

In the Council Chambers of the Municipal Building held on Wednesday, April 20, 1994 at 7:30 p.m. with Council President Sherman presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
APRIL 20, 1994

Roll Call: Service, Miller, Pizzo, Sherman, Hopkins, Cole, Kiesling, White, Swain.

ROLL CALL

Sherman gave the agenda summation.

AGENDA SUMMATION

The minutes of March 23, 1994 were approved by a voice vote.

MINUTES FOR
APPROVAL

Service congratulated local poet Yusef Komunkaya for receiving the Pulitzer Prize in literature. She thanked all those that contributed to the time capsule, and she announced that Sondheim's musical Side by Side was to be performed at the Monroe County Civic Theater for the following two weekends at 8:00 p.m..

MESSAGES FROM
COUNCILMEMBERS

Hopkins thanked Evelyn Powers for her massive efforts on the 175th anniversary celebrations.

Cole congratulated Bloomington High School South for placing third overall and Fairview for placing fifth in the Science Olympiad. She thanked their coaches and said that Fairview is distinguished in being the only elementary to place high enough to compete with the middle schools in the state. She recognized the following students:

Dan Huber
Miriam Sweeney
Sarabeth Schalk
Nick Morrison
Colin O'Dea
CoCo LaMantia
Sarah Grenat

David Schalk
Estella Hammond
Sam Nichols
Jeremy Stone
Michael Bridgewaters
Shoshana Levine
Cassie Sloan

White thanked all the law enforcement officers and the community for making this years Little 500 a comparatively safe one. He said that this is also largely due to some good planning on the part of the University. He encouraged everyone to vote in the upcoming primary. He was concerned that some of the previous meeting's comments had been on the border of personal attacks and hoped that would not be the case this week.

Kiesling discussed the conferences she attended. One was sponsored by the EPA and was largely concerned with land use issues, and the other was sponsored by the International City and County Management Association which was concerned with a variety of municipal issues including mandates.

Sherman also encouraged people to vote. Sherman was concerned that the city ordinance forbidding signs in the public right of way was being ignored. He congratulated and wished luck to Myles and Peg Brand, the new President of IU and his wife and he was very positive about the new president. He congratulated the winner of the Vital Quiz Bowl, and noted that between the quiz bowl and the silent auction over \$10,000 had been raised.

Tom Klein, Assistant to the Director of Public Works, announced that Bloomington won another Governors Award for Excellence in Recycling for our waste reduction efforts. He announced the Spring Cleanup from 5/9 to 5/20 and the city will pick up large items they would not normally collect and the pick up will be without charge. He encouraged people with any items which may be reusable to give them to Goodwill or some other charitable

MESSAGES FROM
CITY OFFICES

organization. He also noted a Goodwill project to collect clothes in specific areas of the city. He also announced that Public Works Week is coming up and the city will be displaying vehicles and the new GIS system. He also noted that the annual Public Works v.s. Utilities Softball game is coming up.

Kiesling asked if the Goodwill facility was open near College Mall.

Klein said that it was open 9 to 5 and anything reusable can be dropped off.

Sherman said he wanted everyone to know the good job that Klein did behind the scene.

The following people were appointed to Boards and Commissions by a voice vote.

APPOINTMENTS TO
BOARDS &
COMMISSIONS

| | |
|----------------|-------------------------------|
| Steve Madsen | Bicycle and Ped. Safety Comm. |
| David Walter | Redevelopment Comm. |
| Susan Bucove | Comm. on the Status of Women |
| Trisha Bracken | |

It was moved and seconded that Resolution 94-14 be introduced and read by the Clerk by title only. Clerk Williams read the resolution by title only.

LEGISLATION FOR
SECOND READING/
VOTE

It was moved and seconded that Resolution 94-14 be adopted. The synopsis and committee recommendation of 6-0-0 was given.

RESOLUTION 94-14

Service noted a possible conflict of interest in that she works for the Monroe County Historical Museum, but as she has no financial interest in the outcome of the resolution she may vote on it as a member of the Council.

Bill Finch, representing the Museum Board of Governors, briefly outlined the petition for the transfer of property and how it would benefit the Museum.

Beth Gallman, President of The Old Library Inc. (TOLI), on behalf of the board urged the Council to approve the proposal.

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

It was moved and seconded that Resolution 94-15 be introduced and read by the Clerk by title only. Clerk Williams read the resolution by title only.

RESOLUTION 94-

It was moved and seconded that Resolution 94-15 be adopted. The synopsis was given.

