (a) The applicant's name, current physical address, telephone number, email address and date of birth;
- (b) The name, current physical address, and telephone number of the person, firm, limited liability company, corporation or organization which the applicant is employed by or represents, and the length of time of such employment or representation;
- (c) If the applicant is employed by or represents a firm, limited liability company or corporation, the applicant shall provide the name and current physical address of all members of the firm or limited liability company, or all officers of the corporation, as the case may be;
- (d) If the applicant is employed by or represents a corporation or limited liability company then there shall be stated on the application the date of incorporation or organization, the state of incorporation or organization, and if the applicant is a corporation or limited liability company formed in a state other than the State of Indiana, the date on which such corporation or limited

Title 4 BUSINESS LICENSES AND REGULATIONS

liability company qualified to transact business as a foreign corporation or foreign limited liability company in the State of Indiana;

- (e) The type of products or services to be sold and the hours of the day the applicant plans to conduct business;
- (f) The place or places where said business may be conducted, and a written statement, if applicable, from the owner of any private property wherein the business may be conducted authorizing the applicant to use the property;
- (g) The duration of the license being sought;
- (h) A statement as to whether or not a license, under the provisions of this chapter, or any other similar ordinance of the City of Bloomington or any other county, town or municipality, or the State of Indiana has been revoked, together with the details thereof; and
- (i) The designation of a resident of the State of Indiana as a registered agent for purposes of receiving notices from the City of Bloomington or other service of process, as a result of doing business in the City of Bloomington

(Ord. 15-05, § 1, 3-26-2015)

4.16.050 Business license—Prerequisites.

An application for a license under this chapter shall not be considered unless proof of the following are provided with the application:

- (a) All applicable permits required by the Monroe County Health Department, including but not limited to a food service establishment license or a certified food handler certificate;
- (b) Proof of registration as a business with the Indiana Secretary of State;
- (c) Proof of an employer identification number;
- (d) If business is to be conducted on city property, a resolution from the city's board of public works;
- (e) If business is to be conducted on or in property owned or managed by the City of Bloomington Parks Department, including those portions of the B-line trail not specifically permitted by this chapter, a letter of approval from said department;
- (f) Proof of insurance in accordance with the amounts established by this chapter; and
- (g) Proof of payment for, or exemption from, the applicable fee.

(Ord. 15-05, § 1, 3-26-2015)

4.16.060 Business license—Duration and fee.

- (a) Each applicant shall pay a license fee in accordance with the schedule set forth below (all licenses are for a consecutive period of time):
 - (1) One (1) Day License: \$25.00;
 - (2) Three (3) Day License: \$30.00;
 - (3) Seven (7) Day License: \$50.00;
 - (4) Thirty (30) Day License: \$75.00;
 - (5) Three (3) Month License: \$150.00;
 - (6) Six (6) Month License: \$200.00; and

Title 4 BUSINESS LICENSES AND REGULATIONS

- (7) One (1) Year License: \$350.00.
- (b) The following listed organizations and/or entities while required to obtain a license under this chapter are exempt from having to pay any fees, so long as the proceeds thereof are to be used exclusively for religious, charitable, educational or scientific purposes:
- (1) Churches;
 - (2) Schools;
 - (3) Benevolent organizations;
 - (4) Fraternal organizations; and
 - (5) Other similarly situated organizations.
- (c) Pursuant to Ind. Code 25-25-2-1, while all honorably discharged veterans are required to obtain a license under this chapter they are exempt from having to pay any fees.

(Ord. 15-05, § 1, 3-26-2015)

4.16.070 Application fee—Refund on denial.

An applicant shall pay an application fee in the minimum amount of \$25.00, unless exempted under section 4.16.060. In the event the license is granted, the application fee shall be retained by the city and applied toward the license fee. In the event the license is denied, \$20.00 of the application fee shall be retained to defray the administrative expense incurred in investigating and processing the application, and any remainder shall be refunded to the applicant.

(Ord. 15-05, § 1, 3-26-2015)

4.16.080 Effect of cessation of business.

No deductions shall be allowed from the fee for a license issued pursuant to this chapter for any part of the term of which the licensee does not engage in such business.

(Ord. 15-05, § 1, 3-26-2015)

4.16.090 Business license—Insurance and indemnity.

- (a) Each applicant for a license shall provide a certificate of liability insurance to the city controller upon a form approved by the Corporation Counsel of the City of Bloomington, insuring the applicant, and naming the City of Bloomington as co-insured, against the following liabilities and in the following amounts relative to such activity:
- (1) Personal injury: \$100,000.00 per occurrence and \$300,000.00 in the aggregate; and
 - (2) Property damage: \$25,000.00 per occurrence and \$50,000.00 in the aggregate.
- (b) Each applicant shall provide a document approved by the Corporation Counsel for the City of Bloomington, in which the applicant agrees to indemnify and hold harmless the City of Bloomington for losses or expenses arising out of the operation of his/her business.

(Ord. 15-05, § 1, 3-26-2015)

4.16.100 Business license—Issuance.

- (a) The controller shall within fourteen (14) days of receipt of the completed application issue the business license to the applicant if the controller finds the following:
 - (1) Compliance with all provisions of this chapter;
 - (2) The applicant has not had a prior license issued under this chapter, or any other similar licensed authorized by a different governmental entity, suspended or revoked; and
 - (3) The applicant has not been previously found to be in violation of this chapter, or any other similar law promulgated by a different governmental entity.
- (b) The controller may, upon a finding of appropriateness, issue a business license to an applicant who has been found to meet the terms of the above subsections 4.16.100(a)(1), (2).
- (c) Failure of the controller to issue a license within fourteen (14) days of completion of the application constitutes denial of the application. The applicant may appeal the denial by filing a written statement to the city's board of public works within ten (10) days after passage of those fourteen (14) days. The board of public works shall, within the next thirty (30) days, determine whether the applicant has complied with all provisions of section 4.16.100(a), and if so, shall authorize the controller to issue the license if there is such compliance. Prior to this determination, which is final and conclusive, the applicant will have an opportunity to be heard regarding the denial.

(Ord. 15-05, § 1, 3-26-2015)

4.16.110 Business license—Transferability.

A license issued pursuant to this chapter shall not be transferable to another licensee.

(Ord. 15-05, § 1, 3-26-2015)

4.16.120 Business license—Identification.

- (a) All licenses issued by the controller under this chapter shall be shown to any person who requests to see the license.
- (b) Failure to display or exhibit a license in accordance with this section may be grounds for suspension or revocation of said license.

(Ord. 15-05, § 1, 3-26-2015)

4.16.130 Location restrictions.

- (a) No solicitor shall locate in any parking lot, parking space, or parking facility owned, leased or managed by the City of Bloomington unless approval has been given by the city's board of public works.
- (b) No solicitor shall locate in a street, street median strip or alleyway.
- (c) No solicitor shall locate within a one block radius of a special event unless prior approval has been granted by either the operator of the special event or the city's board of public works.
- (d) No solicitor shall be located in a manner which would significantly impede or prevent the use of any City of Bloomington property, or which would endanger the safety or property of the public.
- (e) No solicitor shall locate in a neighborhood or on property wherein a sign reading "no solicitation", or something of a similar nature, has been duly erected and displayed.

Title 4 BUSINESS LICENSES AND REGULATIONS

- (f) No solicitor shall locate on the B-line trail except in the following permitted areas:
- (1) Between the north side of Dodds Street and the south side of 2nd Street;
 - (2) Between the north side of 3rd Street and the south side of 4th Street; and
 - (3) Between the north side of 6th Street and the south side of Fairview Street.

(Ord. 15-05, § 1, 3-26-2015)

4.16.140 Prohibited hours.

No solicitor shall locate in any residential neighborhood or building between the hours of dusk and 8:00 a.m., unless a resident in the neighborhood or building has requested or invited the solicitor onto the premises.

(Ord. 15-05, § 1, 3-26-2015)

4.16.150 Standards of conduct.

All solicitors shall conform to the following standards of conduct:

- (a) Solicitors shall conduct themselves at all times in an orderly and lawful manner, and shall not make, or cause to be made, any unreasonable noise of such volume as to be in violation of the City of Bloomington Noise Ordinance as stated in Title 14 of the Bloomington Municipal Code;
- (b) A device may not be used which would amplify sounds nor may attention be drawn to the solicitor by an aural means or a light-producing device (examples of such devices may include, but are not meant to be limited to the following: bull horns and strobe lights);
- (c) No solicitor shall expose any person to any undue safety or health hazards nor create a public nuisance;
- (d) Solicitors shall be required to obey the commands of law enforcement officers or fire officials with respect to activity carried out inside of the city's jurisdiction;
- (e) No person shall engage in abusive solicitation. Such abusive activity shall mean to do one (1) or more of the following while soliciting or immediately thereafter:
 - (1) Coming closer than three (3) feet to the person solicited unless and until the person solicited indicates that the person wishes to make a purchase or otherwise receive the solicitation;
 - (2) Blocking or impeding the passage of the person solicited;
 - (3) Repeating the solicitation after the person solicited has indicated an objection to the solicitation;
 - (4) Following the person solicited by proceeding behind, ahead or alongside such person after the person has indicated an objection to the solicitation;
 - (5) Threatening the person solicited with physical harm by word or gesture;
 - (6) Abusing the person solicited with words which are offensive and inherently likely to provide an immediate violent reaction; or
 - (7) Touching the solicited person without the solicited person's consent.
- (f) No solicitor shall approach any vehicle driving upon, stopped upon, or parked upon any public or private street or alley; and
- (g) No solicitor shall conduct his/her business from a street, alley, traffic island, or median.

(Ord. 15-05, § 1, 3-26-2015)

4.16.160 Penalties—Revocation of license.

- (a) Any person, partnership, limited liability company or corporation which violates any provision of this chapter, shall be subject to the following penalties:
- (1) Soliciting without a license:
 - First offense\$2,500.00
 - Second offense within any 12-month period\$5,000.00
 - Third offense, or each thereafter, within any 12-month period\$7,500.00
 - (2) Failure to comply with any other provision of this chapter:
 - First offense\$250.00
 - Second offense within any 12-month period\$500.00
 - Third offense, or each thereafter, within any 12-month period\$1,000.00
- (b) In addition, the controller's office shall, after notice and hearing before the city's board of public works, suspend or revoke, by written order, any license issued hereunder if the board of public works finds:
- (1) The licensee has violated any provision of this chapter or any rule or regulation lawfully made under and within the authority of this chapter;
 - (2) The licensee is operating the solicitor license under this chapter in a manner contrary to State or local code; or
 - (3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the controller's office to refuse originally to issue such license.
- (c) Any person charged with violating the provisions of this chapter may, in the discretion of the enforcement officer, be issued an official warning. If an official warning is issued it shall be considered as affording the violator one opportunity to comply with this chapter's provisions.

(Ord. 15-05, § 1, 3-26-2015)

FOOTNOTE(S):

--- (3) ---

Editor's note—([Back](#))

Chapter 4.18 PAWNBROKERS

Sections:

[4.18.010 Definitions.](#)

[4.18.020 Application for license.](#)

[4.18.030 Penalties—Revocation of license.](#)

[4.18.040 Books and records.](#)

[4.18.050 Information for police department.](#)

[4.18.060 Retention of acquired property.](#)

>>>>

Unaffected by Proposed Changes

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Chapter 4.20 SECONDHAND DEALERS*

Sections:

[4.20.010 License—Required.](#)

[4.20.020 License—Application—Fee—Issuance—Record.](#)

[4.20.030 License—Display.](#)

[4.20.040 License to be held seven business days before sale.](#)

[4.20.050 Nonapplicability to interstate commerce.](#)

[4.20.060 Information for police department.](#)

[4.20.070 Penalties—Revocation.](#)

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Unaffected by Proposed Changes

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Chapter 4.22 DEALERS IN VALUABLE METALS

Sections:

[4.22.010 Definitions.](#)

[4.22.020 Application for license.](#)

[4.22.030 Penalties—Revocation of license.](#)

[4.22.040 Books and records.](#)

[4.22.050 Information for police department.](#)

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4.28.010 Definitions.

The following terms shall have the following meanings:

"Beverage" means any nonalcoholic liquid, hot or cold, intended for use in whole or in part for human consumption.

"City property" means all outdoor areas which are owned, or leased as lessee, by the city or one of the city's departments, or upon which the city or one of its departments has an easement or right-of-way

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including, but not limited to, streets, sidewalks, plazas or other areas adjacent to buildings owned by the city or one of its departments.

"Food" means any raw, cooked, frozen or processed edible substance or beverage intended for use in whole or in part for human consumption.

"Mobile food vendor unit" means a person who sells, serves, offers for sale, or gives away food or beverages from any self-contained mobile unit, independent with respect to water, sewer and power utilities, capable of moving or being moved, is meant to be portable and is not permanently attached to the ground, consisting of an enclosed truck, trailer, bus, or similar vehicle that contains equipment used for the sale and/or preparation of food or beverages merchandise and is closed up when not in operation. An ice cream truck that does not park or locate in any one place for longer than ten minutes is not considered a mobile food vendor unit for purposes of this chapter.

"Private property" means all outdoor areas which are not owned or leased by any governmental agency or entity, including, but not limited to, streets, sidewalks, plazas, parking lots, or other areas adjacent to buildings not owned by a governmental agency or entity.

"Special event" is any event so designated by the City of Bloomington Board of Public Works.

(Ord. 15-05, § 2, 3-26-2015)

4.28.020 Operations generally.

It is unlawful to locate a mobile food vendor unit in the city except in accordance with the provisions of this chapter.

(Ord. 15-05, § 2, 3-26-2015)

4.28.030 Business license—Required.

- (a) It is unlawful to locate a mobile food vendor unit in the city without first having secured a license to do so as provided by this chapter.
- (b) A separate license shall be required for each mobile food vendor unit.
- (c) This chapter does not apply to any recognized participant of a special event.
- (d) It is not necessary to obtain a temporary use permit under Chapter 20 of the Bloomington Municipal Code in order to obtain a license for a mobile food vendor unit under this chapter.

(Ord. 15-05, § 2, 3-26-2015)

4.28.040 Business license—Application.

Any person desiring a license under this chapter shall submit a fully completed application to the city controller at least fourteen (14) days prior to the proposed date of utilizing the mobile food vendor unit. The application must set forth or have attached the following information as specified:

- (a) The applicant's name, current physical address, telephone number, email address and date of birth;
- (b) The name, current physical address, and telephone number of the person, firm, limited liability company, corporation or organization which the applicant is employed by or represents, and the length of time of such employment or representation;

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- (c) If the applicant is employed by or represents a firm, limited liability company or corporation, the applicant shall provide the name and current physical address of all members of the firm or limited liability company, or all officers of the corporation, as the case may be;
- (d) If the applicant is employed by or represents a corporation or limited liability company then there shall be stated on the application the date of incorporation or organization, the state of incorporation or organization, and if the applicant is a corporation or limited liability company formed in a state other than the State of Indiana, the date on which such corporation or limited liability company qualified to transact business as a foreign corporation or foreign limited liability company in the State of Indiana;
- (e) The type of products to be sold and the hours of the day the applicant plans to conduct business;
- (f) The place or places where said business may be conducted, and a written statement, if applicable, from the owner of any private property wherein the business may be conducted authorizing the applicant to use the property;
- (g) The duration of the license being sought;
- (h) A statement as to whether or not a license, under the provisions of this chapter, or any other similar ordinance of the City of Bloomington or any other county, town, municipality, or State has been revoked, together with the details thereof; and
- (i) The designation of a resident of the State of Indiana as a registered agent for purposes of receiving notices from the City of Bloomington or other service of process, as a result of doing business in the City of Bloomington.

(Ord. 15-05, § 2, 3-26-2015)

4.28.050 Business license—Prerequisites.

An application for a license under this chapter shall not be considered unless proof of the following are provided with the application:

- (a) All applicable permits required by the Monroe County Health Department, including but not limited to a food service establishment license or a certified food handler certificate;
- (b) Proof of registration as a business with the Indiana Secretary of State;
- (c) Proof of an employer identification number;
- (d) If business is to be conducted on city property, a resolution from the city's board of public works;
- (e) If business is to be conducted on or in property owned or managed by the City of Bloomington Parks Department, a letter of approval from said department;
- (f) If any type of spark, flame or fire will be produced, proof of an open burn permit issued by the City of Bloomington Fire Department;
- (g) Proof of insurance in accordance with the amounts established by this Chapter;
- (h) A copy of the Indiana registration for the vehicle;
- (i) Copy of a valid driver's license;
- (j) Copy of an Indiana Driver's Record and/or equivalent of whatever state has issued the applicant his/her driver's license;
- (k) Proof of an independent safety inspection of all vehicles to be used in the business in accordance with the provisions of this chapter;
- (l) A scaled site plan showing the location of the proposed mobile food vendor unit and the properties: drives, parking access aisles, fire lanes, sidewalks and accessible routes; and

(m) Proof of payment for, or exemption from, the applicable fee.

(Ord. 15-05, § 2, 3-26-2015)

4.28.060 Business license—Duration and fee.

- (a) Each applicant shall pay a license fee in accordance with the schedule set forth below (all licenses are for a consecutive period of time):
- (1) One (1) Day License: \$25.00;
 - (2) Three (3) Day License: \$30.00;
 - (3) Seven (7) Day License: \$50.00;
 - (4) Thirty (30) Day License: \$75.00;
 - (5) Three (3) Month License: \$150.00;
 - (6) Six (6) Month License: \$200.00; and
 - (7) One (1) Year License: \$350.00.
- (b) The following listed organizations and/or entities while required to obtain a license under this chapter are exempt from having to pay any fees, so long as the proceeds thereof are to be used exclusively for religious, charitable, educational or scientific purposes:
- (1) Churches;
 - (2) Schools;
 - (3) Benevolent organizations;
 - (4) Fraternal organizations; and
 - (5) Other similarly situated organizations.
- (c) Pursuant to Ind. Code 25-25-2-1, while all honorably discharged veterans are required to obtain a license under this chapter they are exempt from having to pay any fees.

(Ord. 15-05, § 2, 3-26-2015)

4.28.070 Application fee—Refund on denial.

An applicant shall pay an application fee in the minimum amount of \$25.00, unless exempted under section 4.28.060. In the event the license is granted, the application fee shall be retained by the city and applied toward the license fee. In the event the license is denied, \$20.00 of the application fee shall be retained to defray the administrative expense incurred in investigating and processing the application, and any remainder shall be refunded to the applicant.

(Ord. 15-05, § 2, 3-26-2015)

4.28.080 Effect of cessation of business.

No deductions shall be allowed from the fee for a license issued pursuant to this chapter for any part of the term of which the licensee does not engage in such business.

(Ord. 15-05, § 2, 3-26-2015)

4.28.090 Business license—Insurance and indemnity.

- (a) Each applicant for a license shall provide a certificate of liability insurance to the city controller upon a form approved by the Corporation Counsel of the City of Bloomington, insuring the applicant, and naming the City of Bloomington as co-insured, against the following liabilities and in the following amounts relative to such activity:
 - (1) Personal injury: \$100,000.00 per occurrence and \$300,000.00 in the aggregate;
 - (2) Property damage: \$25,000.00 per occurrence and \$50,000.00 in the aggregate; and
 - (3) Indiana minimum, at least, for motor vehicle insurance coverage.
- (b) Each applicant shall provide a document approved by the Corporation Counsel for the City of Bloomington, in which the applicant agrees to indemnify and hold harmless the City of Bloomington for losses or expenses arising out of the operation of his/her business.

(Ord. 15-05, § 2, 3-26-2015)

4.28.100 Business license—Issuance.

- (a) The controller shall within fourteen (14) days of receipt of the completed application issue the business license to the applicant if the controller finds the following:
 - (1) Compliance with all provisions of this chapter;
 - (2) The applicant has not had a prior license issued under this chapter, or any other similar licensed authorized by a different governmental entity, suspended or revoked; and
 - (3) The applicant has not been previously found to be in violation of this chapter, or any other similar law promulgated by a different governmental entity.
- (b) The controller may, upon a finding of appropriateness, issue a business license to an applicant who has been found to meet the terms of the above subsections 4.28.100(a)(1), (2).
- (c) Failure of the controller to issue a license within fourteen (14) days of completion of the application constitutes denial of the application. The applicant may appeal the denial by filing a written statement to the city's board of public works within ten (10) days after passage of those fourteen (14) days. The board of public works shall, within the next thirty (30) days, determine whether the applicant has complied with all provisions of section 4.28.100(a), and if so, shall authorize the controller to issue the license if there is such compliance. Prior to this determination, which is final and conclusive, the applicant will have an opportunity to be heard regarding the denial.

(Ord. 15-05, § 2, 3-26-2015)

4.28.110 Business license—Transferability.

A license issued pursuant to this chapter shall not be transferable to another licensee.

(Ord. 15-05, § 2, 3-26-2015)

4.28.120 Business license—Identification.

- (a) All licenses issued by the controller under this chapter shall be prominently displayed on the mobile food vendor unit and shall be shown to any person who requests to see the license.

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- (b) Failure to display or exhibit a license in accordance with this section may be grounds for suspension or revocation of said license.

(Ord. 15-05, § 2, 3-26-2015)

4.28.130 Business license—Safety inspection required.

- (a) No license shall be issued to locate a mobile food vendor unit unless each vehicle to be used by the business has undergone an independent safety inspection within the last two (2) years; a copy of the safety inspection report shall be included with the application.
- (b) It is unlawful to locate a mobile food vendor unit which has not undergone and passed an independent safety inspection in accordance with this Section.
- (c) If, at any time, the City of Bloomington has probable cause to believe that a mobile food vendor unit is unsafe or in a mechanically unsound condition, the chief of police or his/her designee may order a mobile food vendor unit licensed under this chapter to undergo an immediate safety inspection. The immediate safety inspection must occur within five business days and a copy of the safety inspection report shall be promptly submitted to the chief of police or his/her designee. If the safety inspection reveals deficiencies with the mobile food vendor unit, the mobile food vendor unit cannot be used until such time as the deficiencies have been remedied.

(Ord. 15-05, § 2, 3-26-2015)

4.28.140 Location restrictions.

Except as provided for in section 4.28.030(d) of this title, the following location restrictions apply:

- (a) No mobile food vendor unit shall locate in any parking lot, parking space, or parking facility owned, leased or managed by the City of Bloomington unless approval has been given by the city's board of public works.
- (b) No mobile food vendor unit shall locate within fifty (50) feet of any facade of a ground level establishment that also sells food or beverages, or locate within fifty (50) feet of the perimeter of such an establishment's outdoor seating area, regardless of whether or not the mobile food vendor unit is currently conducting business. The distance restriction only applies from an hour before the opening time to an hour after the closing time posted by a ground level establishment on the façade of its building;
- (c) No mobile food vendor unit shall locate in an alleyway.
- (d) Mobile food vendor units shall be located a reasonable distance from all posted bus stops, crosswalks, driveways, alleyways, right-of-way lines of two or more intersecting streets and building entrances or walk-up windows.
- (e) Mobile food vendor units shall only be located on private property if the private property owner has provided both the business operator and the city written permission for the mobile food vendor unit to locate on said property.
- (f) No mobile food vendor unit shall locate within a one block radius of a special event unless prior approval has been granted by either the operator of the special event or the city's board of public works.
- (g) No mobile food vendor unit shall park on city property in violation of any city parking regulation, restriction, or ordinance. For example, if parking at one, or multiple, parking meters, the operator of the mobile food vendor unit shall feed all relevant parking meters with the required monetary amount.

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- (h) No mobile food vendor unit shall be located in a manner which would significantly impede or prevent the use of any City of Bloomington property, or which would endanger the safety or property of the public.
- (i) No mobile food vendor unit shall be located within fifteen (15) feet of any fire hydrant.
- (j) No mobile food vendor shall locate within any zoning district except the following: commercial general; commercial arterial; commercial downtown; industrial general; business park; and institutional.
- (k) No mobile food vendor operating on private property shall displace required parking or landscaping nor block any drives, parking access aisles, fire lanes, sidewalks, or accessible routes required for the private parking by the city's zoning code.
- (l) No mobile food vendor unit shall be located more than one (1) foot away from the curb of the street on which it is parked.
- (m) No mobile food vendor unit shall park near an intersection and in a manner that blocks the line-of-sight of drivers using adjacent roadways.

(Ord. 15-05, § 2, 3-26-2015)

4.28.150 Prohibited hours.

No mobile food vendor unit shall be located on any public property between the hours of 4:30 a.m. and 6:30 a.m.

(Ord. 15-05, § 2, 3-26-2015)

► **Ord 16-16 - Section 2**

4.28.160 Standards of conduct.

All mobile food vendor unit operators shall conform to the following standards of conduct:

- (a) Mobile food vendor unit operators shall conduct themselves at all times in an orderly and lawful manner, and shall not make, or cause to be made, any unreasonable noise of such volume as to be in violation of the City of Bloomington Noise Ordinance as stated in Title 14 of the Bloomington Municipal Code;
- (b) A device may not be used which would amplify sounds nor may attention be drawn to the mobile food vendor unit by an aural means or a light-producing device (examples of such devices may include, but are not meant to be limited to the following: bull horns and strobe lights);
- (c) No mobile food vendor unit may be permanently or temporarily affixed to any object, including but not limited to buildings, trees, telephone poles, streetlight poles, traffic signal poles or fire hydrants;
- (d) No mobile food vendor unit may be used to advertise any product which is not authorized to be sold from that unit;
- ~~(e) Each mobile food vendor unit shall be limited to one sandwich board sign that meets the provisions of Section 20.05.086 of the Bloomington Municipal Code regardless of the zoning district in which it locates, provided a sign permit is obtained from the city's planning and transportation department;~~

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- (e) **Each mobile food vendor unit shall be limited to one sandwich board sign that meets the provisions of Sections 20.05.082(f)(2) and 20.05.0823(f)(3) of the Bloomington Municipal Code regardless of the zoning district in which it locates.**
- (f) No mobile food vendor unit may make use of any public or private electrical outlet while in operation;
- (g) Each mobile food vendor unit shall protect against littering and shall have both an adequate trash receptacle and a separate receptacle for recyclable materials:
 - (1) The trash and recyclable receptacles shall be emptied sufficiently often to allow disposal of litter and waste by the public at any time;
 - (2) The trash and recyclable receptacles on the mobile food vendor unit shall not be emptied into trash or recyclable receptacles owned by the City of Bloomington;
 - (3) Liquid from the mobile food vendor unit shall not be discharged on or in a city sewer or drain or elsewhere on city property, nor on private property without the express written consent of the owner thereof;
- (h) Before leaving any location each mobile food vendor unit shall first pick up, remove and dispose of all trash, refuse and/or recyclable materials, including products spilled on the ground within twenty (20) feet of the mobile food vendor unit.
- (i) No mobile food vendor unit shall expose any pedestrian to any undue safety or health hazards nor shall it be maintained so as to create a public nuisance;
- (j) Each mobile food vendor unit shall be maintained free and clear of dirt, and finishes shall not be chipped, faded or unduly marred;
- (k) Foods or beverages which present a substantial likelihood that liquid matter or particles will drop to the street or sidewalk during the process of carrying or consuming the food or beverage shall be sold in proper containers so as to avoid falling to the street or sidewalk;
- (l) Mobile food vendor units which utilize a grill or device that may result in a spark, flame or fire shall adhere to the following additional standards:
 - (1) Be placed approximately twenty (20) feet from a building or structure;
 - (2) Provide a barrier between the grill or device and the general public;
 - (3) The spark, flame or fire shall not exceed twelve (12) inches in height;
 - (4) A fire extinguisher shall be within reaching distance of the mobile food vendor unit operator at all times;
- (m) Mobile food vendor unit operators shall be required to obey the commands of law enforcement officers or fire officials with respect to activity carried out inside of the city's jurisdictional limits, including, where possible, the removal of the mobile food vendor unit and cessation of such sales;
- (n) No mobile food vendor unit shall ever be left unattended;
- (o) Mobile food vendor units shall not be stored, parked or left overnight on any city property;
- (p) All mobile food vendor units which are food service establishments as defined by Title 10.17 of the Bloomington Municipal Code shall install an approved grease interceptor or grease trap. Foods, oils and greases shall never be discharged into the city's sewer or storm drains;
- (q) All mobile food vendor unit operators are required to collect and pay all applicable and appropriate sales taxes;
- (r) No mobile food vendor shall provide customer seating unless approval has been provided by the city's board of public works and the city's planning and transportation department;
- (s) All mobile food vendors shall comply with the lighting standards found in Chapter 20.05 of the Bloomington Municipal Code;

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- (t) All mobile food vendors shall comply with the vision clearance standards found in Chapter 20.05 of the Bloomington Municipal Code;
- (u) No mobile food vendor shall have a drive-thru; and
- (v) The decibels of any generator(s) associated with a mobile food vendor unit shall not exceed "70dBA".
 - (1) Such noise measurement shall be made at a height of at least four (4) feet above the ground and at a point approximately twenty-five (25) feet away from where the noise is being emitted on a sound level meter operated on the "A" weighting network (scale).
 - (2) No person other than the operators shall be within twenty-five (25) feet of the sound level meter during the sample period.
 - (3) Sound measurements shall be conducted at that time of day or night when the relevant noise source is emitting sound.
 - (4) The sound level measurement shall be determined as follows:
 - (A) Calibrate the sound level meter within one (1) hour before use.
 - (B) Set the sound level meter on the "A" weighted network at slow response.
 - (C) Set the omnidirectional microphone in an approximately seventy-degree position in a location which complies with subsections (1) and (2) herein. The operator of the sound level meter shall face the noise source and record the meter's instantaneous response.
 - (D) Recalibrate the sound level meter after use.
 - (5) It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurement.

(Ord. 15-05, § 2, 3-26-2015)

4.28.170 Safety requirements.

All mobile food vendor units shall comply with the following safety requirements:

- (a) All equipment installed shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.
- (b) All utensils shall be stored in a manner to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided by the vendor to avoid loose storage of knives and other sharp or bladed instruments.
- (c) All foods and beverages to be used, prepared, cooked, displayed, sold, served, offered for sale or stored in a mobile food vendor unit, or during transportation to or between locations shall be from sources approved by the health authorities of the point of origin and must be clean, wholesome, free from spoilage, adulteration, contamination or misbranding and safe for human consumption. The standards for judging wholesomeness for human food shall be those promulgated and amended from time to time by the United States Food and Drug Administration, United States Department of Agriculture, the State Department of Health, the State Department of Agriculture, and the Monroe County Health Department and published in the United States Code of Federal Regulations, the Indiana Code Annotated or the Indiana Administrative Code, and the Monroe County Code.
- (d) Each mobile food vendor unit shall be constructed so that the portions of the unit containing food shall be covered so that no dust or dirt will settle on the food; and such portions of the unit which are designed to contain food shall be at least eighteen (18) inches above the surface of the public way while the unit is being used for the conveyance of food.

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- (e) The food storage areas of each mobile food vendor unit shall be kept free from rats, mice, flies and other insects and vermin. No living animals, birds, fowl, reptiles or amphibians shall be permitted in any area where food is stored.
- (f) Hazardous non-food items such as detergents, insecticides, rodenticides, plants, paint and paint products that are poisonous or toxic in nature shall not be stored in the food area of the mobile food vendor unit.

(Ord. 15-05, § 2, 3-26-2015)

4.28.180 Penalties—Revocation of license.

- (a) Any person, partnership, limited liability company or corporation which violates any provision of this chapter, shall be subject to the following penalties:
 - (1) Operating a mobile food vendor unit without a license:
 - First offense\$2,500.00
 - Second offense within any 12-month period\$5,000.00
 - Third offense, or each thereafter, within any 12-month period\$7,500.00
 - (3) Failure to comply with any other provision of this chapter:
 - First offense\$250.00
 - Second offense within any 12-month period\$500.00
 - Third offense, or each thereafter, within any 12-month period\$1,000.00
- (b) In addition, the controller's office shall, after notice and hearing before the city's board of public works, suspend or revoke, by written order, any license issued hereunder if the board of public works finds:
 - (1) The licensee has violated any provision of this chapter or any rule or regulation lawfully made under and within the authority of this chapter;
 - (2) The licensee is operating the mobile food vendor unit licensed under this chapter in a manner contrary to state or local code; or
 - (3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the controller's office to refuse originally to issue such license.
- (c) Any person charged with violating the provisions of this chapter may, in the discretion of the enforcement officer, be issued an official warning. If an official warning is issued it shall be considered as affording the violator one opportunity to comply with this chapter's provisions.

(Ord. 15-05, § 2, 3-26-2015)

4.28.190 Restriction on use and licenses.

The City of Bloomington has exclusive authority to restrict the use of mobile food vendor units and the issuance of business licenses for mobile food vendor units under the following conditions:

- (a) The city may restrict the use of mobile food vendor units in certain designated areas of the city in the event of an emergency declared by the mayor, the chief of police, the fire chief, the director public works, the director of utilities, and/or any of the aforementioned duly appointed designees.

- (b) Absent an emergency as described above, the city may restrict the use of mobile food vendor units in certain designated areas of the city provided the city has given each mobile food vendor unit licensee written notice of the restriction at least seventy-two (72) hours in advance of the restriction going into effect.

(Ord. 15-05, § 2, 3-26-2015)

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4.30.010 Definitions.

The following terms shall have the following meanings:

"Beverage" means any nonalcoholic liquid, hot or cold, intended for use in whole or in part for human consumption.

"City property" means all outdoor areas which are owned, or leased as lessee, by the city or one of the city's departments, or upon which the city or one of its departments has an easement or right-of-way including, but not limited to, streets, sidewalks, plazas or other areas adjacent to buildings owned by the city or one of its departments.

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"Food" means any raw, cooked, frozen or processed edible substance or beverage intended for use in whole or in part for human consumption.

"Private property" means all outdoor areas which are not owned or leased by any governmental agency or entity, including, but not limited to, streets, sidewalks, plazas, parking lots, or other areas adjacent to buildings not owned by a governmental agency or entity.

"Pushcart" means a non-motorized wheeled cart which may be moved by one (1) person and which is designed and used for displaying, keeping or storing any food or beverage for sale by a vendor.

"Special event" is any event so designated by the City of Bloomington Board of Public Works.

(Ord. 15-05, § 3, 3-26-2015)

4.30.020 Operations generally.

It is unlawful to locate a pushcart in the city except in accordance with the provisions of this chapter.

(Ord. 15-05, § 3, 3-26-2015)

4.30.030 Business license—Required.

- (a) It is unlawful to locate a pushcart in the city without first having secured a license to do so as provided by this chapter.
- (b) A separate license shall be required for each pushcart.
- (c) This chapter does not apply to any recognized participant of a special event.
- (d) It is not necessary to obtain a temporary use permit under Chapter 20 of the Bloomington Municipal Code in order to obtain a license for a pushcart under this chapter.

(Ord. 15-05, § 3, 3-26-2015)

4.30.040 Business license—Application.

Any person desiring a license under this chapter shall submit a fully completed application to the city controller at least fourteen (14) days prior to the proposed date of utilizing the pushcart. The application must set forth or have attached the following information as specified:

- (a) The applicant's name, current physical address, telephone number, email address and date of birth;
- (b) The name, current physical address, and telephone number of the person, firm, limited liability company, corporation or organization which the applicant is employed by or represents, and the length of time of such employment or representation;
- (c) If the applicant is employed by or represents a firm, limited liability company or corporation, the applicant shall provide the name and current physical address of all members of the firm or limited liability company, or all officers of the corporation, as the case may be;
- (d) If the applicant is employed by or represents a corporation or limited liability company then there shall be stated on the application the date of incorporation or organization, the state of incorporation or organization, and if the applicant is a corporation or limited liability company formed in a state other than the State of Indiana, the date on which such corporation or limited liability company qualified to transact business as a foreign corporation or foreign limited liability company in the State of Indiana;

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- (e) The type of products to be sold and the hours of the day the applicant plans to conduct business;
- (f) The place or places where said business may be conducted, and a written statement, if applicable, from the owner of any private property wherein the business may be conducted authorizing the applicant to use the property;
- (g) The duration of the license being sought;
- (h) A statement as to whether or not a license, under the provisions of this chapter, or any other similar ordinance of the City of Bloomington or any other county, town, municipality, or State has been revoked, together with the details thereof; and
- (i) The designation of a resident of the State of Indiana as a registered agent for purposes of receiving notices from the City of Bloomington or other service of process, as a result of doing business in the City of Bloomington.

(Ord. 15-05, § 3, 3-26-2015)

4.30.050 Business license—Prerequisites.

An application for a license under this chapter shall not be considered unless proof of the following are provided with the application:

- (a) All applicable permits required by the Monroe County Health Department, including but not limited to a food service establishment license or a certified food handler certificate;
- (b) Proof of registration as a business with the Indiana Secretary of State;
- (c) Proof of an employer identification number;
- (d) If business is to be conducted on city property, a resolution from the city's board of public works;
- (e) If business is to be conducted on or in property owned or managed by the City of Bloomington Parks Department, including those portions of the B-line trail not specifically permitted by this chapter, a letter of approval from said department;
- (f) If any type of spark, flame or fire will be produced, proof of an open burn permit issued by the City of Bloomington Fire Department;
- (g) Proof of insurance in accordance with the amounts established by this chapter;
- (h) A scaled site plan showing the location of the proposed pushcart and the property's: drives, parking access aisles, fire lanes, sidewalks and accessible routes; and
- (i) Proof of payment for, or exemption from, the applicable fee.

(Ord. 15-05, § 3, 3-26-2015)

4.30.060 Business license—Duration and fee.

- (a) Each applicant shall pay a license fee in accordance with the schedule set forth below (all licenses are for a consecutive period of time):
 - (1) One (1) Day License: \$25.00;
 - (2) Three (3) Day License: \$30.00;
 - (3) Seven (7) Day License: \$50.00;
 - (4) Thirty (30) Day License: \$75.00;
 - (5) Three (3) Month License: \$150.00;

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- (6) Six (6) Month License: \$200.00; and
- (7) One (1) Year License: \$350.00.
- (b) The following listed organizations and/or entities while required to obtain a license under this chapter are exempt from having to pay any fees, so long as the proceeds thereof are to be used exclusively for religious, charitable, educational or scientific purposes:
 - (1) Churches;
 - (2) Schools;
 - (3) Benevolent organizations;
 - (4) Fraternal organizations; and
 - (5) Other similarly situated organizations.
- (c) Pursuant to Ind. Code 25-25-2-1, while all honorably discharged veterans are required to obtain a license under this chapter they are exempt from having to pay any fees.

(Ord. 15-05, § 3, 3-26-2015)

4.30.070 Application fee—Refund on denial.

An applicant shall pay an application fee in the minimum amount of \$25.00, unless exempted under section 4.30.060. In the event the license is granted, the application fee shall be retained by the city and applied toward the license fee. In the event the license is denied, \$20.00 of the application fee shall be retained to defray the administrative expense incurred in investigating and processing the application, and any remainder shall be refunded to the applicant.

(Ord. 15-05, § 3, 3-26-2015)

4.30.080 Effect of cessation of business.

No deductions shall be allowed from the fee for a license issued pursuant to this chapter for any part of the term of which the licensee does not engage in such business.

(Ord. 15-05, § 3, 3-26-2015)

4.30.090 Business license—Insurance and indemnity.

- (a) Each applicant for a license shall provide a certificate of liability insurance to the city controller upon a form approved by the Corporation Counsel of the City of Bloomington, insuring the applicant, and naming the City of Bloomington as co-insured, against the following liabilities and in the following amounts relative to such activity:
 - (1) Personal injury: \$100,000.00 per occurrence and \$300,000.00 in the aggregate; and
 - (2) Property damage: \$25,000.00 per occurrence and \$50,000.00 in the aggregate.
- (b) Each applicant shall provide a document approved by the Corporation Counsel for the City of Bloomington, in which the applicant agrees to indemnify and hold harmless the City of Bloomington for losses or expenses arising out of the operation of his/her business.

(Ord. 15-05, § 3, 3-26-2015)

4.30.100 Business license—Issuance.

- (a) The controller shall within fourteen (14) days of receipt of the completed application issue the business license to the applicant if the controller finds the following:
 - (1) Compliance with all provisions of this chapter;
 - (2) The applicant has not had a prior license issued under this chapter, or any other similar licensed authorized by a different governmental entity, suspended or revoked; and
 - (3) The applicant has not been previously found to be in violation of this chapter, or any other similar law promulgated by a different governmental entity.
- (b) The controller may, upon a finding of appropriateness, issue a business license to an applicant who has been found to meet the terms of the above subsections 4.30.100(a)(1), (2).
- (c) Failure of the controller to issue a license within fourteen days of completion of the application constitutes denial of the application. The applicant may appeal the denial by filing a written statement to the city's board of public works within ten (10) days after passage of those fourteen (14) days. The board of public works shall, within the next thirty (30) days, determine whether the applicant has complied with all provisions of section 4.30.100(a), and if so, shall authorize the controller to issue the license if there is such compliance. Prior to this determination, which is final and conclusive, the applicant will have an opportunity to be heard regarding the denial.

(Ord. 15-05, § 3, 3-26-2015)

4.30.110 Business license—Transferability.

A license issued pursuant to this chapter shall not be transferable to another licensee.

(Ord. 15-05, § 3, 3-26-2015)

4.30.120 Business license—Identification.

- (a) All licenses issued by the controller under this chapter shall be prominently displayed on the pushcart and shall be shown to any person who requests to see the license.
- (b) Failure to display or exhibit a license in accordance with this section may be grounds for suspension or revocation of said license.

(Ord. 15-05, § 3, 3-26-2015)

4.30.130 Location restrictions.

- (a) No pushcart shall locate in any parking lot, parking space, or parking facility owned, leased or managed by the City of Bloomington unless approval has been given by the city's board of public works.
- (b) No pushcart serving food or beverages shall locate within fifty (50) feet of any façade of a ground level establishment that also sells food or beverages, or located within fifty (50) feet of the perimeter of such an establishment's outdoor seating area, regardless of whether or not the pushcart is currently conducting business. The distance restriction only applies from an hour before the opening time to an hour after the closing time posted by a ground level establishment on the façade of its building;
- (c) No pushcart shall locate in a street, street median strip or alleyway.