Chris Spiek, Redevelopment Director, noted that this is a confirming resolution for an ERA sought by Cottage

Grove Housing and noted that the reason for a delay in a follow up confirming resolution was the need for a variance from the Board of Zoning Appeals.

The resolution received a role call vote of Ayes:9, Nays:0.

It was moved and seconded that Ordinance 94-14 be introduced and read by the Clerk by title only. Clerk Williams read the ordinance by title only.

ORDINANCE 94-14

It was moved and seconded that Ordinance 94-14 be adopted. The synopsis and committee recommendation of 4-4-0.

It was moved and seconded that Ordinance 94-14 be amended to strike the characters BG from the title and the first sentence of the synopsis to clarify the area in

discussion.

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

Tim Mueller, Planning Director, described the site and the surrounding zoning. He noted that the proposal concerns 27 total units, 2 in the Porticos building, 1 each in 2 currently existing structures on the site, and 23 in the proposed structure. Parking is provided for the houses in the rear of those homes. Parking for the proposed structure is provided by a first floor/basement parking facility inside that structure. The amount of parking required was figured using a projected number of beds in each unit and the proposal has matched that number of proscribed spaces. He discussed the history of the zoning in that area and the desire for housing that is also encouraged in that area. The PUD request overlays the existing zoning but does not supplant it, however the PUD would overrule the existing zoning. He wanted it clear that the changes from the normal zoning requirements to the PUD requirements are not variances and the code is explicit in that approval of an outline plan supersedes all book regulations. However, the PUD does have its own requirements which do require waivers. This project requires the 30 ft buffer, 40% maximum lot coverage, and five acre lot size requirements to be waived. He said that the five acre requirement is regularly waived to achieve goals the city would like to achieve and gave examples of recent situations where that had been done.

Kiesling asked if the Outline Plan was also up for approval and if it was final if passed.

Mueller said that this is the Outline Plan and that it is final. He also wanted it recognized that the Plan Commission had approved the Outline Plan and approved the Development Plan contingent upon Council approval so if the Council approves the Outline Plan the Development Plan has approval.

Kiesling asked if any parking requirements had to be waived or given variance.

Mueller said that parking fits the criteria of the code.

Kiesling asked what happened if the Washington Street properties were sold.

Mueller said they would be limited by the PUD approval and the plan includes provisions for condominium sales. Cole asked if there was an existing garage behind Porticos.

Mueller said there is a kitchen there currently which would house three or four bays of parking.

Cole asked how those bays would be accessed.

Mueller said it would be from the south (Ninth St.) or Tenth Street.

Hopkins wanted a clarification of what an underlay was.

Mueller said its what is left over after an overlay is put on. The zoning that exists previous to the PUD designation does not go away and determines the basic nature of the PUD being given. The property may only be developed in conformance within the PUD framework.

Hopkins asked if that meant that whoever developed the property was under those restrictions.

Mueller said that anything built there would have to conform or come back to the Council to amend the Outline Plan.

Hopkins said that it seemed to him that PUD designations are generally used to encourage a developer to do things he would not ordinarily do. He felt this petition was just the opposite situation and wondered why.

Mueller said that this is not always the case and that sometimes it is done to encourage a specific land use or

to encourage a specific package brought forward by a developer such as encouraging affordable housing projects. He also notes that in this situation the petition does not exceed the density limits and that it allows the maintaining of Porticos and the other two existing structures in addition to the new structure. The PUD mechanism also allows the petition to go before the Council instead of other methods which would allow the petition to go before the Board of Zoning Appeals or the Plan Commission only before approval. The decision was made at the staff level that the petition should go before the full discretion of the Council. In the past modifications have been made to such things as the buffer requirement which is intended mainly for big sites. Sherman asked for a specific list of what has been waived and what has not been waived.

Mueller stated that first of all, the PUD plan substitutes the Height, Bulk, and Density Table which precludes a variety of requirements such as setback size, lot area, and usable open space. This change in requirements is not to be construed as a waiver of those requirements as the PUD process is there to give flexibility to the planning process and give discretion to the Council. Inside those requirements for PUD designation there are three criteria being waived, first is the 30 ft buffer, second is the 40% maximum lot coverage, and the final requirement being waived is the five acre minimum lot size requirement.

Sherman wanted it clarified that the density requirement is not being waived.

Mueller said that in this circumstance the proposal is within the density limit of the PUD criteria.

Kiesling inquired if the density had been figured with all four properties.

Mueller said they all were part of the PUD.

Swain wanted it clarified that there are other PUD restraints which were met.

Cole asked what they are.

Mueller said they included but were not limited to street setbacks, common open space, parking, unique design, and landscaping.