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- (d) Pushcarts shall be located a reasonable distance from all posted bus stops, crosswalks, driveways, alleyways, right-of-way lines of two (2) or more intersecting streets and building entrances or walk-up windows.
- (e) No pushcart shall locate within a one block radius of a special event unless prior approval has been granted by either the operator of the special event or the city's board of public works.
- (f) No pushcart shall be located in a manner which would significantly impede or prevent the use of any City of Bloomington property, or which would endanger the safety or property of the public.
- (g) No pushcart shall be located within fifteen (15) feet of any fire hydrant.
- (h) No pushcart shall locate within any zoning district except the following: commercial general; commercial arterial; commercial downtown; industrial general; business park; and institutional.
- (i) Pushcarts shall only be located on private property if the private property owner has provided both the business operator and the city written permission for the pushcart to locate on said property.
- (j) No pushcart operating on private property shall displace required parking or landscaping nor block any drives, parking access aisles, fire lanes, sidewalks, or accessible routes required for the private parking by the city's zoning code.
- (k) No pushcart shall park near an intersection and in a manner that blocks the line-of-sight of drivers using adjacent roadways.
- (l) No pushcart shall locate on the B-line trail except in the following permitted areas:
 - (1) Between the north side of Dodds Street and the south side of 2nd Street;
 - (2) Between the north side of 3rd Street and the south side of 4th Street; and
 - (3) Between the north side of 6th Street and the south side of Fairview Street.

(Ord. 15-05, § 3, 3-26-2015)

4.30.140 Prohibited hours.

No pushcart shall be located on any public property between the hours of 4:30 a.m. and 6:30 a.m.

(Ord. 15-05, § 3, 3-26-2015)

► **Ord 16-16 - Section 3**

4.30.150 Standards of conduct.

All pushcart operators shall conform to the following standards of conduct:

- (a) Pushcart operators shall conduct themselves at all times in an orderly and lawful manner, and shall not make, or cause to be made, any unreasonable noise of such volume as to be in violation of the City of Bloomington Noise Ordinance as stated in Title 14 of the Bloomington Municipal Code;
- (b) A device may not be used which would amplify sounds nor may attention be drawn to the pushcart by an aural means or a light-producing device (examples of such devices may include, but are not meant to be limited to the following: bull horns and strobe lights);

Title 4 BUSINESS LICENSES AND REGULATIONS

- (c) No pushcart may be permanently or temporarily affixed to any object, including but not limited to buildings, trees, telephone poles, streetlight poles, traffic signal poles or fire hydrants;
- (d) No pushcart may be used to advertise any product or service which is not authorized to be sold from that pushcart;
- ~~(e) Each pushcart unit shall be limited to one sandwich board sign that meets the provisions of Section 20.05.086 of the Bloomington Municipal Code regardless of the zoning district in which it locates, provided a sign permit is obtained from the city's planning and transportation department;~~
- (e) Each pushcart unit shall be limited to one sandwich board sign that meets the provisions of Sections 20.05.082(f)(2) and 20.05.082(f)(3) of the Bloomington Municipal Code regardless of the zoning district in which it locates.**
- (f) No pushcart may make use of any public or private electrical outlet while in operation;
- (g) Each pushcart shall protect against littering and shall have both an adequate trash receptacle and a separate receptacle for recyclable materials:
 - (1) The trash and recyclable receptacles shall be emptied sufficiently often to allow disposal of litter and waste by the public at any time;
 - (2) The trash and recyclable receptacles on the pushcart shall not be emptied into trash or recyclable receptacles owned by the City of Bloomington;
 - (3) Liquid from the pushcart shall not be discharged on or in a city sewer or drain or elsewhere on city property, nor on private property without the express written consent of the owner thereof;
- (h) Before leaving any location each pushcart shall first pick up, remove and dispose of all trash, refuse and/or recyclable materials, including products spilled on the ground within twenty feet of the pushcart;
- (i) No pushcart shall expose any pedestrian to any undue safety or health hazards nor shall it be maintained so as to create a public nuisance;
- (j) Each pushcart shall be maintained free and clear of dirt, and finishes shall not be chipped, faded or unduly marred;
- (k) Foods or beverages which present a substantial likelihood that liquid matter or particles will drop to the street or sidewalk during the process of carrying or consuming the food or beverage shall be sold in proper containers so as to avoid falling to the street or sidewalk;
- (l) Pushcarts which utilize a grill or device that may result in a spark, flame or fire shall adhere to the following additional standards:
 - (1) Be placed approximately 20 feet from a building or structure;
 - (2) Provide a barrier between the grill or device and the general public;
 - (3) The spark, flame or fire shall not exceed 12 inches in height;
 - (4) A fire extinguisher shall be within reaching distance of the pushcart operator at all times;
- (m) Pushcart operators shall be required to obey the commands of law enforcement officers or fire officials with respect to activity carried out on city property, including, where possible, the removal of the pushcart and cessation of such sales;
- (n) No pushcart shall ever be left unattended;
- (o) Pushcarts shall not be stored, parked or left overnight on any city property;
- (p) All pushcarts which are food service establishments as defined by Title 10.17 of the Bloomington Municipal Code shall install an approved grease interceptor or grease trap. Foods, oils and greases shall never be discharged into the city's sewer or storm drains;

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- (q) All pushcart operators are required to collect and pay all applicable and appropriate sales taxes;
- (r) No pushcart shall provide customer seating unless approval has been given by the city's board of public works and the city's planning and transportation department;
- (s) All pushcarts shall comply with the lighting standards found in Chapter 20.05 of the Bloomington Municipal Code;
- (t) All pushcarts shall comply with the vision clearance standards found in Chapter 20.05 of the Bloomington Municipal Code;
- (u) No pushcarts shall have a drive-thru; and
- (v) The decibels of any generator(s) associated with a pushcart shall not exceed "70dBA".
 - (1) Such noise measurement shall be made at a height of at least four (4) feet above the ground and at a point approximately twenty-five (25) feet away from where the noise is being emitted on a sound level meter operated on the "A" weighting network (scale).
 - (2) No person other than the operators shall be within twenty-five (25) feet of the sound level meter during the sample period.
 - (3) Sound measurements shall be conducted at that time of day or night when the relevant noise source is emitting sound.
 - (4) The sound level measurement shall be determined as follows:
 - (A) Calibrate the sound level meter within one (1) hour before use.
 - (B) Set the sound level meter on the "A" weighted network at slow response.
 - (C) Set the omnidirectional microphone in an approximately seventy (70) degree position in a location which complies with subsections (1) and (2) herein. The operator of the sound level meter shall face the noise source and record the meter's instantaneous response.
 - (D) Recalibrate the sound level meter after use.
 - (5) It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurement.

(Ord. 15-05, § 3, 3-26-2015)

4.30.160 Safety requirements.

All pushcarts shall comply with the following safety requirements:

- (a) All equipment installed shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.
- (b) All utensils shall be stored in a manner to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided by the vendor to avoid loose storage of knives and other sharp or bladed instruments.
- (c) All foods and beverages to be used, prepared, cooked, displayed, sold, served, offered for sale or stored in a pushcart, or during transportation to or between locations shall be from sources approved by the health authorities of the point of origin and must be clean, wholesome, free from spoilage, adulteration, contamination or misbranding and safe for human consumption. The standards for judging wholesomeness for human food shall be those promulgated and amended from time to time by the United States Food and Drug Administration, United States Department of Agriculture, the State Department of Health, the State Department of Agriculture, and the Monroe County Health Department and published in the United States Code of Federal

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Regulations, the Indiana Code Annotated or the Indiana Administrative Code, and the Monroe County Code.

- (d) Each pushcart shall be constructed so that the portions of the pushcart containing food shall be covered so that no dust or dirt will settle on the food; and such portions of the pushcart which are designed to contain food shall be at least eighteen (18) inches above the surface of the public way while the pushcart is being used for the conveyance of food.
- (e) The food storage areas of each pushcart shall be kept free from rats, mice, flies and other insects and vermin. No living animals, birds, fowl, reptiles or amphibians shall be permitted in any area where food is stored.
- (f) Hazardous non-food items such as detergents, insecticides, rodenticides, plants, paint and paint products that are poisonous or toxic in nature shall not be stored in the food area of the pushcart.

(Ord. 15-05, § 3, 3-26-2015)

4.30.170 Penalties—Revocation of license.

- (a) Any person, partnership, limited liability company or corporation which violates any provision of this chapter, shall be subject to the following penalties:
 - (1) Operating a pushcart without a license:
 - First offense\$2,500.00
 - Second offense within any 12-month period\$5,000.00
 - Third offense, or each thereafter, within any 12-month period\$7,500.00
 - (4) Failure to comply with any other provision of this chapter:
 - First offense\$250.00
 - Second offense within any 12-month period\$500.00
 - Third offense, or each thereafter, within any 12-month period\$1,000.00
- (b) In addition, the controller's office shall, after notice and hearing before the city's board of public works, suspend or revoke, by written order, any license issued hereunder if the board of public works finds:
 - (1) The licensee has violated any provision of this chapter or any rule or regulation lawfully made under and within the authority of this chapter;
 - (2) The licensee is operating the pushcart licensed under this chapter in a manner contrary to state or local code; or
 - (3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the controller's office to refuse originally to issue such license.
- (c) Any person charged with violating the provisions of this chapter may, in the discretion of the enforcement officer, be issued an official warning. If an official warning is issued it shall be considered as affording the violator one opportunity to comply with this chapter's provisions.

(Ord. 15-05, § 3, 3-26-2015)

4.30.180 Restriction on use and licenses.

The City of Bloomington has exclusive authority to restrict the use of pushcarts and the issuance of business licenses for pushcarts under the following conditions:

- (a) The city may restrict the use of pushcarts in certain designated areas of the city in the event of an emergency declared by the mayor, the chief of police, the fire chief, the director public works, the director of utilities, and/or any of the aforementioned duly appointed designees.
- (b) Absent an emergency as described above, the city may restrict the use of pushcarts in certain designated areas of the city provided the city has given each pushcart licensee written notice of the restriction at least seventy-two (72) hours in advance of the restriction going into effect.

(Ord. 15-05, § 3, 3-26-2015)

Material Regarding Tax Abatement for a Mixed Use Project at 405 South Walnut Street; 114, 118, and 120 East Smith Avenue; and, 404 South Walnut Street (H.M. Mac Development, LLC, Petitioner)

- Memo to Council from Linda Williamson, Director, and Jason Carnes, Assistant Director for Small Business, Economic and Sustainable Development Department
 - Map and Aerial Photo of Site and Surrounding Area;
 - Application for Tax Abatement;
 - Statement of Benefits for Abatement on Real Estate;
 - Estimate of Property Tax Calculations;
 - Building Elevations and Renderings from Above; and
 - Tax Abatement Program: General Standards.
- **Res 16-11** To Designate an Economic Revitalization Area, Approve the Statements of Benefits, and Authorize a Period of Abatement for Real Property Improvements - Re: Properties at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street (H.M. Mac Development, LLC, Petitioner)
 - EDC Res 16-02 (*Forthcoming*)
 - **Ord 16-17** To Designate an Economic Development Target Area (EDTA) - Re: Property Located at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street and Identified by the Monroe County Parcel ID Numbers 015-35020-00, 015-35010-00, 015-35030-00, 015-10000-00, 015-33130-00 (H.M. Mac Development, LLC, Petitioner)
 - EDC Res 16-01 (*Forthcoming*)



CITY OF BLOOMINGTON
economic & sustainable development

MEMORANDUM

To: Common Council Members
CC: City Legal Department
From: Linda Williamson, Jason Carnes
Date: June 20, 2016
RE: **Council Resolutions 16-11; and 16-12 ; and Ordinance 16-17**
Real Property Tax Abatement Application
H.M. Mac Development, LLC - 405 S. Walnut Street; 114, 118 & 120 E. Smith Avenue; 404 S. Washington Street.

H.M. Mac Development, LLC is a Bloomington-based property management and development company. They have residential and commercial developments in the downtown and surrounding area. They are seeking to redevelop property they own at 405 S. Walnut Street; 114, 118 & 120 E. Smith Avenue; and 404 S. Washington Street into two 4-story, mixed use buildings with commercial and multifamily components. The property is owned by H.M. Mac Development, LLC. The principal is Steven Hoffman.

These buildings will include five workforce housing units (3 1-BR units and 2 2-BR units). In order to qualify for the workforce housing units, the workforce housing resident (“Resident”) must hold a full time job (constituting at least thirty five hours per week), and must make less than or equal to the Bloomington Living Wage (which is currently \$12.32 / hour, or approximately \$25,600 per year). The Resident must provide documentation supporting these criteria to H.M. Mac Development, LLC upon request. Rent for the Resident will be based on thirty percent (which is the average percent of income that is used for housing) of the annual wages, which equates to \$7,688 per year, or \$641 per month for a 1-BR unit or \$1,282 per month for a 2-BR unit. H.M. Mac Development, LLC will be required to provide rent and income documentation to the City on an annual basis.

H.M. Mac Development, LLC proposes to demolish the current 5 structures and construct two buildings. Building 1 will have approximately 7,000 square feet of non-residential space (whose primary tenant will be the Chocolate Moose Ice Cream shop) with 2 parking spaces on the first floor. The second through fourth floors will have 18 residential units (nine 4-BR units, five 2-BR units, and four 1-BR units = 50-BRs total).

Building 2 will have basement and first floor parking (87 spaces). The second through fourth floors will have 36 residential units (nine 4-BR units, twelve 3-BR units, nine 2-BR units, and six 1-BR = 96-BRs total). On the second floor, a central courtyard will be developed. The south facing wall will contain a living wall and the lower portion of the north wall will provide a smooth surface for movie projection within the courtyard (not viewable from the

street). The second floor will include a pool deck that has a two story interior. The windows in this area can be opened up in the summer to both the courtyard and to Washington Street for air movement to create an indoor/outdoor environment. The third floor will contain a workout room that overlooks the pool area but remains enclosed for temperature control year round. The third floor will also open to a sun deck that sits in the Southeast corner. All in all the building will create a series of indoor and outdoor activity zones for a unique downtown living experience.

The Administration supports the property owner's application for tax abatement, specifically a 5-year phased-in of taxes on the capital improvements to real property. On June 15, 2016 the Economic Development Commission (EDC) approved Resolution 16-01 (EDTA Designation) and 16-02 (Real Property Abatement). The EDC recommends approval of this tax abatement request.

Criteria: City of Bloomington Tax Abatement General Standards

Capital Investment as an enhancement to the tax base

Total project costs will be approximately \$11.5 million. Current tax liability for the subject properties is just under \$13,504.10 annually. Based on project estimates, the new tax liability (without an abatement) would be \$237,349.00 annually.

The subject property is located within the City's Consolidated Economic Development Area ("Consolidated TIF") which is an area targeted by the City for redevelopment. The project is aligned with development objectives of Economic Development Area Plan (or "Downtown TIF Plan") adopted in 1985 and amended in 2010 and again in 2015, such as:

- "Strengthen and intensify existing land uses within the area so that density is supported in the urban core, with particular focus on ensuring greater employment opportunities, diverse mixes of retail and upper story residential, greater usage of vacant and underutilized buildings, and new infill development."
- "Construct new and renovated housing units within the area that support a diverse mix of housing types, and are within easy walking distance of the employment, retail, entertainment, financial, cultural, educational and governmental centers of the city."

Evaluative Criteria

The City's Tax Abatement General Standards describe additional criteria to evaluate whether a project will make "a significant positive contribution to overall economic vitality" of the city. Four categories are outlined as examples, and the petitioner may provide supportive evidence for how their project addresses any or all of the evaluative criteria, and may also offer a description of the project's contributions outside of these four categories as the petitioner deems appropriate. A summary of the application's listed categories and Staff assessments are below. Please also refer to the petitioner's application, which has been included in your packet.

- **Quality of Life/Environmental Sustainability:** The mixed use project supports sustainable development and sustainable living in the most primary of ways by adding

residential density in the core rather than periphery, allowing residents a daily lifestyle that uses less transportation, infrastructure and energy resources. The buildings will contain many green building practices including “green friendly” building materials, a living wall on the façade of courtyard of Building 2, and Energy Star appliances among other features. The site will also have almost twice the number of spaces required by the municipal code for bike parking.

- **Affordable Housing:** This project will include a recorded deed restriction that requires workforce housing for 30 years. As mentioned above, five units will be designated as affordable housing. Residents must hold a full time job (constituting at least thirty five hours per week), and must make less than or equal to the Bloomington Living Wage (which is currently \$12.32 / hour, or approximately \$25,600 per year). The Resident must provide documentation supporting these criteria to H.M. Mac Development, LLC upon request. Rent for the Resident will be based on thirty percent (which is the average percent of income that is used for housing) of the annual wages, which equates to \$7,688 per year, or \$641 per month for a 1-BR unit or \$1,282 per month for a 2-BR unit.
- **Community Service:** This project will include a community arts space within the building design. This will consist of display cases for community art work. The developer is working with The Project School to use the space to display student art on a rotating basis.
- **Community Character:** H.M Mac Development, LLC will be one of the few companies developing mixed use properties in the South Walnut Street area of downtown. They will tear down 5 small buildings that stayed at that location for years. They intend to construct 2 very attractive mixed use buildings with the hopes of contributing to the community character. Their hope is that other projects of this kind will follow to help create vitality to South Walnut.

Criteria: Indiana Code

Establishing an Economic Revitalization Area and a Term of Abatement

Upon the EDC’s favorable recommendation, the City Council will take the necessary legislative steps to review the abatement. In order for a property to be eligible for tax abatement, it must be designated an Economic Revitalization Area, or must be within an area already designated as an Economic Revitalization Area by the Common Council. An Economic Revitalization Area or “ERA” is an area which has obstacles to “normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors.” (Indiana Code § 6-1.1-12.1-1)

In order to establish an Economic Revitalization Area and authorize a tax abatement term, the Council must find that:

- The estimate of the value of the redevelopment or rehabilitation is reasonable for the projects of that nature.

- The estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- The estimate of the annual salaries of these individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- Any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- The totality of the benefits is sufficient to justify the deduction.

City staff finds the estimates and benefits described in the Application and on the Statement of Benefits form are reasonable and that the benefits, as outlined in the application packet and this memo, are sufficient to justify a tax abatement of the recommended term and schedule.

ERA in an Allocation Area (TIF district)

Additionally, state law requires that the City Council must approve the taxpayer’s Statement of Benefits if the property is also located in an allocation area, such as the Consolidated TIF. The subject location is located within Consolidated TIF.

Rather than a longer term abatement with greater impact to the potential for new Consolidated TIF revenue, staff recommends a five-year abatement term for this project. More details are described below on this term recommendation.

Economic Development Target Area

In general, in order for most types of residential projects to be eligible for abatement, Indiana Code requires Economic Development Target Area designation (I.C. § 6-1.1-12.1-3), and requires a favorable recommendation from the EDC before the Council can designate an EDTA (IC § 6-1.1-12.1-7). An EDTA is property that “has become undesirable or impossible for normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors that have impaired values or prevent a normal development of property or use of property.”

This project’s market-rate housing component necessitates an EDTA designation. Staff views the cessation of growth of this property, and the slow redevelopment rate of South Walnut Street, as factors impairing values and preventing normal development and use of the property.

Recommendation & Rationale

With the consideration of all factors outlined above and additional rationale below, staff and the EDC recommends the following term of abatement, with the support of the Administration:

- **Five-year Real Estate (RE) Property Tax Abatement**, phased-in at **100% in Year 1, 80% in Year 2, 60% in Year 3, 40% in Year 4 and 20% in Year 5**. Estimated value based on 2015 tax rates and capital investment estimates: \$712,046.

South Walnut Street has been slower to redevelop than other areas of downtown. In staff's view, that is due to older, obsolete buildings, and aging infrastructure. The retail space when occupied will also activate South Walnut Street. The petitioner has indicated to Staff that a current tenant of the site (Chocolate Moose) is likely to expand their business into most of the retail space upon construction. The project will also create three new part-time employees and two new full-time employees. Total combined annual salaries for those employees will be approximately \$165,000.

Staff also believes that continued investment (private and public) in this area will enhance attractiveness to future private sector investment (such as, for example, potential hotel investment nearby the Convention Center). Staff's recommendation not to exceed a 5-year term is based upon the project being primarily market-rate housing, with a workforce housing component, rather than (for example) affordable housing or a commercial component with specific job creation projections.

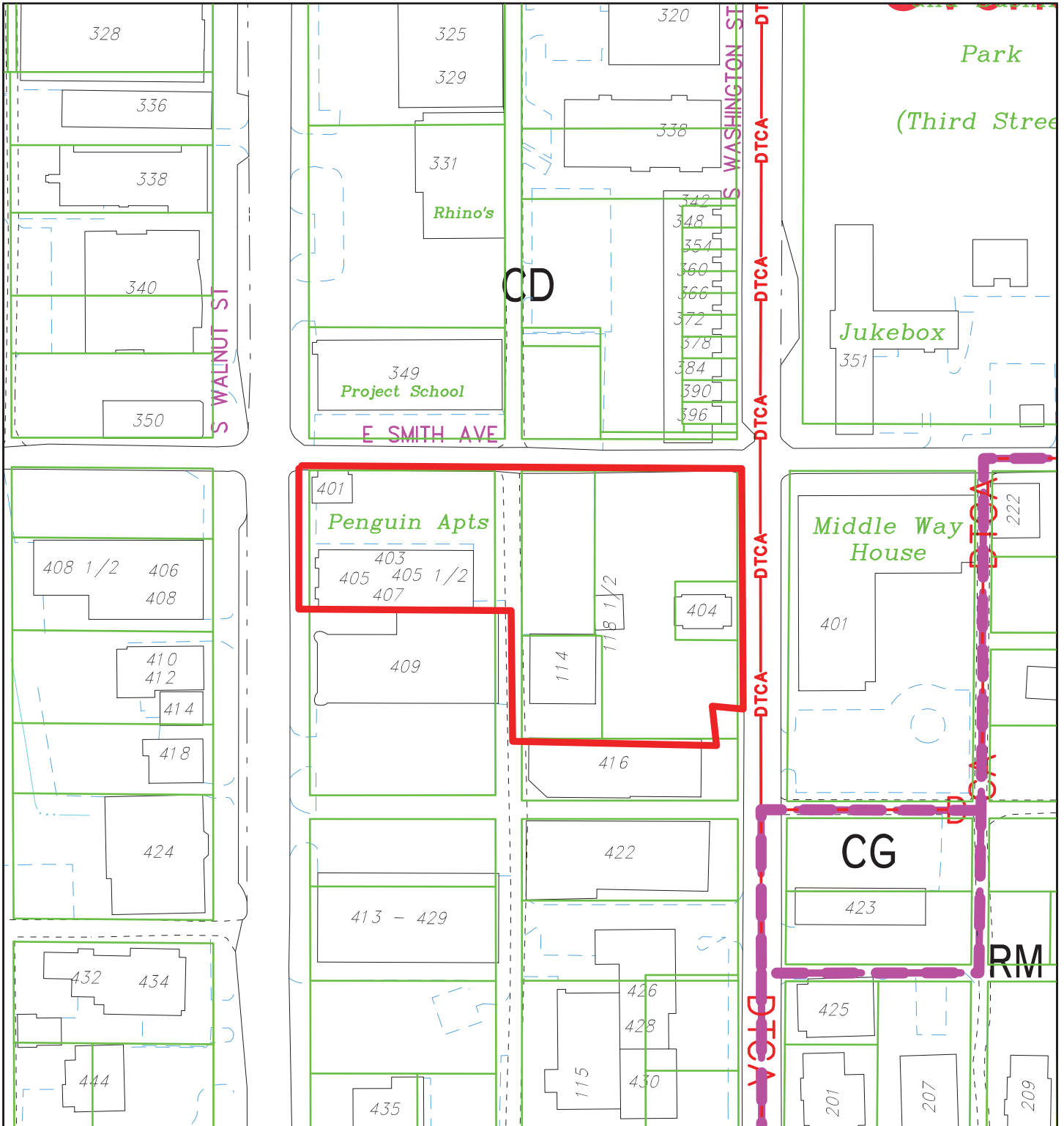
The original proposal brought before the EDC was for a 3-year phased-in property tax abatement. The EDC chose to expand that to 5 years. Two reasons for doing this include: using the tax abatement tool to incentive this administration's desire for more affordable housing downtown; and another market rate project in this area received a 3-year tax abatement and the EDC wanted this project to receive more due to its workforce housing component.

We greatly look forward to discussing this project with Council members, and hope you will consider approving the above tax abatements for the Common Council's consideration.

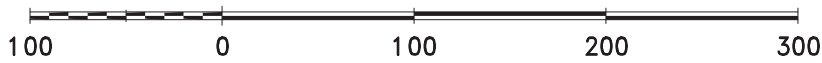
Upon Council approve, the City will negotiate and execute the required Memorandum of Agreement with H.M Mac Development, LLC. This agreement will include clawback provisions (remedies and consequences for noncompliance) related to the benefits stated in the Application and Statement of Benefits (SB-1) forms, and will define other substantial compliance terms though the duration of the tax abatement periods.

Attached:

- Petitioner's City of Bloomington Tax Abatement Application
- Petitioner's Statement of Benefits Form, Real Estate Improvements (SB-1)
- Estimated Property Tax Abatement Calculations, Real Estate Property



By: scanlanj
18 Mar 16

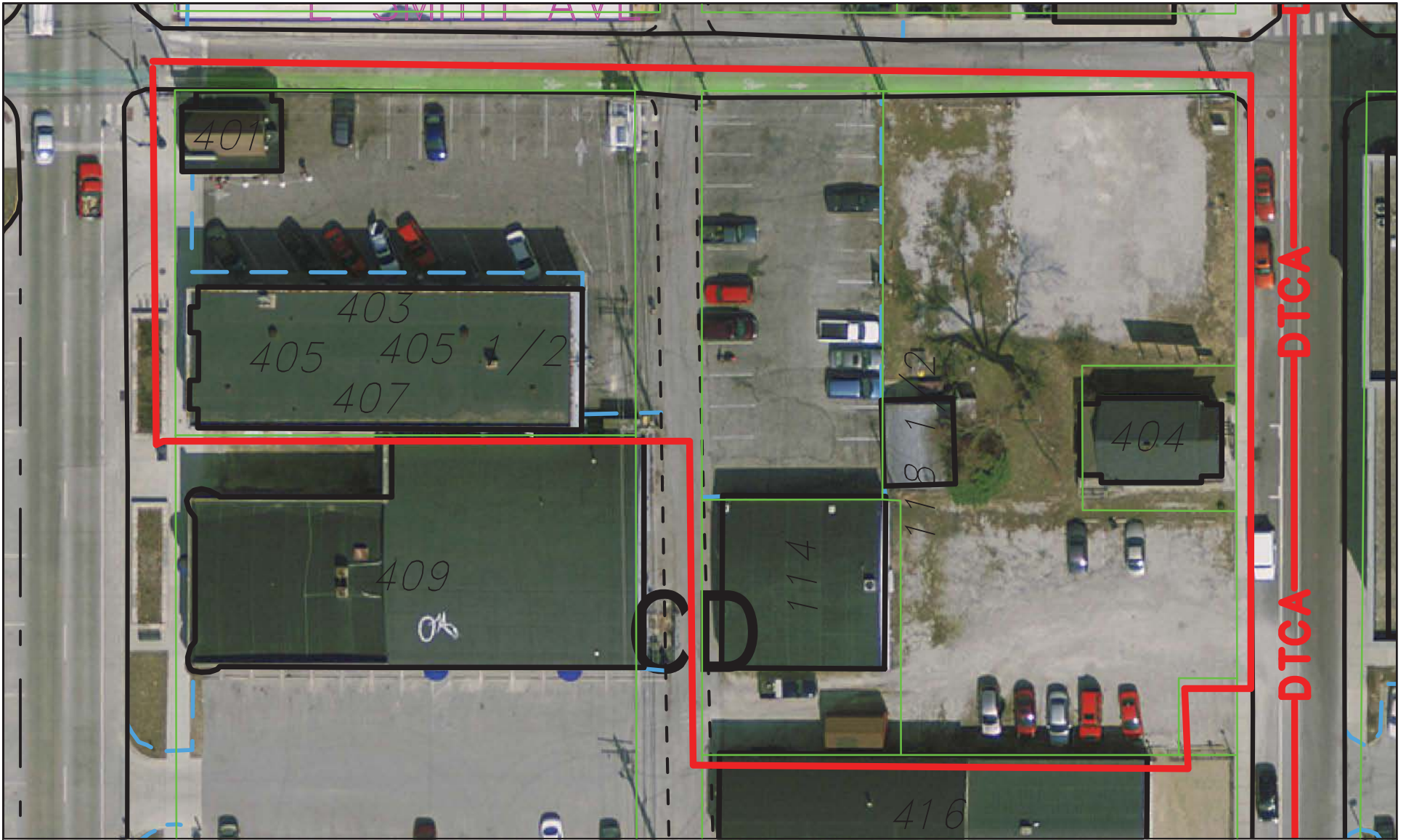


For reference only; map information NOT warranted.

City of Bloomington
Planning & Transportation

N

Scale: 1" = 100'



By: scanlanj
18 Mar 16



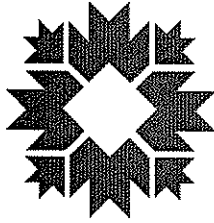
For reference only; map information NOT warranted.



City of Bloomington
Planning & Transportation



Scale: 1" = 40'



CITY OF BLOOMINGTON
economic & sustainable development



**Application for Designation
Revitalization Area (ERA):
Real and/or Personal Property**

City of Bloomington, Indiana
Department of Economic and Sustainable Development
401 N. Morton St., PO Box 100, Bloomington, IN 47402-0100
812.349.3418

120 E. Smith Ave. 53-08-04-200-000-009
114 E. Smith Ave. 53-08-04-200-088,000-009
118 E. Smith Ave. 53-08-04-200-185,000-009
404 S. Washington St. 53-08-04-200-203,000-009

(812) 339-2579 • WWW.HARRELL-FISH.COM

INSTRUCTIONS

1. State law and City of Bloomington policy require that the designation application form (SB-1) be submitted **prior to the initiation of the project** (i.e., prior to filing for building permits required to initiate construction). If the project requires a rezoning, variance, or approval petition of any kind the petitioner must file prior to submission of the tax abatement application, and must be approved prior to a final hearing on the tax abatement request.
2. All questions must be answered as completely as possible and must be verified with a signature on the completed Statement of Benefits Form (SB-1) and last page of this application. Incomplete or unsigned applications will not be accepted as official filings. If attaching additional pages, please label responses with corresponding Section numbers.
3. Return completed Application and **\$100.00 non-refundable Application Fee** (payable to the **City of Bloomington**) to City of Bloomington Department of Economic & Sustainable Development, PO Box 100, 401 N Morton Street, Suite 130, Bloomington, IN 47402-0100 (economicvitality@bloomington.in.gov).

Name of Company for which ERA Designation is being requested <i>H.M. Mac Development, LLC</i>	
Primary Contact Information (for questions concerning this application and the Project)	
Name <i>Steven Hoffman</i>	Job Title <i>President</i>
Phone <i>(812) 333-2332 ext. 203</i>	Email <i>Steven@HMMac.com</i>
Address (street and/or PO, city, ZIP) <i>112 E. Third St. Bloomington, IN 47401</i>	
Compliance Contact Information (person responsible for completion and timely submittal of mandatory annual compliance forms if designation is granted)	
Name <i>SAME AS ABOVE</i>	Job Title
Phone <i>() - ext.</i>	Email
Address (street and/or PO, city, ZIP)	

→ Additional TAX ID'S Attached.

Section 2 – Real Property Location and Description		
Monroe County Tax Parcel ID Number(s) <i>53-08-04-200-057.000-009</i>	Township	
Street Address <i>405 S. Walnut St., Additional Addresses Attached</i>	ZIP	
Current Zoning <i>Commercial</i>	Current Use(s) of Property <i>VACANT, rental house, commercial-retail</i>	
Estimated Market Value of Property <i>\$3,200,000</i>		
Property or Building(s) Listed as Historic on the City of Bloomington Historical Survey? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, check one:	<input type="checkbox"/> Outstanding <input type="checkbox"/> Notable <input type="checkbox"/> Contributing	Age of Building(s), if applicable
Describe any other national or local historical significance or designation, if applicable <i>NONE</i>		
Please list all owners of the property.		
Attach additional sheets as necessary to include all relevant property records. The City of Bloomington may require a copy of the property deed.		

Section 3 – Criteria for Economic Revitalization Area ("ERA") or Economic Development

Target Area ("EDTA") Designation

Describe how the project property and surrounding area have become undesirable for normal development and occupancy. *Much of the site is vacant land. The retail space has become rundown and outlived its usefulness. Current Tenant, Chocolate Moose, needs new space to help its business grow and stay downtown.*

Section 4 – Company Profile

Does your company currently operate at this location? Yes No

If yes, how long has your company been at this location?

Will this property be your company's headquarters location? Yes No

If no, where is/will be your company's HQ? *112 E. Third St. Bloomington, IN 47401*

Company is a: LLC LLP LP Corporation S. Corporation Nonprofit Corporation

Mutual Benefit Corporation Other-Please describe:

Provide a brief description of your company history, products and services.

H.M. MAC is a culmination of over 40 years of experience (over 100 yrs. experience combined) we develop, build & operate Multi-family properties.

Please list all persons and/or entities with ownership interests in the company. *See Attached*

Current/Retained Jobs and Wages (include only current permanent jobs, and exclude benefits and overtime from wage values)

Number of part-time employees	<u>2</u>	Median part-time hourly wage	<u>\$12.32</u>
Number of full-time employees	<u>8</u>	Average part-time hourly wage	---
TOTAL current employees (permanent jobs)	<u>10</u>	Median full-time hourly wage	---
		Average full-time hourly wage	---

What is the lowest hourly wage in the company? (inc. PT, FT, other) \$12.32

What is the median hourly wage in the company (inc. PT, FT, other) --- TOTAL Annual Payroll (current/retained) ---

New Jobs and Wages As Result of the Proposed Project (include only new permanent jobs, and exclude benefits and overtime from wage values)

Number of part-time employees	<u>2 3</u>	Lowest starting part-time wage	<u>\$12.32</u>
Number of full-time employees	<u>2</u>	Lowest starting full-time wage	---
TOTAL NEW employees (new permanent jobs)	<u>5</u>	TOTAL NEW Annual Payroll (new jobs only)	---

Describe your company's benefit programs and include the approximate value of benefits for existing and new employees on a per hour basis (e.g., benefits are valued at an additional \$3.00 per hour, etc.)

Market for Goods and Services; Local Sourcing

To the extent possible, please estimate the relative percentages of your company's reach (via your products or services) into following markets:

- 90 Inside Monroe County, Indiana
 - 9 Outside Monroe County, but inside Indiana
 - 1 Outside of Indiana
 - 0 Outside of the United States
- 100%

If applicable, list the name and location (City, State) of your five largest

1. *First Merchants Bank Muncie, IN*
2. *HFI Bloomington, IN*
3. *Graystone Concrete Bloomington, IN*
4. *Sia Capital Indianapolis, IN*
5. *Bender Lumber*



Mechanical & Building Solutions

*Steven Hoffman
Mark Hoffman
Gary Hoffman
Harris Mujezinovic
Dustin McClain*

Section 5A – Proposed Improvements (the "Project")	
Describe all real estate improvements for which tax abatement on the property is being sought. <i>2 mixed use buildings w/ commercial + multifamily components. There will be "workforce housing" units included in the market rate units to create inclusionary housing.</i>	
Estimated Total Project Cost (Capital Improvements only) <i>11,500,000</i>	Has Bloomington Planning approval been obtained for the Project? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, Case Number:
Estimated Construction Start Date (month-year) <i>November 2016</i>	
Estimated Completion Date (month-year) <i>July 2017</i>	
Will the Project require any City expenditures (for public infrastructure, etc.)? If yes, please describe <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Proposed Use(s) of the property after Project completion. Describe uses for entire Project space, including any uses not of the applicant company (e.g., if portions of space are intended to be leased to other entities, provide details). <i>Multi-family, commercial retail</i>	
Describe the impact on your business if the proposed Project is not undertaken (e.g. loss of jobs, contract cancellations, loss of production, change in location, etc.). <i>Contract cancellations, change in focus for future company expansion.</i>	
Attach renderings, site plans, drawings, etc., of the Project.	

Section 5B – Personal Property Description
Personal Property Abatement is a property tax deduction from the assessed valuation granted by a designating body for the installation of qualifying abatable equipment in an ERA.
Are you also applying for Personal Property Tax Abatement? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If No , proceed to Section 6.
What type of new equipment will be installed? <input type="checkbox"/> Manufacturing <input type="checkbox"/> Research and Development <input type="checkbox"/> Logistical Distribution <input type="checkbox"/> Information Technology
Describe the new equipment to be installed
Estimated capital investment for new equipment only
Size of the facility in which equipment will be installed (square feet)
Size of the site in which equipment will be installed (acres)
Estimated installation start date (month-year)
Estimated installation completion date (month-year)
Please list all potential owners of the equipment to be installed.
Attach additional sheets as necessary.

Section 6 – City of Bloomington Evaluative Criteria

Describe how the Project will make a significant positive contribution to the community's overall economic vitality in at least one of the following areas which apply. Feel free to add details to any and all other categories which apply. See "General Standards" for explanations and examples.

<input checked="" type="checkbox"/> Quality of Life, Environmental Stewardship, and/or Sustainability	<i>Better housing and implementation of Green building practices.</i>
<input checked="" type="checkbox"/> Affordable Housing	<i>Goal to include "work force" Housing</i>
<input checked="" type="checkbox"/> Community Service	<i>Community Art space included in building design.</i>
<input checked="" type="checkbox"/> Community Character	<i>Adding life + vibrancy to otherwise dead areas.</i>

If applicable, describe any further (not yet described above) beneficial *and detrimental* impact to the community's economic, social or environmental wellbeing, resulting from the Project.

Attach any additional information or documentation you feel to be pertinent to the City's decision to authorize this tax abatement.

[The remainder of this page left intentionally blank. Application continues next page.]

Section 7 – Certification:

The undersigned hereby certify the following:

[Initials]

- SH ■ The statements in the foregoing application for tax abatement are true and complete.
- SH ■ The person(s) executing this application for tax abatement have been duly authorized by the business entity for which this application is being filed to execute and file this application, and all required approvals by the appropriate board or governing body of the business entity have been received.
- SH ■ The individual(s) or business entity that is applying for Economic Revitalization Area (ERA) or Economic Development Target Area (EDTA) designation or approval of a Statement of Benefits is not in arrears on any payments, fees, charges, fines or penalties owed to the City of Bloomington, Indiana, including but not limited to, City of Bloomington Utilities, Bloomington Transit, and any other City departments, boards, commissions or agencies.
- SH ■ I/we understand that if the above improvements are not commenced (defined as obtaining a building permit and actual start of construction) within 12 months of the date of the designation of the above area as an ERA, EDTA or of approval of a Statement of Benefits for the above area, whichever occurs later, the Bloomington Common Council shall have the right to void such designation.
- SH ■ I/we understand that all companies requesting ERA and/or EDTA designation will be required to execute a Memorandum of Agreement (MOA) with the City. The MOA shall contain the capital investment levels, job creation and/or retention levels and hourly wage rates and other benefits that the applicant has committed to the City in order to receive consideration for the designation. The MOA shall also contain information relative to what the City and applicant have agreed upon as "substantial compliance" levels for capital investment, job creation and/or retention and wage rates and/or salaries associated with the project.

Additionally, the MOA shall indicate that the City, by and through the Economic Development Commission and the City of Bloomington Common Council, reserves the right to terminate a designation and the associated tax abatement deductions if it determines that the applicant has not made reasonable efforts to substantially comply with all of the commitments, and the applicant's failure to substantially comply with the commitments was not due to factors beyond its control.

If the City terminates the designation and associated tax abatement deductions, it may require the applicant to repay the City all or a portion of the tax abatement savings received through the date of such termination. Additional details relative to the repayment of tax abatement savings shall be contained in the Memorandum of Agreement.
- SH ■ I/we understand that if this request for property tax abatement is granted that I/we will be required to submit mandatory annual compliance forms as prescribed by State law and local policy. I/we also acknowledge that failure to do so or failure to achieve investment, job creation, retention and salary levels contained in the final resolution and MOA may result in a loss of tax abatement deductions and the repayment of tax abatement savings received.
- SH ■ I/we understand that beneficiaries of a city tax abatement are subject to the City of Bloomington's Living Wage Ordinance (BMC 2.28), and therefore I/we must certify the entity's Living Wage compliance annually during the tax abatement term, if this abatement request is approved.

OWNER(S) OR AUTHORIZED REPRESENTATIVE(S)

SIGNATURE (Print Name Below)	TITLE	DATE
X <u>Steven Hoffman</u> Printed Name	<u>Manager</u>	<u>6-8-16</u>
X _____ Printed Name	_____	_____



**STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS**

State Form 51767 (R6 / 10-14)

Prescribed by the Department of Local Government Finance

20__ PAY 20__
FORM SB-1 / Real Property
PRIVACY NOTICE
Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

This statement is being completed for real property that qualifies under the following Indiana Code (check one box):

- Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)
- Residentially distressed area (IC 6-1.1-12.1-4.1)

INSTRUCTIONS:

- This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise, this statement must be submitted to the designating body **BEFORE** the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction.
- The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction.
- To obtain a deduction, a Form 322/RE must be filed with the County Auditor before May 10 in the year in which the addition to assessed valuation is made or not later than thirty (30) days after the assessment notice is mailed to the property owner if it was mailed after April 10. A property owner who failed to file a deduction application within the prescribed deadline may file an application between March 1 and May 10 of a subsequent year.
- A property owner who files for the deduction must provide the County Auditor and designating body with a Form CF-1/Real Property. The Form CF-1/Real Property should be attached to the Form 322/RE when the deduction is first claimed and then updated annually for each year the deduction is applicable. IC 6-1.1-12.1-5.1(b)
- For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/Real Property that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. IC 6-1.1-12.1-17

SECTION 1 TAXPAYER INFORMATION

Name of taxpayer <i>H.M. Mac Development, LLC</i>		
Address of taxpayer (number and street, city, state, and ZIP code) <i>112 E. Third St. Bloomington, IN 47401</i>		
Name of contact person <i>Steven Hoffman</i>	Telephone number <i>(812) 333-2332</i>	E-mail address

SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT

Name of designating body	Resolution number
Location of property <i>405 S. Walnut St. - 404 S. Washington</i>	County <i>Monroe</i>
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) <i>mixed use development including retail + multifamily</i>	DLGF taxing district number
	Estimated start date (month, day, year) <i>11-2016</i>
	Estimated completion date (month, day, year) <i>7-2017</i>

SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT

Current number	Salaries	Number retained	Salaries	Number additional	Salaries
<i>10</i>	<i>400,000</i>	<i>10</i>	<i>400,000</i>	<i>5</i>	<i>165,000</i>

SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT

	REAL ESTATE IMPROVEMENTS	
	COST	ASSESSED VALUE
Current values	<i>3,000,000</i>	
Plus estimated values of proposed project	<i>11,500,000</i>	
Less values of any property being replaced		
Net estimated values upon completion of project	<i>14,500,000</i>	

SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER

Estimated solid waste converted (pounds) _____	Estimated hazardous waste converted (pounds) _____
--	--

Other benefits

SECTION 6 TAXPAYER CERTIFICATION

I hereby certify that the representations in this statement are true.