Bill Finch, representing of petitioner, gave a slide presentation. He also discussed the current taxes versus the future taxes at the end of the abatement. He noted that the petition does exceed landscaping requirements. He wished to correct the newspaper which reported a tax in thousands of dollars of the current lot when the true amount of taxes is \$375 annually. After the project is completed, it is estimated that with tax abatement the project would pay over \$1 million in ten years and over \$3 million over twenty years.

Steve Ferguson, CFC Inc., said this has been a twenty year journey to this stage of development for the downtown. He felt that permanent housing downtown is a key to keeping the downtown vital. He wanted the Council to not consider this project on its own but as a part of the downtown as a whole. He noted that this project is only one of four going on downtown. He listed and gave brief descriptions of those projects. He said that the main obstacle to development downtown is regulation not cost. He was concerned that the commercial parts of downtown were developed and that the residential parts might not follow. He felt that this sort of development might mitigate some traffic. He gave various graphic representations of his opinions. He felt the proposed project would stabilize the area and raise the economic value. He discussed various other sites that were considered for the project and why this one was chosen.

He noted that last week there was a statement to the effect that the developers history was not to be considered, he felt that it should be considered. He noted several projects that CFC Inc. has produced over time and that there are four thousand CFC Inc. employees in this area. He felt that twenty years ago this project would not have been a problem. He felt the positives outweighed the negatives.

Sherman asked one of the architects if he liked the project and its architectural design. The architect answered in the affirmative.

Sherman wanted to know if any of the architects had some criticisms of the structure. The architect who stepped forward said that this is a building worth building and he would stand behind it.

Sherman preempted public comment by reminding everyone that this is an important step in the process. He wanted everyone to know that whether the Council agreed with them or not, the Council would listen. He hoped that people would be brief and limit extended comments to new statements. He insisted the comments be respectful, to the point, and to the project. He said personal comments that lack respect will not be tolerated.

The following people addressed the Council regarding this project during the public comment period.

Those in support

Christine Mitchell
Bob Sullivan
John Floyd
Doug Jones
Carl Korb
Vince Taylor
Jeff Mease
Steve Cobb
Brian Stancombe
Bob Dunn
Jerry Gates
Bill Armstrong
(for Herman Wells)
Bob Richards
Randy Cassidy
Jim Tolen
Fred Dunn
Troy Hardin
John Burnham
Jeff Fanyo
John Fernandez
Talisha Coppock
Linda Williamson
John Abshire
Mayor Tomi Allison

Those in opposition

Jim Bohrer
John Wood
Wendy Bernstein
Jo LaMantia
Kathy Foster
Jim Rosenbarger
Maureen Friel
Mark Cornett
Tim Sutherlin
Jim Grace
Bruce Bundy
Mary Krupynski

Speaking without position: Ray Wroth
Evelyn Powers

Service said she had received many communications regarding this proposal and one in particular had struck her, it stated that this proposal had already received market acceptance so it was okay, she felt that the Council should not be looking out for market interests but for the public interest and she felt this project has not received public acceptance. She hoped that if this proposal fails it will not go down as a vote against the downtown revitalization. She hoped that a negative vote would not seem a slight to CFC Inc. She felt that this proposal is not in the best interest of the city. The

problem is not the style, it is the scale. She noted that there is a current height standard of eighty feet which this project far exceeds. She said that the Master Plan is clear that the goal of compact urban form does not mean the plans support of high-rise development. She said that this is in such close proximity to a historical and residential area that the height was an issue. She said there is not another residential area in the city in which the Council would consider placing such a structure. She stated that the proposed structure is five times the height of the nearest adjacent building and that there is no buffer and no transition in height or density. She heard it stated that this was the buffer between the residential and the commercial areas and wondered where the buffer between the proposed structure and the residential area was. She said returning to a single family owner occupied area would be made more difficult for the historic neighborhood with this structure on the horizon. She felt that the Poplars building is an example where an imposing structure ruined a neighborhood, and it is shorter than the proposed structure. She felt comparisons with Indianapolis and San Francisco were comparing apples and oranges. She voiced her opposition to the project because of its size, not its concept or purpose and she would feel more comfortable if the structure was a few stories shorter.

Swain was hoping this could be a win/win situation but it is clear that this is not the case. He felt that some positives were the additional employment and future taxes. He was concerned that the vision of CFC Inc. simply did not match the vision of the Council. He was glad the decision fell on an elected board and thanked those that had taken the time to express their opinions. He was concerned that approval of this proposal would create a pattern of ad hoc decisions. He commended CFC Inc. for their involvement in the community, but could not vote for the proposal simply on the basis of their involvement. He felt a scaled down project would be more appropriate. He is not happy with all the exceptions needed to allow this project and can not support it.