Signature of authorized representative <i>[Signature]</i>	Date signed (month, day, year) <i>6-8-16</i>
Printed name of authorized representative <i>Steven Hoffman</i>	Title <i>Manager</i>

FOR USE OF THE DESIGNATING BODY

We find that the applicant meets the general standards in the resolution adopted or to be adopted by this body. Said resolution, passed or to be passed under IC 6-1.1-12.1, provides for the following limitations:

- A. The designated area has been limited to a period of time not to exceed 5 calendar years* (see below). The date this designation expires is no later than December 31, 2024.
- B. The type of deduction that is allowed in the designated area is limited to:
 1. Redevelopment or rehabilitation of real estate improvements Yes No
 2. Residentially distressed areas Yes No
- C. The amount of the deduction applicable is limited to \$ N/A.
- D. Other limitations or conditions (specify) _____
- E. Number of years allowed: Year 1 Year 2 Year 3 Year 4 Year 5 (* see below)
 Year 6 Year 7 Year 8 Year 9 Year 10
- F. For a statement of benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17?
 Yes No
 If yes, attach a copy of the abatement schedule to this form.
 If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

We have also reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved (signature and title of authorized member of designating body)	Telephone number (812) 349-3409	Date signed (month, day, year)
Printed name of authorized member of designating body Andy Ruff, President	Name of designating body Bloomington Common Council	
Attested by (signature and title of attester)	Printed name of attester Nicole Bolden, City Clerk	

* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

- A. For residentially distressed areas where the Form SB-1/Real Property was approved prior to July 1, 2013, the deductions established in IC 6-1.1-12.1-4.1 remain in effect. The deduction period may not exceed five (5) years. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. The deduction period may not exceed ten (10) years. (See IC 6-1.1-12.1-17 below.)
- B. For the redevelopment or rehabilitation of real property where the Form SB-1/Real Property was approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. (See IC 6-1.1-12.1-17 below.)

IC 6-1.1-12.1-17

Abatement schedules

Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
 - (2) The number of new full-time equivalent jobs created.
 - (3) The average wage of the new employees compared to the state minimum wage.
 - (4) The infrastructure requirements for the taxpayer's investment.
- (b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.
- (c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.

Tax Abatement Calculations for Real Property Improvement

Chocolate Moose Site

Using 2015 Payable 2016 Tax Rate and Project Estimates

Improvements \$ 11,500,000

Net Rate 0.020639 Perry Twp

Annual Taxes without Abatement \$ 237,349

Year	Abatement Percent	Value Abated	Taxes Payable	Taxes Abated
1	100%	\$ 11,500,000	\$ -	\$ 237,349
2	80%	\$ 9,200,000	\$ 47,470	\$ 189,879
3	60%	\$ 6,900,000	\$ 94,939	\$ 142,409
4	40%	\$ 4,600,000	\$ 142,409	\$ 94,939
5	20%	\$ 2,300,000	\$ 189,879	\$ 47,470
Total Taxes to be Paid (thru Year 5):				\$ 474,697
Total Value of Abatement:				\$ 712,046



West Bldg. - Northwest Corner

SHEET NUMBER

A12

SHEET DESCRIPTION

Northwest Corner
 Rendering - Bldg 1
 - 403 S. Walnut

PROJECT NO.
 15069

DATE
 3/28/2016

403 S Walnut & 404 S Washington

Mixed-Use Development

BLOOMINGTON, IN



Petitioner's Statement



Walnut st. - West Bldg. - Southwest Corner

SHEET NUMBER

A13

SHEET DESCRIPTION

Southwest Corner
Rendering - Bldg. 1
- 403 S Walnut

PROJECT NO.

15069

DATE

3/28/2016

403 S Walnut & 404 S Washington

Mixed-Use Development

BLOOMINGTON, IN



Petitioner's Statement



East Bldg. - Northeast Corner

SHEET NUMBER

A14

SHEET DESCRIPTION

Northeast Corner
 Rendering - Bldg 2
 - 404 S Wash.

PROJECT NO.

15069

DATE

3/28/2016

405 S Walnut & 404 S Washington

Mixed-Use Development

BLOOMINGTON, IN



Petitioner's Statement



East Bldg. - Southeast Corner

SHEET NUMBER

A15

SHEET DESCRIPTION

Southeast Corner
 Rendering - Bldg 2
 - 404 S Wash.

PROJECT NO.
 15069

DATE
 3/28/2016

405 S Walnut & 404 S Washington

Mixed-Use Development

BLOOMINGTON, IN



Petitioner's Statement



1
A19

AERIAL - SOUTHWEST CORNER

SHEET NUMBER

A19

SHEET DESCRIPTION

AERIAL

PROJECT NO.

15069

DATE

3/28/2016

405 S Walnut & 404 S Washington

Mixed-Use Development

BLOOMINGTON, IN



Petitioner's Statement



1
A20 AERIAL - NORTHEAST CORNER

SHEET NUMBER
A20

SHEET DESCRIPTION
AERIAL

PROJECT NO.
15069

DATE
3/28/2016

405 S Walnut & 404 S Washington
Mixed-Use Development
BLOOMINGTON, IN



Petitioner's Statement

City of Bloomington Tax Abatement Program: General Standards

This document sets forth the General Standards under which the City of Bloomington may authorize deductions on the rehabilitation of real and personal property (also known as tax abatement), as allowed under Indiana law.

Program Description:

The City of Bloomington recognizes tax abatement as a useful economic development tool which can be implemented to improve the overall economic lives of citizens and to aid in achieving the Administration's vision of a strong and diverse economy, with an eye toward sustainability and balance. City of Bloomington tax abatements allow taxes on real estate improvements or eligible equipment installation to be phased in over a period of time, thus promoting new business and agencies and initiatives that improve the overall quality of life in our community. New construction, rehabilitation of existing buildings or installation of eligible equipment within designated ERAs receives tax abatement through a reduced assessed valuation on those improvements over a specified period of time.

Indiana Law (I.C. 6-1.1-12.1) allows up to ten year abatement on the increased assessed valuation due to construction or rehabilitation improvements in the areas of the city where development needs to be encouraged. I.C. 6-1.1-12.1 also allows a one- to ten-year abatement on "new manufacturing equipment." The equipment must be used in "the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining or finishing or other tangible personal property; and never before used by its owner for any purpose in Indiana." Further, "enterprise information technology equipment" purchased after June 30, 2009 may also be eligible for abatement if the project is approved prior to January 1, 2013. See IC 6-1.1-10-44 for the statutory definitions of "enterprise information technology equipment" and eligibility requirements.

The rate at which the new assessed valuation will be phased in for approved abatements is set forth by Indiana law (I.C. 6-1.1-12.1-3 for real property; I.C. 6-1.1-12.1-4.5 for eligible equipment or personal property). The City of Bloomington Economic Development Commission shall recommend a term of abatement for each project, which shall be authorized by the City Council in the process outlined below and allowed for by Indiana law. With respect to new construction and personal property, the City Council may choose to limit the dollar amount of the deduction that will be allowed.

Project Eligibility:

In order for a project to be eligible for tax abatement, the area in which it is located must be designated as an Economic Revitalization Area (ERA) by the City of Bloomington. Decisions to designate areas as ERAs are determined on a project-by-project basis for any project located within the corporate limits of the City of Bloomington.

An Economic Revitalization Area (ERA) must have "...become undesirable for or impossible of, normal development and occupancy," because of such factors as "a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property," and "includes any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues." (IC 6-1.1-12.1-1)

Review Criteria:

Each project is reviewed on its own merits, and the effect of each project on the revitalization of the surrounding areas and employment is considered. Basic eligibility is achieved through demonstrating the following:

- Creation of full-time, permanent living-wage jobs¹
- Creation of capital investment as an enhancement to the tax base

In addition, other qualifying and evaluative criteria will be considered. The following page provides a general list of such criteria and their definitions. It is intended to be neither exhaustive nor definitive, and applicants are encouraged to submit proposals of projects that may not be found on this list but make a significant positive contribution to overall economic vitality and quality of life in the City of Bloomington.

Projects must be in accordance with the current City of Bloomington Unified Development Ordinance (UDO) and should be located within current areas of economic development focus.

¹ In accordance with Chapter 2.28 (Bloomington Living Wage Ordinance) of the City of Bloomington Municipal Code.

Additional Evaluative Criteria:

In addition to the creation of full-time, living wage employment and capital investment enhancements to the tax base, other evaluative criteria will be considered in the review of tax abatement applications, outlined below. This list is neither exhaustive nor definitive, and applicants are encouraged to submit proposals of projects that may not be found on this list but make a significant positive contribution to overall economic vitality and quality of life in the City of Bloomington.

Criteria	Definition
Quality of Life and Environmental/Sustainability	A project which is consistent with or advances principles found in the Redefining Prosperity report (2009); and/or a project which results in responsible sustainable development; and/or a project that results in environmental remediation or protection which makes a positive contribution to the overall quality of life within the City of Bloomington.
Affordable Housing	Residential developments with a recorded restriction that requires the housing for a certain number of years to be rented or owned by qualified very low and low-income households are considered affordable housing. Projects of this nature may be directed toward specified individuals, for example, first-time homebuyers and persons with disabilities.
Community Service	Volunteerism and civic engagement, such as serving on and working with boards, commissions and foundations, in the Bloomington community.
Community Character	A project that preserves and/or enhances the unique character of the city of Bloomington.

A list of examples for all criteria is provided in Appendix 1.

Ineligible Projects:

Facilities as listed in Indiana Code 6-1.1-12.1-3 are ineligible. Some facilities which are generally prohibited under this law (such as retail or residential) may be eligible to apply under these General Standards for abatement if the area of the project is designated by the City Council as an Economic Development Target Area (EDTA), as allowed by I.C. 6-1.1-12.1-7.

Other factors which may render a project ineligible for designation by the City of Bloomington include the following:

- A building permit has been obtained or construction has been initiated prior to final approval.
- The petitioner holds outstanding obligation or debt to the City which is in default or arrears, or is currently in litigation with the City.
- The project involves the demolition or removal of structures that are listed on the local Historic Register, that are eligible for individual listing on the National Historic Register or that are contributing structures within a nationally or locally designated historic district.
- The project requires major public infrastructure improvements at additional cost to the City of Bloomington.
- The project is not consistent with the City's long-range plans for the area in question.

The City Council may void the tax abatement designation awarded to a project if the project has not been initiated within twelve (12) months of the date of the confirmatory resolution (final approval) of the tax abatement, or if the actual use is different than that approved.

Application Procedure and Review:

IC 6-1.1-12.1 (et seq.) requires an applicant to file a Statement of Benefits. The Economic Development Commission shall develop and implement, with the City of Bloomington Economic & Sustainable Development Department, application and Commission review procedures to ensure consistency with Indiana statutory requirements as set forth in IC 6-1.1-12.1-1 and to fulfill the purpose of these General Standards.

Each application shall be reviewed by the Economic Development Commission and any other City commission as may be required by law. The Economic Development Commission shall make the final recommendation regarding designation to the City Council, based upon criteria in these General Standards and according to Indiana Code.

A non-refundable \$100.00 application fee shall be required for each application.

The Economic Development Commission's recommendation shall be submitted to the City Council, along with all application and supplementary documents as necessary for the designating body's review.

The City Council’s determination of whether the area shall be designated as an Economic Revitalization Area shall be based on procedures and the following findings as set forth in Indiana Code (IC 6-1.1-12.1 *et seq.*):

- Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for the projects of that nature.
- Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- Whether the estimate of the annual salaries of these individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- Whether the totality of the benefits is sufficient to justify the deduction.

If the City Council makes the above findings in the affirmative, it shall pass a declaratory resolution to designate an area an Economic Revitalization Area, approve a Statement of Benefits and authorize the term of abatement.

If the Council recommends designation of an ERA and approval thereof, the City Clerk shall:

- A. Certify a copy of the resolution and the application to the Monroe County Assessor and Auditor’s Office;
- B. Publish a legal notice to inform interested parties that the tax abatement application is available for inspection at the Assessor’s Office;
- C. Set a meeting date, at which time the Common Council shall hear all remonstrance and objections to the area being designated an “Economic Revitalization Area”.

The Common Council shall subsequently hold a regular meeting and vote on a resolution confirming, modifying, or rescinding the earlier resolution recommending designation and approval.

Memorandum of Agreement:

Upon approval by the Common Council of a confirmatory resolution:

- A. The applicant will sign a Memorandum of Agreement with the City of Bloomington, thereby agreeing to all terms set forth by the Common Council approval and as required by the City of Bloomington.
- B. The City Clerk shall certify a copy of the confirming resolution and the application to the Applicant, the Monroe County Assessor and Auditor’s Office.

Compliance Procedures and Annual Review:

The Department of Economic & Sustainable Development will compile a yearly compliance report related to all active tax abatement projects to present to the Economic Development Commission. The Commission will forward the report to the City Council. The report will be based upon Compliance with Statement of Benefits Forms (CF-1s) as submitted by property owners receiving tax abatement. The annual compliance process for the property owner is set forth in IC 6-1.1-12.1-5.1 and additional terms may be set forth in the Memorandum of Agreement.

If the CF-1 is not filed, the benefits promised are not materialized, or other terms of the Memorandum of Agreement are not fulfilled, the Council may find the property owner not in Substantial Compliance as described below, and may act to rescind the remaining term of abatement, or enforce similar penalties as set forth in the Memorandum of Agreement.

Substantial Compliance Requirements:

In addition to terms set forth in IC 6-1.1-12.1-5.9, the Memorandum of Agreement may set forth additional terms related to what may constitute substantial compliance or noncompliance.

Noncompliance occurs when the designating bodies (Economic Development Commission and City Council) determine that the property owner has not made reasonable efforts to comply with the Statement of Benefits. Noncompliance may not result from factors beyond the control of the property owner, such as declining demand for the owner's products or services. If factors beyond the property owner's control do not cause noncompliance, the termination of deduction procedure will be implemented as prescribed by IC 6-1.1-42-30.

Factors within the control of the property owner that may contribute to noncompliance may include, but are not limited to, the following:

- Failure to comply with any terms set forth in the Memorandum of Agreement;
- An incomplete, inaccurate, or missing CF-1;
- Petitioner vacates the city of Bloomington during the term of abatement;
- Fraud on the part of petitioner;
- Initiation of litigation with the City of Bloomington.

The City Council may void the tax abatement designation awarded to a project if the project has not been initiated within twelve (12) months of the date of the confirmatory resolution (final approval) of the tax abatement, or if the actual use is different than that approved.

Appendix 1: **Project Eligibility Criteria Examples**

The following is a list of general examples. It is not intended to be exhaustive nor definitive. The Department of Economic and Sustainable Development will assist potential applicants with understanding project eligibility on a case-by-case basis.

-- Job creation

- Full-time, living-wage jobs are created for Bloomington residents – from new business or expansion of existing employee base
- Compensation may include wages and benefits such as childcare.

-- Creation of capital investment as enhancement to the tax base

- Projects that provide a major private infrastructure improvement paid by the developer
- Includes real property investment – new and existing buildings
- Includes eligible manufacturing and other eligible equipment

-- Quality of Life and Environmental/Sustainability

- Urban infill redevelopment and/or brownfield remediation¹
- Green building according to “Leadership in Energy and Environmental Design” (LEED)² or other commonly accepted green building standards
- A business engaged in research and development of alternative energy production or other methods to build community resilience in a volatile energy market
- A social enterprise or business helping formerly incarcerated persons re-enter the workforce
- A business specializing in fine arts/crafts (bolstering the arts sector and assisting with diversifying the local economy).

-- Affordable Housing

- A housing development sets aside 50% of the units to be affordable (at, e.g., HUD Fair Market rent) for low income to moderate income individuals
- Housing units for workforce housing
- Housing stipulated for sale to first-time homebuyers
- Affordable housing with handicap-accessible units, and/or the units are designed for occupancy by senior citizens.

-- Community Service

- Volunteering labor, materials, money, or a combination of the three to charitable organizations and non-profit agencies that make a significant impact in Bloomington.
- Serving on boards, commissions, and/or foundations whose mission involves community service and the betterment of Bloomington.

-- Community Character

- Art space and art studio expansion and development
- Petitioner is a local home-grown business, headquartered in and/or unique to Bloomington
- Rehabilitation, preservation, and renovation of historic properties according to Secretary of the Interior Standards in consultation with the City Historic Preservation Officer.

¹ By definition, a brownfield site is real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant (Public Law 107-118 (H.R. 2869) – “Small Business Liability Relief and Brownfields Revitalization act” – signed into law Jan. 11, 2002).

² www.usgbc.org

Appendix 2:

Excerpt from IC 6-1.1-12.1-5.9: Determination of substantial compliance with statement of benefits; notice of noncompliance; hearing; resolution; appeal

- (a) This section does not apply to:
- (1) a deduction under section 3 of this chapter for property located in a residentially distressed area; or
 - (2) any other deduction under section 3 or 4.5 of this chapter for which a statement of benefits was approved before July 1, 1991.
- (b) Not later than forty-five (45) days after receipt of the information described in section 5.1, 5.3(j), or 5.6 of this chapter, the designating body may determine whether the property owner has substantially complied with the statement of benefits approved under section 3, 4.5, or 4.8 of this chapter. If the designating body determines that the property owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the property owner. The written notice must include the following provisions:
- (1) An explanation of the reasons for the designating body's determination.
 - (2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the property owner's compliance with the statement of benefits. The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.
- (c) On the date specified in the notice described in subsection (b)(2), the designating body shall conduct a hearing for the purpose of further considering the property owner's compliance with the statement of benefits. Based on the information presented at the hearing by the property owner and other interested parties, the designating body shall again determine whether the property owner has made reasonable efforts to substantially comply with the statement of benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner. If the designating body determines that the property owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution terminating the property owner's deduction under section 3, 4.5, or 4.8 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.
- (d) If the designating body adopts a resolution terminating a deduction under subsection (c), the designating body shall immediately mail a certified copy of the resolution to:
- (1) the property owner;
 - (2) the county auditor; and
 - (3) the county assessor.
- The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the designating body's resolution is adopted after the county treasurer has mailed the statement required by IC 6-1.1-22-8.1, the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.
- (e) A property owner whose deduction is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.
- (f) If an appeal under subsection (e) is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

As added by P.L.14-1991, SEC.6. Amended by P.L.90-2002, SEC.124; P.L.256-2003, SEC.7; P.L.193-2005, SEC.5; P.L.154-2006, SEC.30; P.L.3-2008, SEC.37; P.L.146-2008, SEC.128..

RESOLUTION 16-11

TO DESIGNATE AN ECONOMIC REVITALIZATION AREA, APPROVE THE STATEMENTS OF BENEFITS, AND AUTHORIZE A PERIOD OF ABATEMENT FOR REAL PROPERTY IMPROVEMENTS

**- Re: Properties at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street
(H.M. Mac Development, LLC, Petitioner)**

WHEREAS, H.M. Mac Development, LLC, (“Petitioner”) has filed an application for designation of properties at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street, Bloomington Indiana, comprised of five parcels identified by Parcel Numbers listed herein, as an Economic Revitalization Area (“ERA”) for removal of aging structures and construction of new buildings pursuant to Indiana Code 6-1.1-12.1 *et seq.*; and

WHEREAS, the subject site is identified by the following Monroe County Parcel Numbers:

53-08-04-200-037.000-009 (Alt Parcel Num: 015-35020-00)
53-08-04-200-088.000-009 (Alt Parcel Num: 015-35010-00)
53-08-04-200-021.000-009 (Alt Parcel Num: 015-35030-00)
53-08-04-200-185.000-009 (Alt Parcel Num: 015-10000-00)
53-08-04-200-203.000-009 (Alt Parcel Num: 015-33130-00); and

WHEREAS, the Petitioner has also submitted a statement of benefits form to the Common Council for its real estate improvements; and

WHEREAS, according to this material, the Petitioner wishes to invest \$11.5 million to construct two four-story mixed use buildings, which will include approximately 8,000 square feet of retail or commercial space, and 54 residential units, (the “Project”); and

WHEREAS, five of the residential units will be Workforce Housing Units, available to residents who hold a full time job (constituting at least thirty five hours per week) and make less than or equal to the Bloomington Living Wage, with rents that are based on thirty percent—the average percent of income that is used for housing—of the resident’s annual wages; and

WHEREAS, the Workforce Housing Units will be available for at least thirty (30) years; and

WHEREAS, as required by Indiana Code, Bloomington Municipal Code and a Memorandum of Understanding to be executed pursuant to the City of Bloomington Tax Abatement General Standards, the Petitioner shall agree to provide information in a timely fashion each year to the County Auditor and the Common Council showing the extent to which the Petitioner has complied with the Statement of Benefits, complied with the City of Bloomington’s Living Wage Ordinance (B.M.C. 2.28), and complied with commitments specified in the Memorandum of Understanding, including regarding the Workforce Housing Units; and

WHEREAS, the Project is located in the Consolidated Tax Increment Finance (TIF) District and Indiana Code § 6-1.1-12.1-2(k) provides that when a property is located in an ERA for tax abatement purposes is also located in a TIF allocation area, the Common Council must approve the statement of benefits by resolution; and

WHEREAS, the Economic Development Commission has reviewed the Petitioner’s application and Statement of Benefits and passed its Resolution 16-02 recommending that the Common Council designate the area as an ERA, approve the Statement of Benefits, and authorize a five-year period of abatement for the real estate improvements; and

WHEREAS, Indiana Code § 6-1.1-12.1-17 authorizes the Common Council to set an abatement schedule for property tax abatements; and

WHEREAS, the EDC has recommended that the real property abatement be a sliding scale with Year 1 abated at 100 percent, Year 2 at 80 percent, Year 3 at 60 percent, Year 4 at 40 percent, and Year 5 at 20 percent; and

WHEREAS, pursuant to Indiana Code § 6-1.1-12.1-3(b), the Common Council has investigated the area and reviewed the Application and Statement of Benefits, which are attached and made a part hereof, and found the following:

- A. the estimate of the value of the Project is reasonable;
- B. the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the Project as proposed;
- C. the estimate of the annual salaries of these individuals who will be employed or whose employment will be retained can be reasonably expected to result from the Project as proposed;
- D. any other benefits about which information was requested are benefits that can be reasonably expected to result from the Project; and
- E. the totality of benefits is sufficient to justify the deduction; and

WHEREAS, the property described above has experienced a cessation of growth; and

WHEREAS, in conjunction with this resolution, the Common Council will consider Ordinance 16-17, which designates this site as an Economic Development Target Area (EDTA), as required by Indiana Code § 6-1.1-12.1-7(a) and as recommended by the EDC with adoption of its Resolution 16-01;

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

SECTION 1. The Common Council finds and determines that the properties at addresses 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue, and 404 S. Washington Street, comprised of the five parcels identified above, which are within the Consolidated Tax Increment Financing (TIF) District, should be designated as an “Economic Revitalization Area” as set forth in Indiana Code 6-1.1-12.1-1 *et. seq.*, and Petitioner’s Statements of Benefits is hereby approved.

SECTION 2. The Common Council further finds and determines that the Petitioner, or its successors as allowed by the Memorandum of Understanding, shall be entitled to an abatement of real property taxes for the Project as provided in Indiana Code § 6-1.1-12.1-1 *et seq.*, as follows:

- a. For real estate improvements for the Project, a period of five (5) years with the following deduction schedule, pursuant to Indiana Code § 6-1.1-12.1-17:

Year 1	100%
Year 2	80%
Year 3	60%
Year 4	40%
Year 5	20%

SECTION 3. In granting this designation and deductions the Common Council incorporates Indiana Code § 6-1.1-12.1-12 and also expressly exercises the power set forth in Indiana Code § 6-1.1-12.1-2(i)(6) to impose additional, reasonable conditions on the rehabilitation or redevelopment beyond those listed in the Statement of Benefits, and authorizes the City of Bloomington to negotiate a Memorandum of Understanding with the Petitioner specifying substantial compliance terms and consequences and remedies for noncompliance. In particular, failure of the property owner to make reasonable efforts to comply with the following conditions is an additional reason for the Council to rescind this designation and deduction:

- a. the capital investment of at least \$11.5 million for real estate improvements; and
- b. the land and improvements shall be developed and used in a manner that complies with local code; and
- c. the Project shall be completed before or within twelve months of the completion date as listed on the application; and
- d. the Workforce Housing Units shall be maintained for at least thirty (30) years; and
- e. Petitioner will comply with all compliance reporting requirements in the manner described by Indiana Code, Bloomington Municipal Code, and by the Memorandum of Understanding.

SECTION 4. The provisions of Indiana Code 6-1.1-12.1-12 are hereby incorporated into this resolution, so that if the Petitioner ceases operations at the facility for which the deduction was granted and the Common Council finds that the Petitioner obtained the deduction by intentionally providing false information concerning its plans to continue operations at the facility, the Petitioner shall pay the amount determined under Indiana Code 6-1.1-12.1-12(e) to the county treasurer.

SECTION 5. This designation shall expire no later than December 31, 2024, unless extended by action of the Common Council and upon recommendation of the Bloomington Economic Development Commission.

SECTION 6. The Common Council directs the Clerk of the City to publish a notice announcing the passage of this resolution and requesting that persons having objections or remonstrances to the ERA designation appear before the Common Council at a public hearing on August 10, 2016.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2016.

ANDY RUFF, 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 _____, 2016.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2016.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This resolution designates five parcels owned by H.M. Mac Development, LLC and known as 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue, and 404 S. Washington Street as an Economic Revitalization Area (ERA). This designation was recommended by the Economic Development Commission and will enable the proposed mixed use redevelopment project, which includes newly constructed retail/commercial and residential units, to be eligible for tax abatement. The resolution also authorizes a five-year period of abatement for real property improvements and sets its deduction schedule. The resolution also declares the intent of the Council to hold a public hearing on August 10, 2016 to hear public comment on the ERA designation.

ORDINANCE 16-17

**TO DESIGNATE AN ECONOMIC DEVELOPMENT TARGET AREA (EDTA) -
Re: Property Located at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S.
Washington Street and Identified by the Monroe County Parcel ID Numbers 015-35020-00,
015-35010-00, 015-35030-00, 015-10000-00, 015-33130-00
(H.M. Mac Development, LLC, Petitioner)**

WHEREAS, Indiana Code 6-1.1-12.1-7(a) authorizes the Common Council to designate an area as an Economic Development Target Area (EDTA); and

WHEREAS, statutory criteria require that an area so designated must be an area that:

- (1) has become undesirable or impossible for normal development and occupancy because of a lack of development, cessation of growth, deterioration or improvement or character or occupancy, age, obsolescence, substandard buildings, or other factors that have impaired values or prevented a normal development of property or use of property; or
- (2) has been designated as a registered historic district under:
 - (A) the National Historic Preservation Act of 1966; or
 - (B) the jurisdiction of a preservation commission organized under:
 - (i) IC 36-7-11;
 - (ii) IC 36-7-11.1;
 - (iii) IC 36-7-11.2;
 - (iv) IC 36-7-11.3; or
 - (v) IC 14-3-3.2 (before its repeal); or
- (3) encompasses buildings, structures, sites or other facilities that are:
 - (A) listed in the national register or historic places under the National Historic Preservation Act of 1966; or
 - (B) listed on the register of the Indiana historic sites and historic structures; or
 - (C) determined to be eligible for listing on the Indiana register by the state historic preservation officer; and

WHEREAS, on June 15, 2016, the City of Bloomington Economic Development Commission held a hearing to consider the request to designation of an Economic Development Target Area on five parcels in Bloomington, Indiana, which have the addresses of 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street, and is identified by Monroe County as the following parcels (and alternate parcel) numbers:

53-08-04-200-037.000-009 (Alt Parcel Num: 015-35020-00)
53-08-04-200-088.000-009 (Alt Parcel Num: 015-35010-00)
53-08-04-200-021.000-009 (Alt Parcel Num: 015-35030-00)
53-08-04-200-185.000-009 (Alt Parcel Num: 015-10000-00)
53-08-04-200-203.000-009 (Alt Parcel Num: 015-33130-00)

WHEREAS, at the conclusion of the hearing, the Economic Development Commission adopted Resolution 16-01, which recommended that the Common Council designate the above-described area as an Economic Development Target Area in compliance with Indiana Code 6-1.1-12.1-7(a);

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

SECTION 1. The parcels located at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street and identified by the following Parcel Numbers in Bloomington, Monroe County, Indiana, are hereby designated as an Economic Development Target Area under the authority of Indiana code 6-1.1-12.1-7(a):

53-08-04-200-037.000-009 (Alt Parcel Num: 015-35020-00)
53-08-04-200-088.000-009 (Alt Parcel Num: 015-35010-00)
53-08-04-200-021.000-009 (Alt Parcel Num: 015-35030-00)
53-08-04-200-185.000-009 (Alt Parcel Num: 015-10000-00)
53-08-04-200-203.000-009 (Alt Parcel Num: 015-33130-00).

SECTION 2. This designation shall expire December 31, 2024, unless extended by action of the Common Council to amend this Ordinance and upon recommendation of the Bloomington Economic Development Commission.

SECTION 3. 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 AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2016.

ANDY RUFF, 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 _____, 2016.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2016.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This Ordinance designates five parcels owned by H.M. Mac Development, LLC and known as 405 S. Walnut Street, 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street as an Economic Development Target Area (EDTA). This designation was recommended by the Economic Development Commission and will enable the proposed mixed use redevelopment project, which includes retail/commercial space and residential units, to be eligible for tax abatement. Final approval of the real estate property tax abatement for the project will also require the adoption of an initial and confirming resolution, which must designate the lot as an Economic Revitalization Area (ERA), approve the statement of benefits, and authorize a period of abatement and a schedule of deduction.

In the Council Chambers of the Showers City Hall on Wednesday, April 19, 2006 at 7:30 pm with Council President Chris Sturbaum presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
April 19, 2006

Roll Call: Banach, Diekhoff, Ruff, Gaal, Rollo, Sturbaum, Volan, Sabbagh, Mayer

ROLL CALL

- Note that Council members Banach, Diekhoff and Sabbagh left the meeting during the break between agenda items at 9:20 p.m.

Council President Sturbaum gave the Agenda Summation

AGENDA SUMMATION

The minutes of March 1, 2006 were approved by a voice vote.

APPROVAL OF MINUTES

Michael Diekhoff reminded young folks to use common sense during the upcoming Little 500 weekend so that they wouldn't get arrested or hurt or increase the workload for local law enforcement.

REPORTS:

- COUNCILMEMBERS

Dave Rollo read a press release from the City Clerk's office with regards to vacancies on the Community and Family Resource Commission, the Environmental Commission, the Commission on the Status of Black Males, and the Dr. Martin Luther King, Jr. Birthday Commission.

Steve Volan noted a lecture given recently on The Cost of Parking. He highlighted key points presented by Dr. Donald Shoup, professor at the University of California, Los Angeles, including how much money is actually spent on 'free' parking. He noted the presentation was recorded by CATS.

Ruff noted that Earth Day 'week' would be celebrated by many educational, entertainment and volunteer activities in the community.

Tim Mayer welcomed BioConvergence, a new biotechnology firm, to the community and noted that he attended their opening. He also noted the passing of Barbara Baker, former city employee, and gave condolences to her family.

Chris Sturbaum noted that CATS is an amazing resource in its coverage of governmental meetings. He said that Annie Wright and Aaron Nadell were in the control room that evening. He noted that Aaron Nadell was taping his last meeting as a CATS employee and asked him to come to the front of the camera. Nadell approached the microphone and thanked the council for their support and asked that they help the library remember CATS employees with commensurate raises when budget time comes around.

Mayer noted that CATS was available for citizens to use as a resource for equipment and the opportunity to create their own programs, too.

Mick Renneisen, director of Parks and Recreation Department, introduced Julie Ramey, Community Relations Manager, who gave a preview of summer activities in Bloomington. She noted the role of the Bloomington Community Parks and Recreation Foundation in these activities. Dave Williams, Director of Operations, presented information on renovations at the Cascades Park Playground and noted the opening on May 16th.

- MAYOR and CITY OFFICES

Andy Ruff noted that the prospective success of Ride Your Bike To Work Day might necessitate the installation of more bike racks in front of City Hall.

There were no council committee reports.

Gabe Rivera spoke about the drug war saying that ending the war on drugs would help with recidivism in our jail. He asked people to watch a video entitled “Loose Change” and ended by saying that Republicans should question the U.S. President’s leadership.

David Grubb spoke on several topics including the presence of hazardous waste in our community.

There were no appointments to boards or commissions.

It was moved and seconded that Ordinance 06-07 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 7-0-1. It was moved and seconded that Ordinance 06-07 be adopted.

It was moved and seconded that Amendment #1 to Ordinance 06-07 be adopted. The parliamentarian noted that this was a housekeeping amendment and did not alter the ordinance originally presented.

Amendment #1 received a roll call vote of Ayes: 9, Nays: 0

David Sabbagh, a co-sponsor of this ordinance, noted that in the committee discussion the previous week someone said that protecting gender identity was not a policy shared by the state of Indiana. He asked that citizens note the Governor’s policy as he read a section from the state policy on Workplace Harassment Prevention which included the words ‘gender identity.’ He added that he would make most of his comments at the closing of the discussion.

Jeff Harlig, Chair of the Human Rights Commission, thanked Councilmembers Sturbaum and Sabbagh for bringing forth this change in the law. He stated that the commission passed this item in September of 2005 and especially thanked commissioner Emily Bowman for her direction.

Harlig said the ordinance would prohibit the withholding of equal access to employment, housing and public accommodations based on gender identity. He noted that these were basic human rights extended to all citizens. He also noted that the change does not prohibit or change the rights of individuals to express their points of view in print, at the pulpit, or in private conversations.

Bree Hartlage, city resident, property owner and landlord, noted the day’s headlines about the beating of a man on Kirkwood the previous night and noted that this was a hate crime. Her statement for the record:

This event exemplifies that what we are addressing here tonight is not a moral issue, but a human rights issue. Hate crimes are committed upon people who are perceived to be different from their perpetrators. Regardless of whether the perceived difference is about race, sexual orientation, nationality, religion or gender identity – a person being attacked merely because they are different can only be motivated by deep seeded hatred. As evidenced by last night’s attack, having a law or regulation that protects a class of people does not keep the attack from happening. The difference comes in the response to the attack. The article pointed out that the Human Rights Commission and the Safe and Civil city director were

- COUNCIL COMMITTEES
- PUBLIC INPUT

BOARD AND COMMISSION APPOINTMENTS

LEGISLATION FOR SECOND READING

Ordinance 06-07 To Amend Title 2 Entitled “Administration and Personnel”- Re: Amending Chapter 2.21 Entitled “Department of Law” to Include “Gender Identity” as a Protected Class

Amendment #1 to Ordinance 06-07 This amendment corrects the title of the ordinance by clarifying that the proposal amends Title 2 of the Bloomington Municipal Code.

Discussion on Ordinance 06-07 as amended.

Ordinance 06-07 (cont'd)

immediately informed and would be reviewing the situation. Under Bloomington's current Human Rights Ordinance, if last night's attack had been committed against someone who was transgendered, or if the attack had been committed against someone who was PERCEIVED to be different than the 'average' male or female, this attack would not be labeled as a hate crime. This attack would not get the same attention from the Human Rights Commission or the Safe and Civil city director. Gender identity and gender expression are not protected categories against discrimination and hate crimes. Just saying that makes me uncomfortable. We are discussing basic human rights. No one deserves to be beaten or harassed for no apparent reason what so ever. It's wrong.

I want to thank David Sabbagh and Chris Sturbaum for sponsoring this amendment to add gender identity to Bloomington Human Rights Ordinance (HRO). I also want to thank the council and its staff for their open mindedness and the phenomenal amount of effort put into independent research of this matter. I also want to once again thank Mr. John Clower. Had it not been for John's persistence, strength and leadership, I am certain we would not be here this evening for this purpose.

Last week I spoke of the educational mission of the International Foundation for Gender Education (IFGE) (www.IFGE.org) and how education is the key to overcoming the ignorance that breeds hatred and discrimination.

There are other national level organizations whose missions are, or include, the achievement of equal rights for the Transgender community. To name a few -- Indiana Transgender Advocacy Alliance (INTRAA), Indiana Equality, National Center for Transgender Equality (NCTE), Gay & Lesbian Task Force, Transgender Law Center, and the Human Rights Campaign. Fundamental to the advancement of equal rights is the need to educate people sufficiently to change their perspectives and their opinions. Throughout this past week I have thought of the comments from those who publicly oppose this amendment. I have wondered if any amount of education could overcome their objections; specifically their perspective that this is a moral issue and not a human rights issue. Unfortunately, education can not change a closed mind.

My heart goes out to the person the pastor described as having a life long struggle with their gender. I have walked in that person's shoes. I am so grateful for all those who helped me through my struggles. Having embraced my true self, the way God intended for me to live, I no longer suffer from gender dysphoria. My mind, body and soul are now congruent. Having lived through this transformation myself, I feel qualified to share this opinion -- telling someone that faith in God will relieve them of the pain and agony of gender dysphoria is as ridiculous as telling someone that faith in God will cure you of diabetes or cancer. This is not a moral issue. The matter before this council is strictly a civil rights issue, an issue of equal human rights for all people. The description of "sexual sin" should remain at church and is inappropriate and irrelevant in these civil proceedings.

Once again, I stand before you tonight as a representative of the transgender community. The amendment before the council tonight is fully supported by the transgender community. It goes a long way towards providing equal rights to all citizens who live or work in Bloomington, IN. Again, my thanks to the council and their staff. I look forward to the approval and passage of this amendment.

Rebecca Jimenez, an ordained American Baptist minister, said she did not speak for all Christians but brought a Christian perspective. She said she had been active in interfaith efforts towards understanding and sensitivity across faith traditions. She quoted tenets of the Christian, Buddhist, Muslim, Jewish, Baha'i Faith, Zoroastrian, Hindu and North American Indian traditions that all embrace "The Golden Rule." She noted that this ordinance was really about the Golden Rule and asked that they pass the ordinance.

Deane Lahre congratulated the city on its courage and leadership in joining Indianapolis in protecting its citizens from discrimination based on gender identity and gender expression. She said she was present as an alumnus of Indiana University, a transgendered person and an employee of the Kelly School of Business. She noted that the actions of the council would not go unnoticed in Indiana as the struggle for human rights continued. She thanked those opposed to this amendment for stating their oppositions and reservations, saying that it was acceptable to agree to disagree. She urged passage of the amendment.

Carolyn Wiethoff, said she was speaking as a researcher, regional coordinator of Indiana Equality, and as just herself. She said her research has shown that open and inclusive policies are good for business. She said that only two groups of people present at the meeting were actually making a choice about the issue: those who turned their ignorance about it into hatred, and the city council, who could choose to enhance the security, fate and confidence of transgendered persons. She encouraged that choice.

Bill Breeden, minister, noted that it takes a lot of courage to discuss this issue and asked how protecting the rights of anyone would harm the rights of anyone. He encouraged passage of the amendment.

Matt Bruner, president of Hoosier Rights Campaign at IU, an advocacy group for the GLBT rights on campus, applauded the council members' advocacy for transgendered rights. He said Bloomington should continue to lead the state in these efforts.

Gabe Rivera said he was glad to live in Bloomington because of the open and accepting atmosphere and noted that he recently saw a bumper sticker that said "I'm for the separation of church and hate."

Yarrow Neubert, law student, said that the adoption of this ordinance made her proud to live a community that is in the forefront of important struggles including human rights and civil rights.

Dave Currell said that saying no to someone was not always a bad thing, noting parenthood issues. He objected to those who characterized his opposition of the amendment as ignorance, adding that one could be informed without supporting this issue. He said a lot of aberrant behavior was encouraged in the guise of 'helping' people with what he considered was bad behavior. He concluded by saying that God says no to this legislation, statistics say it's stupid, and that we will all have our ways judged by God.

Ilan Blustein, resident, said her parents retired to Bloomington so that their children could live without being discriminated against.

Caleb Hobart said the analogy of a parent saying no in love was in some way correct, but in this case the parent could be saying no to basic housing and other basic fundamental civil rights would not be love.

Lisa Williams, noting her disability, said that she was a member of a protected class. Noting the sincerity of those who spoke about parents saying no in love, she also noted that the council did not have a parental relationship with its citizens. She noted that contrary to arguments made at the committee meeting, this amendment did not deal with what a transgendered person could do or not do, but rather what other people would do to them. She said just like the discussion of thirteen years ago, this was about basic rights for all that should be protected under the law.

Matt McFarley said acts of hatred against any citizen had the potential to harm every other citizen because of fear and discomfort in public. He noted that the founding fathers created a country of laws not of men.

President Sturbaum asked if anyone would like to make another comment.

David Curell said that unless a person was a hermaphrodite they were protected by the original legislation, and therefore this amendment creates a law that protects behavior.

Matt Bruner said all of the citizens of Bloomington should be protected and that one can not pick and choose which citizens would be protected under law.

Bree Hartlage stated that 'hermaphrodite' was an archaic term and the preferred term is 'intersexed.' She noted the existence of the Intersex Society of North America. She said this body would support this legislation.

Sabbagh said he got an email from someone who described themselves as a Christian, Conservative, and Republican in that order, and said that the email chastised him for sponsoring this legislation. Sabbagh said he was a human first, and then a Republican. He said that sponsoring this legislation was in the Republican tradition. He added that people should be able to rise to the fullest of their ability and should not be hindered. He said he appreciated all comments last week adding that it gave him some insight. He noted his appreciation for the civility of the discussion. He noted that, similar to the smoking ordinance, as more communities pass legislation like this, the state will get the message that citizens want this legislation on a statewide basis.

Sabbagh read an email and noted that he had been given permission to read it at this meeting:

Wednesday, April 12, 2006

Dear Council members all,

Thank you for taking time on this important matter. I watched the proceeding from the safety of my home. I am clear that this issue impacts me fully. My reason for not appearing to speak in public is for my own safety and while clear I live fully in this community, it is not without risk.

I was impressed by respect given to all who spoke both for and against this issue. It is clear to me and perhaps to you how complex this issue is.

I was asked by Barbara McKinney to write to you.