Miller said her vote would be the same as last week because she could not find some overriding factor which would warrant a negative vote.

Pizzo thanked all those who came to the meeting and those who expressed their opinions. He realized this was a difficult decision but the fact is that a town changes. He felt the long term benefits of this project require a positive vote.

Sherman commented on how articulate the public had been on the issue and thanked everyone for their comments. He said there is community support for this project. He survived the "bogeyman effect" of parking plans, the Wal-Mart petition, and the trash sticker problem and all of those turned out fine in his opinion, so this building can't be that bad. He felt that the predictions that this building would be a disaster were false and that he did not foresee this as a disaster. He can only look at what it does for him at the moment. He said he would support the petition.

Hopkins said he had heard a lot of arguments and heard a lot of people and he said that some issues need to be separated to determine what the proper criteria are. He said that the style of the structure, the reputation of Cook, and the past work of CFC Inc. are not relevant to this decision. He stated that the zoning laws are what

are relevant. He said that there are too many exceptional steps to be able to accomplish this project. He felt that the Council was now applying arbitrary criteria to the decision. He said that the Master Plan was a consensus of the community and now some members of the Council wish to ignore that consensus for economic considerations. He stated that economic considerations simply do not change the zoning laws and the comprehensive plans. He has had varied and extensive experience in dealing with Planned Unit Developments and he has never seen one that went to such exceptional lengths. The types of exceptions being given have never been granted to anyone else and he did not see how this petition can be passed in such clear violation of the normal Planned Unit Development requirements. In his judgement the proposed project is totally incompatible with the surrounding neighborhood. He expressed his belief that this plan does violence to the Master Plan, makes a mockery of the zoning discretion of the Council, and he intends to vote against the proposal.

Cole said she is firmly committed to her vote of last week. She felt that this project may not be the "bogeyman", but it is not the best and Bloomington deserves and can have the best. She thought that to equate the passage of one project with the future of Bloomington is wrong. She stated that during the evening it has become apparent that this is a building looking for a home and she felt that this is an improper method, new development needs to be site specific. She said that this is a discretionary decision which comes down to the question of compatibility and she felt the building was incompatible. She felt that the built environment is important to the community and a bad building of this size can not be masked by trees. She hoped that some design guidelines would be appropriate for the new zoning ordinance. She expressed her hope that CFC Inc. would return with a new proposal if this one fails.

White was proud of the input the community had given. He said that the Council is entirely within its rights to waive the noted requirements and that the current zoning ordinance is not really applicable downtown because of its special constraints. He noted that some decisions are about to be made regarding neighborhood integrity in this area. Those decisions will be made to encourage the single family aspect of the area and to do that downzoning will be used, however some of the neighborhood near the downtown will have to be zoned for high density residential to accommodate the goals of the downtown. He stated that a project this big must be put along the arteries of the city, which means that large structures will be in near proximity to traditional single family housing. He felt that the height was an issue, but a few stories more or less would not make that significant a difference. He felt that the decision made on this petition would be setting the tone for future downtown development. He wants to set a positive tone so he will be supporting the petition.

Kiesling thanked everyone who communicated their thoughts to her regarding this petition. She noted her past support of CFC Inc. projects. She recognized that compact urban form is important and that upper-end housing in the downtown area is needed. How to achieve that is a serious question which needs to be addressed now while the zoning ordinance hearings are going on. She felt that the Council had already supported several projects that address the compact urban form and upper-end housing issues. Her primary concern was the mass and

height of the proposal and how it does not encourage a sense of community. She said that this sort of project has failed in other communities and was not convinced that it was appropriate for downtown. She felt the height of the proposed structure was simply too great for the size of the lot. She requested that the Cook Group reconsider this proposal and return to the Council with a new plan. She said the issue of height restrictions must be more closely addressed in the new zoning ordinance to allow the downtown to move on. She hoped that these projects would be looked at in a more comprehensive way in the future.

The ordinance received a roll call vote of Ayes:4, Nays:5(Kiesling, Hopkins, Cole, Service, Swain).

It was moved and seconded that Ordinance 94-20 be introduced and read by the Clerk by title only. Clerk Williams read the ordinance by title only.

ORDINANCE 94-20

It was moved and seconded that Ordinance 94-20 be adopted. The synopsis and committee recommendation of 3-4-1 was given.

Bill Finch, representative of petitioner, said that this would make the site more flexible and none of the utilities or adjacent property owners had a problem with the vacation.