I am a self employed member of this community. I am 55 years old and am a post operative transsexual female. I began transition from my birth sex in 1995. The decision to begin transition took me years of painful self examination. I in fact was living in silence most of my historic life. I am clear that my journey had several stages. The most significant part is that I am now living healthy and whole.

I have documented fully the steps I took from 1995 forward and the documentation is extensive. I faced every obstacle fully to ensure that I was in fact making the correct decision to take the medical steps to transition. It was not easy. I was honest and spent hours in difficult private contemplation. I know today that I made the correct decision for me.

I should say that the journey was both emotionally taxing and the cost financially was significant. I should also share that the cost was also significant to me socially. I was rejected by my historic friends and family except in rare cases. I lost my credentials as a licensed nursing home administrator. I am not able to purchase health insurance at an affordable premium. I receive uncomfortable glances often in public settings. Yet I am clear that I made the correct decision.

I have many wonderful people who support me fully today. I own my own home and pay taxes on income from my self employment as a maid. I attend the same church Trinity Episcopal here in Bloomington Indiana that I have been a member since first moving to Bloomington in 1989 with my family. The years have been good to me since my surgery in 1999. I am living with someone who accepts me fully.

I am clear this addition to the Human Rights Ordinance is good. Like some who spoke it is unclear to me why we need to legislate what would seem to be sensible issues. Discrimination is often subtle. It harms us all. Those who chose to reject others might feel justified. Rules that govern this matter will not stop discriminations. Rather the rules will only serve to provide us the template for being civil with those who we call community. It helps me to feel included again. Thank you for taking time to hear my voice.

Sabbagh continued by saying that the decision for council members is easy as with any legislation, it can be changed in the future. He said this was not so for the people in the 'trans' community, and that they were the ones taking the brave steps. He said that the addition to the human rights ordinance was one that he was happy to propose and encouraged his fellow council members to vote yes.

Rollo clarified the protection of hermaphrodites under this amendment by reading the definition of gender identity as clarified in the ordinance. He said that people should not have to live in fear or implicit or explicit threat. In supporting this ordinance we take another step in affirming tolerance, equality and basic civil rights for all in our community and society. He said he appreciated all comments tonight, and appreciated the members of the transgendered community that spoke in person or by email communication. He said that this ordinance harms no one, and hoped that it would help to advance fundamental civil rights, and hoped that the debate had worked to advance tolerance in our community.

Gaal said that comments at the meetings on this ordinance were excellent and thanked Harlig and Hartlage for their explanations of the ordinance and its importance for all. He said he was sorry that there were not more opponents as even the difficulties of this discussion and exchange were good for the community. He applauded everyone for their respectful demeanor in the discussion. He added that religion was a protected class in discrimination laws, and also prevents the government from establishing a state religion. He noted Rev. Breeden's statement that protecting the rights of transgendered people in no way takes away from anyone else's rights. He said that this legislation was a statement of city policy saying that the city condemns discrimination on the basis of gender identity in employment, public accommodations and housing and said he was happy to support this amendment.

Ruff expressed his appreciation for Mr. Curell's strong and heartfelt statements in opposing the ordinance adding that not as many people came to speak at this meeting as in the committee meeting on the topic. Ruff said this ordinance did not protect behavior, but protected people from the behavior of others, from intolerance and incivility, exclusiveness and discrimination. He said that to not adopt this ordinance would protect the behavior of intolerance and discrimination. He said that the vast majority of citizens of Bloomington reject such behavior, and he was proud that the legislation would be passed.

Banach said that a recent friendly gathering, he heard much discussion of this issue and that the concerns were not that of religious nature, but of a more practical nature – restrooms, locker rooms, and dressing rooms. He said he did have legal concerns about this legislation because he didn't want to expose the city to legal challenges and wanted to know what happened in other cities that had passed the same legislation. He said he had talked with police and legal staff had allayed those fears. He said he agreed with the majority of those who said that this was a civil rights issue. He also said that the past Governor Kernan and present governor Daniels supported this policy and he would, too.

Volan said that the agreement in the council chamber was that everyone could come and participate and that was the first step to a civil discussion. He said that some of the speakers presumed that the ordinance would pass, congratulated the council on their votes before the actual vote was taken, and therefore suppressed much opposition and civil discussion of the issue. He said that this sent the message to citizens that their point of view would not be respected. He said it was just as important for those opposing views to be heard and that it was incumbent upon the council to have enough respect for them to hear them out and added that anyone could be of the minority opinion in a future discussion.

Volan noted that civility included addressing both petitioners and staff with appropriate titles, and addressing the council as "council members" not as 'gentlemen,' adding that although the council members were all men, the past and future would see women serving on this body. He said that his reason for passing on a Do Pass recommendation last week

Ordinance 06-07 (cont'd)

had nothing to do with the issue, but on the above civility. He added that by not addressing someone in the manner that they would prefer to be addressed in the council chamber undermined its role in discussions. He said that the legislation did not give anything extra to one person. He added that the proposal offered affirmative protections for this class of people, and that the jurisdiction could not do anything about a complaint if the class was not first protected. Finally he noted his support of the legislation.

Mayer said that this ordinance expressed tolerance, that all people were not the same, that people have unique qualities and there was richness in these differences in Bloomington. He noted that this was clearly the right thing to do.

Sturbaum read from a letter from Dan Funk, the Executive Director of Interfaith Coalition on Non-Discrimination:

Although many religious groups still debate theological issues regarding sexual orientation and gender identity, virtually all agree that the basic civil rights of gay, lesbian, bisexual and transgendered (GLBT) people must be protected in the public sphere. Religious organizations that span the theological spectrum that formally called for protection of the basic civil rights of GLBT people including the National Conference of Catholic Bishops, the United Methodist Church, the Union of American Hebrew Congregations, the Evangelical Lutheran Church in America,

The Presbyterian Church USA, the Unity Church, the Christian Church, Disciples of Christ, the Mennonite Central Committee United States, the Unitarian Universalist Association, the Reform Church and the United Church of Christ. In other words there is an overwhelming consensus among people of faith that government should act to stop systematic discrimination against GLBT persons in the public sphere.

The Interfaith Coalition has identified 250 affirming clergy across Indiana who have signed a letter calling for basic civil rights legislation for GLBT people. Seventeen of these clergy are from Bloomington and represent ten different faith traditions.

Enclosed you'll find a copy of the letter and list of signatories calling for prompt enactment of legislation prohibiting discrimination on the basis of sexual orientation and gender identity. Even though the letter is addressed to the Indiana General Assembly, it is applicable at all levels of government.

We urge you to stand for equality for all citizens of Bloomington.

Sturbaum also read the afore mentioned letter signed by 250 clergy:

We are a diverse coalition of clergy and religious professionals from across the state of Indiana. Although we come from many different faith traditions we are united by our concern that discrimination against gay, lesbian, bisexual and transgendered people is not only legal in Indiana, but all too common.

The Declaration of Independence proclaims that all people are created equal and entitled to life, liberty and the pursuit of happiness. The equal protection clause of the United States Constitution affirms the same fundamental principle. In America everyone is to be treated the same in the public sphere. That people can still be fired or denied housing or public accommodations in Indiana solely because of sexual orientation or gender identity is simply un-American and is also contrary to our faith.

Each of our faith traditions teaches that we must respect the inherent dignity of every human being. Each of our traditions also places great emphasis on the importance of justice. At its most basic level justice requires that civil rights of all people, even those with whom we disagree, must be protected.

On this we are united as are the citizens of Indiana. A recent poll conducted by the Indiana University Center for Survey Research showed that 89% of all Hoosiers believe that gays and lesbians should be treated equally on the job. The time has come for our legislators to affirm this basic moral principle.

Therefore we the undersigned clergy and religious professionals call for prompt enactment of legislation that prohibits discrimination on the basis of sexual orientation or gender identity in matters of employment, housing and public accommodations.

Respectfully submitted by the members of the Interfaith Coalition.

Sturbaum said there was nothing he could add to that statement and asked that the question be called.

Ordinance 06-07 received a roll call vote of Ayes: 9, Nays: 0.

President Sturbaum called for a five minute break at 9:35 pm. Council members Sabbagh, Diekhoff and Banach left the meeting at this time.

RECESS

It was moved and seconded that Resolution 06-05 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 6-0-0. It was moved and seconded that Resolution 06-05 be adopted.

Resolution 06-05 Supporting the Kyoto Protocol and the Reduction of the Community's Greenhouse Gas Emissions

It was moved and seconded that Amendment #1 to Resolution 06-05 be adopted. Dave Rollo, the sponsor of the resolution noted that this was a housekeeping amendment.

Amendment #1 to Resolution 06-05
This amendment corrects the temporal scope of the third Whereas clause by clarifying that scientists warn we may be nearing a point of rapid change in global warming rather than we are currently at such a point.

Amendment #1 to Resolution 06-05 received a roll call vote of Ayes: 6, Nays: 0. (Banach, Diekhoff and Sabbagh were not present for this vote.)

Resolution 06-05

Resolution 06-05 as amended received a roll call vote of Ayes: 6, Nays: 0. (Banach, Diekhoff and Sabbagh were not present for this vote.)

There was no legislation for first reading at this meeting.

LEGISLATION FOR FIRST READING

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

PUBLIC INPUT

It was moved and seconded to cancel the committee of the whole meeting scheduled for April 26. Discussion revealed that there was no legislation to warrant a meeting. The motion was approved by a voice vote.

SCHEDULE DISCUSSION

The meeting was adjourned at 11:20 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Chris Sturbaum, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall on Wednesday, January 18, 2006 at 7:30 pm with Council President Chris Sturbaum presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
January 18, 2006

Roll Call: Banach, Diekhoff, Ruff, Rollo, Sturbaum, Volan, Sabbagh, Mayer
Absent: Gaal

ROLL CALL

Council President Sturbaum gave the Agenda Summation.

AGENDA SUMMATION

There were no minutes to be approved.

APPROVAL OF MINUTES

Chris Sturbaum gave a report on the future of the Von Lee Theater by showing an artist's rendering of the exterior of the building after renovation into IU offices and a restaurant. He showed a picture of Herman B Wells' fraternity noting that the building has a demolition permit filed on the house.

REPORTS:

▪ COUNCILMEMBERS

Mayor Mark Kruzan gave his unique perspective on the legislative actions in Indianapolis. He acknowledged the actions of our state legislators and former Mayor Tomi Allison who was present. He reported that he and other mayors across the state had signed a letter to be sent to the Indiana General Assembly opposing Senate Bill 245 and House Bill 1279. He assured the Telecommunications Council that the city was actively opposing this measure in principle and practice. Would strip governmental units of the ability to deploy telecommunications infrastructure and removes authority to regulate local video franchises and places that authority with the state. He noted the irony of the governor's statements on empowering local government while actually this legislation would reverse 'home rule.' He noted that at the end of the present cable agreement the local company could opt to enter into an agreement with the state rather than local governmental units. He added this would eliminate any revenue from this agreement that is currently used in supporting Community Access Television Services, the taping and broadcasting of governmental meetings. Kruzan noted that taking the agreement to the state level would also change the customer complaint process now handled by the local Telecommunications Council.

▪ MAYOR and CITY OFFICES

He noted that Representative Matt Pierce was working for the defeat of this bill, and that we should applaud his efforts.

Beverly Calendar-Anderson, Director of the Safe and Civil City program gave details about the upcoming city Black History Month and named the sponsors of the month's activities. She highlighted events to be held during the month in city hall, Banneker Center, and the Monroe County Public Library.

Safe and Civil City Report

▪ COUNCIL COMMITTEES

Duane Busick, President of the Bloomington Telecommunications Council, led the council's report by its members Suzann Owen, Eric Ost, Jesse Stryker and Carl Zager on legislation proposed at the state level that would have effects on Cable TV, Public Access, channels.

Telecommunications Council

Busick said that the bill was based on legislation passed in the Texas legislature, but had never been proposed or discussed in Indiana. He noted that he and Owen had attended a hearing that day on the House Bill. He reported that the representative from the governor's office had stated that now was the time for reform in the telecommunications

industry and that local franchising process was a burden that gets in the way of the development of technological services and advances in the state. He also reported that he was allowed to testify at the hearing, and then noted lobbyists and citizen groups that had appeared at the hearing including two vice presidents of a communications firm in Texas. He concluded that the TC was united in their efforts to change this legislation or defeat it.

Suzann Owen reported that in light of the next day's state senate vote on their version of the bill, the Telecommunications Council had sent a message to each person in the senate asking them to remove the video services segment. She said that this legislation was the product of telephone companies that wanted to aggressively market other broadband and video services. She noted that Verizon and SBC lobbyists had themselves aggressively approached many state assemblies in order to pass the legislation state by state. She noted that legislation should be based on needs of the citizens of the state and local communities, and not national corporations.

Eric Ost reviewed the elements of the bills including the deregulation of phone rates, generous tax breaks for telecommunications companies, creation of new infrastructure to regulate state video certificates, and the creation of prohibitive barriers for local governments to provision broadband and telecommunication services. He said claims that this legislation would reduce prices or empower consumers were wrong. He asked the council to help raise the level awareness of this issue.

Jesse Stryker, VP of the Telecomm Council, the proposed bill would limit local entities from development of their own broad band. He questioned the quick hearing and passage of this legislation noting that if, indeed, Indiana was so far behind in development of the infrastructure, that more care needed to be taken in the debate of this issue.

Sabbagh asked what the Telecomm Council what action was desired from the Common Council. Busick said a letter opposing the legislation would be in order.

Carl Zager said this report was not just to provide some details of the legislation itself, but to examine the overriding philosophy of the creation of this legislation. He noted the irony of a state that would support local home rule, but advocate for this legislation that would eliminate those local decisions. He asked why this shift would take place, and then quoted from *All the President's Men* saying "follow the money."

Michael White, Director of Cable Access Television, spoke of the application of the access channels and the franchise fees saying that in some communities these fees support something other than governmental PEG channels. He noted that fifty cents for each cable subscriber in Indianapolis goes to the Pacers as part of their control over their trademarks and broadcasts.

Matt Pierce, District 61 State Representative and former council member from District 3, spoke about the rapid movement of this legislation. He said that this bill would completely deregulate local telephone rates by allowing them to increase by \$1. per year from 2006-2009, and then no regulations after that. It would take control of the local cable television franchising out of local control and place it in hands of the Indiana Utilities Regulatory Commission and would not require, as present agreements, that the entire community be served. He noted that emergency override, customer service protection, buried

cables would not be included. It would prohibit local governments from providing services in local communities if there were existing service, or if it were promised within three months. It prohibits local governments from using general revenue or bonds to provide services while allowing tax abatements to private firms to do this same thing.

Pierce said that this legislation was built on a house of cards. He refuted arguments for the legislation and then gave the political perspective of this action that has been championed by Governor Daniels.

Pierce said that the public was not tuned in to the issue, the propaganda machine of the phone companies was running at full steam and in this scenario conditions were ripe for bad public policy.

Rollo thanked Pierce for his part of the report and asked about the timing of the bill. Pierce gave the status of both house and senate versions and said that the longer the bill hung around, working its way to becoming law, the greater the chances were for the public to take notice and demand something different. Pierce noted that citizens could contact the governor's office and could spread the word to contact other representatives and could read the bills themselves on the state of Indiana websites.

He noted the absence of IACT and IAC in testimony in the legislature.

Banach said he appreciated Pierce's presence and report. He recounted the debate in council from several years ago regarding the maximum franchise fee. He said the reality was that this was only one side of the argument and there are two sides. He asked if this was a party line issue to which Pierce said it was not.

Volan asked about the worst case scenario, to which Pierce said PEG channels would still be provided, that the franchise fees would still be in effect, but language was vague and convoluted in the area of contractual obligations of new providers.

Sabbagh, saying that he was not opposed to deregulations or competition, asked if there were any elements that could be salvaged to make a better bill. Pierce said for the most part it was not salvageable but wouldn't rule out revision of some sections.

Sabbagh asked if the council was being asked to make a statement to slow this process, to which Pierce said the statement to be made was "I'm outraged that home rule is being taken away, that phone rates would be deregulated without the need, and that the legislature should slow down." He said it needed to be a long process with input from citizen groups that could examine the bill line for line.

Sabbagh said he would be willing to participate in a statement to the general assembly that would ask for a slowing down of the process over concern over local control. Pierce said it would be a positive gesture to indicate that citizens were watching the process.

Diekhoff, noting that Reporter VanDerDussen was present, asked that the Herald Times keep track of the issue and report on it.

Ruff noted that it was appropriate and critical to have the conversation in the council chambers, with the cameras rolling. He said it was appropriate for the council to make a statement, but that there had been criticisms of the council in the past for making statements on issues on which they don't vote.

Sturbaum said that a statement would be circulated among council

members in an effort to reach an agreed upon statement. He thanked the Telecomm Council for their work, and thanked Pierce for his report.

Telecommunications Council report
(cont'd)

Pierce said the comments could be most relevant from the council if they centered on the video franchising and municipal broad band work.

Sabbagh said the TCC members should have input into any statement the council would make.

Volan asked about a source of information on this and suggested that the TCC put together some FAQ's. Busick said a subcommittee was in place to report on this.

Banach asked to whom a statement should be made, to which Pierce said a letter to the governor with copies to the leadership of the house and senate would be in order.

Tim Mayer gave the council sidewalk committee report. He said council members Rollo, Sturbaum, Volan and Mayer served on this committee with Council Attorney/Administrator Dan Sherman, Assistant Administrator Stacy Jane Rhodes, Public Works Director Julio Alonso, Engineering Services Manager Justin Wykoff, Long Range Transportation Manager Scott Robinson, Transportation Manager Raymond Hess and Zoning Compliance Officer Russell White, Housing and Neighborhood Housing Coordinator Bob Woolford and Parks and Recreation Natural Resource Manager Steve Cotter.

Sidewalk Committee

He said that \$200,000 was allocated for sidewalk projects and that the committee met four times beginning in October. He outlined the actions and discussions from the meetings with criteria and the process used by the committee.

The report was accepted by a voice vote.

Gabe Rivera spoke of a program he was holding and invited the council to come.

▪ PUBLIC INPUT

It was moved and seconded that the mayor's re-appointments of Carrol Krause, Jeannine Butler, and Sandy Clothier to the Historic Preservation Commission be approved by the council. The motion was approved by voice vote.

BOARD AND COMMISSION APPOINTMENTS

It was moved and seconded that Resolution 06-01 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 8-0-1. It was moved and seconded that Resolution 06-01 be adopted.

LEGISLATION FOR SECOND READING

Resolution 06-01 To Approve the Interlocal Agreement Between the County and City for Sharing Costs for Replacement of Monroe County Bridge Numbers 902 and 917 Over Jordan River at Walnut and 1st Street

Resolution 06-01 received a roll call vote of Ayes: 7, Nays: 0. (Volan out of the room.)

It was moved and seconded that Resolution 06-02 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that there was no committee recommendation. It was moved and seconded that Resolution 06-02 be adopted.

Resolution 06-02 To Modify and Confirm Resolution 05-22 Which Designated an Economic Revitalization Area, Approved a Statement of Benefits, and Authorized a Period of Tax Abatement, - Re: Glen Magna Way, Canada Farm PUD, Phase I, Parcel E (Rogers Property Management, LLP, Petitioner)

Resolution 06-02 received a roll call vote of Ayes: 8, Nays: 0.

It was moved and seconded that Ordinance 06-01 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 4-1-3. It was moved and seconded that Ordinance 06-01 be adopted.

Ordinance 06-01 received a roll call vote of Ayes: 7, Nays: 1 (Volan).

There were no items of legislation for first reading.

There was no public comment at this time.

The meeting was adjourned at 12:30 am.

APPROVE:

ATTEST:

Chris Sturbaum, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

Ordinance 06-01 To Vacate a Public Parcel - Re: Rights-of-Way Running North /South and East/West Between College Avenue and Walnut Street and 14th Street and 15th Street (Cedarwood Development, Petitioner)

LEGISLATION FOR FIRST READING

PUBLIC INPUT

ADJOURNMENT

for approval

In the Council Chambers of the Showers City Hall on Wednesday, June 15, 2005 at 7:36 pm with Council President Andy Ruff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
June 15, 2005

Roll Call: Ruff, Gaal, Rollo, Sturbaum, Volan, Sabbagh, Mayer
Absent: Banach, Diekhoff

ROLL CALL

Council President Ruff gave the Agenda Summation

AGENDA SUMMATION

There were no minutes to be approved.

APPROVAL OF MINUTES

Chris Gaal announced that there would be a town hall meeting on the future of Social Security to prevent information on the risks, benefit cuts, and costs associated with the privatization of Social Security. He invited everyone to attend the evening of June 21, 2005 in the council chambers at 7:00 pm.

REPORTS:

▪ COUNCILMEMBERS

Gaal noted that the House appropriations subcommittee had proposed a cut of \$220,000,000 from the funding for the Corporation for Public Broadcasting. He said it indicated a bad direction for the country because it put additional pressure on non-commercial media outlets in a time of increased concentration of the media in fewer private hands and providing less information and less diversity of information. He urged citizens to contact their lawmakers.

Gaal talked about the month of June and what a special time it was in Bloomington. He said he wanted a June Appreciation Month to elevate the profile of the month, and now was the recipient of a proclamation by Mayor Kruzan naming June 13-19, 2005 Celebrate the Month of June Week in the City of Bloomington, Indiana. He thanked the Mayor for his proclamation.

Steve Volan said he remembered a festival entitled Blooming-June that only lasted one year.

David Sabbagh reminded citizens that this was the 100th anniversary of Albert Einstein's greatest year, saying that for four months he wrote seminal papers on relativity, black body radiation, and was one of the greatest achievements in science.

Sabbagh gave a report on a trip to Washington DC with the Save Crane subcommittee of the Bloomington Economic Development Corporation. He said that the BRAC committee had recommended realignment in Crane with the base losing about one thousand jobs. He said that the committee would hear testimony in St. Louis Mo next week and that Lt. Gov. Skillman would lead the Indiana delegation in that effort. He noted that several years ago Southern Indiana Business Alliance was formed for this purpose because Crane cannot lobby for itself, and SIBA was an important part of this trip. He noted that the committee was now named Grow Crane to encourage other companies to come around the area and to grow the economy of the area.

Sabbagh said he met with Senator Lugar, Senator Bayh, and Congressmen Buyer, Sodrel and Hostettler who said the entire Indiana delegation was sympathetic to this issue. He said the chief lobbyist for the effort was former Senator Dan Coats, and that he also met with the group. He gave figures to indicate the economic impact of Crane on Monroe county and said if the base were closed it would be devastating.

Dave Rollo gave a report on the Midwest Regional Rail System. He said he attended a function in Indianapolis today regarding this high speed rail initiative. He said the system would connect the major cities in the Midwest with frequent daily trips. He showed a map of the proposal and gave some advantages of high speed rail travel.

Mayer thanked the street department for filling potholes. He thanked the city sidewalk committee for getting a section of sidewalk constructed on the east side. Mayer thanked Martha Chambers Wainscott for her help in the mayor's office on the occasion of her retirement.

David Sabbagh added to his report saying that he was remiss in not mentioning Governor Mitch Daniels and John Clark who worked with the governor were very instrumental in the success of the recent trip to Washington DC.

Andy Ruff noted that the Herald Times was mistaken in reporting the time of a meeting with the Indiana Department of Transportation. He said this meeting would be on private property, and is indicative of their recent policy restricting the types of brochures and alternate proposals disseminated at their hearings. He said that it was a violation of the first amendment for INDOT to allow only officially sanctioned DOT materials to be passed out during the meetings. He said a recent meeting in Oakland City had police officers to tell people to stop passing out information, or collecting signatures on petitions in the guise of public safety. Ruff was told by INDOT that he could not appear as an elected official of the City of Bloomington to have copies of the council resolution for citizens there. Upon contacting the governor's office, he was told that he could bring the materials to the meeting.

Chris Gaal noted that the INDOT stance was cynical. He added that an encroachment area around Crane maintaining its isolation would be undermined by the proposed I-69 highway. Ruff said folks he spoke to at Crane said this was true and that the highway could compromise the safety of the base.

Tim Mayer read a proclamation in honor of Amy Robinson for both the council and mayor on the occasion of her retirement as Director of the Food Bank. It proclaimed June 29, 2005 as Amy Robinson Day in honor of the anniversary of her twenty years of service to the Hoosier Hills Food Bank. Mayer added heart-felt personal words of acclamation for Robinson. Robinson thanked the council and the mayor for the honor on behalf of all the people at the food bank.

Mayor Mark Kruzan said that Robinson was, indeed, a hero.

Mayor Kruzan stated that he'd been opposing the way the Indiana Department of Transportation conducted public hearings for twenty years, noting that fifteen years ago he'd authored legislation to require INDOT to take public testimony at their hearings rather than just audio tapes or written statements. He lamented the idea that the public record of this council was not allowed to be distributed at the meeting and noted that negotiations were necessary to finally allow its distribution.

He said that citizens should be allowed to petition their government and hand out documents while being respectful. Kruzan said that tax payers were subsidizing the INDOT rule, paying for the police presence at the meeting and the leasing private of space with a contract that states that INDOT has the right to bar people from attending. Kruzan said that their mentality of "we will make the rules and you will obey them" needs to be changed.

Kruzan then issued an invitation to INDOT to use the council chambers free of cost at any time for a hearing where the public could hand out information. There are ways that the hearing could have been held safely without the strict and constraining rules.

- MAYOR and City Offices
- Proclamation in Honor of Amy Robinson
- Mayor's Statement on INDOT public meeting policy.

Danise Alano, Assistant Director of Economic Development, gave the supplemental Tax Abatement Report for projects which had a later reporting deadline than ones in the earlier report. She reported on the status of affordable housing projects, mixed residential and commercial real estate projects, industrial projects and non-complying projects.

- Supplemental Tax Abatement Report

Abatements included in the report were:

- ADC Real Estate Investment Group, LLC
- Huntington Gardens, LLC
- Bloomington Business Incubator, LLC
- East Third Street Properties, Inc.
- Hopewell Renewal
- PTS Corporation (N. Curry Pike)
- RONO Corp/RC One
- Metropolitan Printing
- Printpak, Inc
- B & L Sheet Metal and Roofing
- All Natural Properties
- Renaissance Rentals
- PTS Corporation (Patterson Drive)

The report recommended the council find all but two of the projects (Bloomington Business Incubator, LLC and PTS Corporation on Patterson Drive) in substantial compliance with the terms of their tax abatements.

Alano presented information requested by Councilmember Ruff on the economic impact of all active tax abatements. She also shared pictures of a few other properties that had active tax abatements along with maps that indicated the geographic location of abatements.

Rollo thanked Alano and suggested that the number of affordable housing units be included in future slides. He asked about the Metropolitan Printing's compliance in regard to employees, and what conversations Alano might have had with them regarding their good faith effort to reach compliance since their numbers have dropped. Alano said there were no set guidelines from the state as to what good faith effort meant, but that it was up to the individual granting unit.

Mayer said this was a good question, but that this industry has been impacted heavily by the advent of computing power.

Rollo said volatility in different economic sectors and the public interest in taxpayer money use caused this question to be asked. He said the reduction of employees in this firm was important. Mayer said that the printing company had installed state of the art equipment that used soy ink and less solvent than previous equipment.

Volan asked for a summary over a longer period of time, and Alano said that it could be produced in the future. Volan said he would like to also have information on jobs created, and money spent over the last few years. He said he appreciated her presentation.

Ruff asked if the jobs created at the PTS Curry Pike location were moved there from other PTS locations. Alano said she did not know that information. Ruff asked if the number of PTS jobs when the tax abatement was granted totaled approximately 384 and Alano said this was correct.

Ruff asked what the market rate was for apartments (with utilities included in the rent) comparable to the RONO Corporation units. Alano said she was not sure.

Ruff asked how Printpak's statement of benefits could estimate 22 new

employees with estimated new salaries of \$485,000 when the compliance report indicated that 22 new jobs were created but that the actual new salary amount was \$1,422,531. Alano said that attracting employees with a higher salary might be a factor in this case.

Ruff noted that when an abatement was granted, the public actually was sharing in the risk of the company, and that the business projections may not work out as one might hope.

Sturbaum moved, and it was seconded, that the Council accept the Supplemental Tax Abatement Report.

Motion to Accept the Tax Abatement Report

There were no public comments on this motion.

Sturbaum spoke as a member of the city Economic Development Commission and reported that the commission had reviewed the report and recommended its acceptance. He said intangibles such as encouraging infill development downtown and use of preferable materials were not quantifiable on the Economic Impacts Summary that Alano presented.

Gaal said the tax abatement process was not always about creating jobs. He said that private economic activity was encouraged by this tool, and gave some areas of the city where redevelopment might be used in the future, including a sustainable development project.

Rollo noted his appreciation of Ron Walker and Danise Alano's work in the economic development activities of the city.

Ruff said that the City of Bloomington was aggressive in their use of the tax abatement tool, and that he was confident that we've taken advantage of it as we are a business friendly community.

The Motion received a roll call vote of Ayes: 7, Nays: 0

It was moved and seconded that pursuant to Indiana Code 6-1.1-12.1-5.9 the council had determined that the owner(s) of the Bloomington Business Incubator, LLC at West Allen Street and PTS at the Indiana Enterprise Center site had not substantially complied with the Statements of Benefits and that the failure to do so was not caused by factors beyond their control. The motion included that the Council intended to hold a public hearing at their Regular Session on August 3, 2005 to further consider the property owners' compliance with the Statements of Benefits. In the motion, council reserved the right, at the conclusion of the hearing, to adopt a resolution terminating the tax abatement. The motion also directed the Council Attorney to mail the statutorily-required written notice to the property owner.

Motion Declaring Intent to Rescind

There were no comments from the public on this motion.

The motion received a roll call vote of Ayes: 7, Nays: 0.

It was moved and seconded to authorize the President of the Council to sign past tax abatement forms that affirm the decisions of the council to either approve the abatement or to find the project in substantial compliance with the terms of the abatement.

Motion to Authorize the President to Sign

There were no comments from the public on this motion, and no comments or questions from the council members.

The motion received a roll call vote of Ayes: 7, Nays: 0.

The council took this opportunity to adjust their schedule for July and the remainder of June.

▪ COUNCIL COMMITTEES

It was moved and seconded that the council adopt a revised schedule for its July meetings which would reschedule the July 6th Regular Session meeting so that it is held at 7:30 pm on July 13th immediately before the Committee of the Whole; that the council hold departmental budget hearings on Monday through Thursday July 18th through July 21st at 6:00 pm; that the council reschedule the July 20th Regular Session so that it is held at 7:30 pm on July 27th immediately before the Committee of the Whole.

July schedule changes

The motion received a roll call vote of Ayes: 7, Nays: 0.

It was moved and seconded that the council cancel the Committee of the Whole scheduled for June 22, 2005.

June schedule changes

The motion received a roll call vote of Ayes: 7, Nays: 0.

Scott Tibbs said he agreed with Mayor Kruzan and Council President Ruff in their opposition to Indiana Department of Transportation’s rules regarding public comments during their public hearings.

▪ PUBLIC INPUT

It was moved and seconded that Sheldon Gellar be appointed to the Martin Luther King, Jr. Birthday Commission.

BOARD AND COMMISSION APPOINTMENTS

It was moved and seconded that Nancy Obermeyer be appointed to the Public Transportation Corporation Board

Both appointments were approved by a voice vote.

Ruff thanked Pamela Warren for her service to the Tree Commission. Ruff also noted current vacancies on city boards and commissions and encouraged citizens to apply.

It was moved and seconded that Resolution 05-06 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving Jack Hopkins Social Services Funding Committee Recommendation of Do Pass: 7 – 0. It was moved and seconded that Resolution 05-06 be adopted.

LEGISLATION FOR SECOND READING

Resolution 05-06 Authorizing the Allocation of the Jack Hopkins Social Services Program Funds for the Year 2005 and Other Related Matters

Chris Sturbaum said he would refrain from voting on this resolution because he wished to avoid the appearance of any impropriety. He stated that his wife was employed by Planned Parenthood, one of the social service agencies that had applied and was recommended for funding. Sturbaum left the dais.

Mayer, who served as chair of the committee, reviewed the membership of the commission, the criteria for funding, and the process of the committee’s deliberation. He also reviewed the applicants, the amount of money they requested and the amounts proposed for funding. He added that the committee members were

Rollo noted that the PP request was for safety equipment for the safety of their employees. He also thanked Mayer for serving in the role of chair for the committee. He added that smaller grants than requested did not mean that the social services were not worthy, but rather that the resources were inadequate for the need.

Sabbagh thanked Mayer for mentioning that he had originally been on the committee but was unable to do that this year. He added he was sorry he was unable to serve, but applauded the committee on its work

and said he would be supporting its recommendations.

Gaal said the process was difficult but the reality was that all could not be funded. He said they were all deserving, and urged others in the community to help all these worthy agencies.

Mayer thanked the councilmembers for their thanks. He thanked the committee members for their work. He said if the understanding of human sexuality could not be part of a funding, only three would remain. He said there would be some understanding and education of human sexuality in most all of these agencies.

Resolution 05-06 received a roll call vote of Ayes: 6, Nays: 0.(Sturbaum did not deliberate or vote on this item.)

There was no legislation for first reading.

LEGISLATION FOR FIRST
READING

The meeting was adjourned at 9:50 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Andy Ruff, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

for approval

In the Council Chambers of the Showers City Hall on Wednesday, October 5, 2005 at 7:45 pm Council President Andy Ruff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
October 5, 2005

Roll Call: Diekhoff, Ruff, Gaal, Rollo, Sturbaum, Volan, Sabbagh, Mayer
Absent: Banach

ROLL CALL

Council President Ruff gave the Agenda Summation

AGENDA SUMMATION

The minutes of January 19, 2005 were approved by a voice vote.

APPROVAL OF MINUTES

Chris Sturbaum reported on his recent attendance of the National Trust Historic Conference in Portland, Oregon. He commented on how impressed he was by the high bicycle population, the mixed-use nature of the neighborhoods, and the Regional Planning Department. He announced the upcoming visit from renowned economist Donovan Ripcama.

REPORTS:

- COUNCILMEMBERS

David Sabbagh offered his best wishes for recently resigned Assistant City Attorney Michael Flory.

Dave Rollo announced the upcoming first meeting for the Environmental Sustainability Commission and the Annual Bioneers Conference.

Fire Chief Jeff Barlow read a proclamation from the Mayor proclaiming the week of October 9-15, 2005 as Fire Prevention Week in Bloomington noting that the department was working hard to educate citizens on the dangers of house fires.

- MAYOR and CITY OFFICES

Mick Renneisen, Director of Parks and Recreation, noted that there were three visitors in the city who were evaluating the Parks and Recreation Department for the national accreditation program. He said that the City Parks Department was presently one of five accredited in the state of Indiana, and that there were only 55 accredited departments in the country. He provided a pictorial review of past and present projects.

Julie Ramey, Community Relations Manager, gave a presentation on How We Make Fun of Everything.

President Ruff asked Council Attorney to review upcoming legislation with regards to the next meeting. It was moved and seconded that the Committee of the Whole meeting scheduled for October 13, 2005 be cancelled.

- COUNCIL COMMITTEES
Motion to Reschedule
Committee of the Whole and
Regular Session

The motion received a roll call vote of Ayes: 8, Nays: 0.

Sherman recommended the following be announced for public record; the originally scheduled meeting regarding the downtown plan meeting was moved to October 26, 2005 with final action on November 2, 2005.

Bobby Hall requested council help with developing affordable housing and reducing crime in his neighborhood and provided photos.

- PUBLIC INPUT

Michael Valiant, resident of District 5 and recent recipient of a city lawn violation, commented on the city's lawn maintenance ordinance and called to question the criteria present for defining certain plants as noxious weeds. He asked for help from councilpersons to redefine the plants that are currently rated as noxious or natural and address plants

that have not been placed into categories of acceptable versus non-acceptable.

Lucille Bertuccio spoke about the certification of Backyard Habitats and the discrepancy between that and the current city ordinance.

Connie Hall complained about litter, plant overgrowth, and yellow curbs and requested that help be provided to make these improvements in her neighborhood.

Nick McGill, resident of McDoel Gardens, offered his support for revisiting the current ordinance and making more environmentally friendly changes.

Chris Coppersmith voiced his concerns and opposition to the current lawn ordinance.

Tina Shurard paid respect to her neighbor's comments but said that she takes issue when private landscaping spills over onto public domain.

Bobbie Hall expressed her opposition to the overgrowth of private yards that impede traffic and pedestrian lines of sight.

Mike Andrews referred to a packet that was generated in response to a neighborhood effort to petition the city for traffic calming devices. He said that the request was denied by the city because traffic calming devices will not be considered until after 5 traffic incidents have occurred in an area. He spoke of the public incident that occurred in the neighborhood when residents intercepted bulldozers. He also asked the council to consider the current foliage overgrowth as the ready solution to traffic calming.

Jim Hart argued the notion of defining what is beautiful, pointing out that aesthetic beauty can be subjective and individualized.

Mark Haggerty offered a citizen's report of the Gulf of Mississippi recovery progress after the devastation of Hurricane Katrina.

Mandy Peijo stated his support for safer neighborhoods.

It was moved and seconded that the following appointments be made to the following city commissions:

- Community and Family Resources Commission – Jeff McKinney
- Commission on the Status of Women – Dorothy Granger
- Traffic Commission – Jeff Weber
- Human Rights Commission – Valeri Haughton

The appointments were approved by a voice vote.

It was moved and seconded that the Resolution 05-16 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 6-0-0. It was moved and seconded that Resolution 05-16 be adopted.

Mick Renneisen, Director of Parks and Recreation, presented a summary of the proposed resolution.

Rollo asked if any trail plans, other than conservation, were in place for the property.

Renneisen responded that no trail development plans currently exist but are the logical next step and that the main purpose was protection of the

BOARD AND COMMISSION APPOINTMENTS

LEGISLATION FOR SECOND READING

Resolution 05-16 – Approving the Purchase of Land Near Griffy Lake

steep slopes and wetland and to create a buffer for Griffy Lake and Cascades Park. He gave additional information about the potential link this land acquisition might provide between two existing trails. He also noted that a timeframe would be dependent upon financial availability.

Rollo thanked all those involved in this acquisition. He urged his fellow councilmembers to work on a strategy for land acquisition to protect forests, water sheds, wetlands, and other sensitive ecosystems.

Gaal commented on the strong community support for green space acquisition.

Mayer echoed and thanked Councilpersons Rollo's and Gaal's comments.

Resolution 05-16 received a roll call vote of Ayes: 8, Nays: 0.

It was moved and seconded that the Appropriations Ordinance 05-07 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 6-0-0. It was moved and seconded that Appropriations Ordinance 05-07 be adopted.

Appropriations Ordinance 05-07 – To Specially Appropriate From the Park Land Acquisition Fund Expenditures Not Otherwise Appropriated (To Purchase Land Adjacent to the Griffy Lake Nature Preserve and Cascades Park)

Susan Clark, City Controller, gave details on the appropriation, outlining that the appropriation ordinance would release the funds for the land acquisition.

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

It was moved and seconded that the Resolution 05-09 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that there was no Committee Recommendation on this resolution. Clerk Moore also noted that the Public comment portion of the deliberation on this resolution would serve as the legally advertised public hearing. It was moved and seconded that Resolution 05-09 be adopted.

Resolution 05-09 – To Confirm Resolution 05-08 Which Designated an Economic Revitalization Area, Approved a Statement of Benefits, Authorized a Period of Tax Abatement, and Declared Intent to Waive Certain Statutory Requirements Re: 1010, 1018 and 1026 W. 14th Street (Habitat for Humanity of Monroe County, Inc., Petitioner)

Ron Walker, Director of Economic Development, provided details on the resolution and expressed his support while offering highlights about the project.

Ruff asked for further information about the significance of five year abatement.

Walker reported that the five year term was based on recommendation from the Office of the Mayor and Housing and Neighborhood Development Department as a term that would generate fiscal relief to the new home owners and convert them into tax payers in a reasonable time frame.

Sabbagh asked about programs that educate home buyers about taxes, insurance, and the upkeep of owning a home.

Rollo asked for the fiscal value for the worth of the homes.

Walker responded that the annual estimated property tax would be over \$3,300.

Volan asked about the life of the abatement to which Walker responded that an abatement applies to a property and not to an owner. He explained that if a five year abatement started in 2000, it would end in

2005 regardless of ownership or occupancy.

Ruff noted for the record that the upcoming public comment section was serving as the legal public notice for the action on the resolutions.

There was no public comment.

Sturbaum offered his support for this program.

Mayer expressed his excitement for the development of the property and addition of a new neighborhood.

Sabbagh commented on the success of the homeownership program.

Resolution 05-09 received a roll call vote of Ayes: 8, Nays: 0.

It was moved and seconded that the Resolution 05-11 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that there was no Committee Recommendation on this resolution. Clerk Moore also noted that the Public comment portion of the deliberation on this resolution would serve as the legally advertised public hearing. It was moved and seconded that Resolution 05-11 be adopted.

Walker spoke about Resolution 05-11 and offered additional details of Resolution 05-10.

Rollo mentioned the other energy efficient benefits of the property. He talked about his understanding of these measures through the presentation given by Matt Wysocki of the South Central Community Action Program.

There was no public comment.

Resolution 05-11 received a roll call vote of Ayes: 8, Nays: 0

It was moved and seconded that the Ordinance 05-28 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 0-0-6. It was moved and seconded that Ordinance 05-28 be adopted.

It was moved and seconded that the council postpone Ordinance 05-28 indefinitely and request that the Engineering Department recommence the initiative starting at Step 4 of the Neighborhood Traffic Safety Program.

Diekhoff explained his reasons for asking for this action.

Ruff asked the president of the neighborhood association for comments.

Mr. John Arnold thanked the council for considering the postponement of this ordinance and explained that he supported the general concept of traffic calming, but would like to help make the ordinance better.

The motion to postpone received a roll call vote of Ayes: 8, Nays: 0.

There was no legislation for first reading at this meeting.

There was no public comment.

Resolution 05-11 – To Confirm Resolution 05-10 Which Designated an Economic Revitalization Area, Approved a Statement of Benefits, Authorized a Period of Tax Abatement, and Declared Intent to Waive Certain Statutory Requirements Re: 1034 and 1042 W. 14th Street (City of Bloomington Housing and Neighborhood Development Department, Petitioner)

Ordinance 05-28 – To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” (Amending Chapter 15.26 “Neighborhood Traffic Safety Program” in Order to Authorize Traffic Calming Devices on Graywell Drive and East Gentry Boulevard)

LEGISLATION FOR FIRST
READING

PUBLIC INPUT

The meeting was adjourned at 9:43 p.m.

ADJOURNMENT

APPROVE:

ATTEST:

Andy Ruff, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

For approval