Tim Mueller, Planning Director, said there was the issue of the use of the parcel now that Ordinance 94-14 had failed and there was no plan for the site. He said that staff has had no time to react to the new situation.

Jim Bohrer, representative of adjacent property owner, said it would be inappropriate to vacate the property without a definite plan.

White said he could not look favorably on a vacation without a compelling reason or plan for use of the property, and said he would have to vote against the proposal.

Service said she also would like to look at a plan before she approved a vacation.

Cole also would like to see a plan and was concerned about destroying the grid of streets in the downtown area.

There was a discussion of some procedures involving tabling and timetables.

It was moved and seconded to table Ordinance 94-20.

The motion received a roll call vote of Ayes:8, Nays:1(Miller).

It was moved and seconded that Ordinance 94-11 be introduced and read by the Clerk by title only. Clerk Williams read the ordinance by title only.

RES
ORDINANCE 94-11

It was moved and seconded that Ordinance 94-11 be adopted. The synopsis and committee recommendation of 4-3-1 was given.

Chris Spiek, Redevelopment Director, recommended tabling for the same reasons Ordinance 94-20 was tabled.

It was moved and seconded to table Ordinance 94-11.

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

It was moved and seconded that Ordinance 94-19 be introduced and read by the Clerk by title only. Clerk Williams read the ordinance by title only.

It was moved and seconded that Ordinance 94-19 be adopted. The synopsis and committee recommendation of 4-3-1 was given. ORDINANCE 94-19

Spiek said that the Council should proceed with this ordinance and the Economic Development Commission recommended unanimously that this area be designated an Economic Development Target Area (EDTA). This is a step towards tax abatement on this sort of housing.

Kiesling asked about the ordering of the ordinances on the agenda.

Spiek said they could have occurred in any order determined by the President of the Council.

Bill Finch, representative of petitioner, asked the Council to consider and approve this petition.

Swain asked if this petition would be negatively effected by the previous votes of the evening.

Spiek said they are separate entities and act independently.

Swain was still concerned about the lack of numbers or a plan.

Spiek said that this would be approving a housing development tax abatement, regardless of what that housing turned out to be.

Swain said he felt it was clear that most of the Council felt that it would be appropriate to pass an EDTA in this area.

Spiek said that was the reason he encouraged the Council to pass this petition this evening.

Service said that she may support a tax abatement later for this property.

Pizzo said that this is nothing but a statement of encouragement and obligates the city to nothing and it is wrong to give CFC Inc. nothing.

Service said if this encourages a project she can not support then she could not vote for it and without a plan she can not vote for it.

Cole said she supported the petition.

Spiek said that the petition still has to go through the Economic Revitalization Area process and at that point there will be numbers and plans and if the Council does not like them that then is the time to vote the petition down.

Hopkins said he had to agree with Service and he does not feel that this project fits the legislated criteria for EDT designation.

Swain suggested tabling this project.

It was moved and seconded that Ordinance 94-19 be tabled. The motion received a roll call vote of Ayes:5, Nays:4(White, Pizzo, Miller, Sherman)

It was moved and seconded that the following legislation be introduced for first reading and read by the Clerk by title only. Clerk Williams read the legislation by title only. LEGISLATION FOR FIRST READING

- Appropriation Ordinance 94-03 To Specially Appropriate from the General Fund and the Motor Vehicle Highway Fund Expenditures Not Otherwise Appropriated (Police Grant, Plan Department Staff, and Phase II of S. Walnut) APP. ORD. 94-3
- Ordinance 94-09 To Amend the Bloomington Zoning Maps from RS/PUD to RL/PUD and Grant Outline Plan Approval-- ORD. 94-09
- Re: 3630 and 3710 E. 10th Street (Don Mitchell, Petitioner) ORD. 94-22
- Ordinance 94-22 To Amend Title 15 of the Bloomington Code Entitled "Vehicles and Traffic" ORD. 94-23

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Ordinance 94-23 To Amend Title 15 of the Bloomington Code Entitled "Vehicles and Traffic" (Ninth Street Between Washington and Morton)

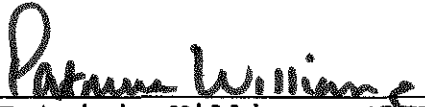
Linda Williamson invited the Council to the Business Expo at the Convention Center the following day.

The meeting was adjourned at 1:50 A.M.

ADJOURNMENT



Jim Sherman, President
Bloomington Common Council



Patricia Williams, CLERK
City of Bloomington

Approved on 18th May, 1994