

In the Council Chambers of the Municipal Building held on Wednesday, September 11, 1991, at 7:30 P.M. with Council President Fernandez presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
SEPTEMBER 11, 1991

Roll Call: House, Foley, Kiesling, Olcott, Fernandez, Regester, Service, White, Hogan.

ROLL CALL

Fernandez gave the agenda summation.

AGENDA SUMMATION

The minutes of July 24 and August 7, 1991 were approved by a voice vote. The minutes of July 17, 1991 were deferred until the next meeting.

APPROVAL OF MINUTES

House praised Thomson Electronics for their 45 acre "gift" of a park south of town for a city park and also flights to Chicago will resume from Bloomington. Foley seconded House's comments.

MESSAGES FROM
COUNCILMEMBERS

Kiesling said the United Way fund drive is on its way and hoped everyone would participate. The Solid Waste District will cooperate with the Utilities Dept. in taking the materials from Blucher to cover the landfill (composted sludge). The Citizen Committee of the EPA will meet on Monday, September 23 in Jordan Hall. The public workshop on the risk assessment process will be held on September 14 in Jordan Hall. Olcott said the Water Treatment facility had a open house in August and it was informational. Hoosierfest opens on Thursday and he highlighted various events. College Avenue will be blocked for the event.

Regester presented a Conflict of Interest statement regarding Ordinance 91-44.

It was seconded moved and approved by the council by a voice vote.

He told the council that he represented the city at a street commissioners meeting and presented the city with a placque that he received.

White welcomed the IU family back to Bloomington and thanked all the volunteers for Hoosierfest, particularly IU students, who help put the event together. He reminded everyone to get their voter registration current for the upcoming election and the new fire station will be dedicated on September 28. Service said there will be one Shakespeare play in the park on an annual basis after the raging success of this summers production.

Fernandez thanked Thomson for the parkland on the south west side of town and noted that next Tuesday Justice Steven Swabell, of the International Court will be in the moot courtroom at the IU Law School.

Mayor Allison also thanked Thomson Electronics for their extraordinary gift that will mean that many generations will have the opportunity to enjoy the site. She also praised the sale of the old Fire Station to the Arts Council and the first action on the incentive loan program for day care, both items on the agenda tonight.

MESSAGES FROM THE
MAYOR

She presented an encomium to Jim Mason of the Star of Indiana and Don Pescione of Drum Corp International, thanking them for the wonderful job they have done representing our community.

Mike Davis talked about United Way Fund raising activities and the Rape Awareness Seminar that is coming up. Also he mentioned the Joe Louis seminar events that are taking place this week. Volunteers from Habitat for Humanity will be in town.

Doris Simms and Shannon Eades presented the findings of the smoking survey recently undertaken by the Smoking Cessation Committee and gave each councilmember copies

of the entire survey.

Service said the Sludge Committee passed a report to the USB saying that the city will no longer distribute compost for residential use. It is still available for commercial or institutional use as long as it is not used in a residential possible vegetable garden area.

The closing of the Anderson Rd landfill will use all of the compost that Blucher can produce so there is not the problem of what to do with the stuff.

Kiesling said the Solid Waste Board is getting close to a draft document for waste management here in Monroe County and copies will be available in the Council office.

It was moved and seconded that Resolution 91-24 be introduced and read by title only. Clerk Williams read the resolution by title. LEGISLATION FOR SECOND READING RES. 91-24

It was moved and seconded that Resolution 91-24 be adopted. The synopsis was given. There was no committee recommendation. Service asked that original vote information be provided with confirming ERA resolutions in the future.

Chris Spiek reviewed the abatement request for the councilmembers and Bob Anderson was also available for questions.

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

It was moved and seconded that Appropriation Ordinance 91-2 be introduced and read by title only. APP. ORD. 91-2
It was moved and seconded that Appropriation Ordinance 91-2 be adopted. The synopsis and committee recommendation of 7-0 was given.

Chuck Ruckman said it was necessary to vote on this ordinance again (it was passed in July) due to a mistake in advertising. It was s necessary to readvertise and bring back for final adoption again.

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

It was moved and seconded that Ordinance 91-44 be introduced and read by title only. Clerk Williams read the ordinance by title. ORD. 91-44

It was moved and seconded that Ordinance 91-44 be adopted. The synopsis was given as well as the committee recommendation of 6-0-1. On August 7, 1991 at a Regular Council meeting a vote of 4-2-0 which does not meet the necessary 5 vote requirement for official action took place.

Tim Mueller reviewed the petition and tried to summarize the commentary since this is the third time the council has heard the request. Awhile back the Hyde Park developers brought in a proposal to purchase the orange area (referring to the map) representing the back corner of the Grossman farm. They were subdividing the Grossman property into two; Hyde Park was going to purchase the orange area and develop it as a subdivision. The city took the position that Grossman not be allowed to sell off the back of his property until he provided access to one of the perimeter streets rather than relying on the infrastructure and internal street of Hyde Park. The Plan Commission approved the development in the orange area with a condition of approval that there be a

connection to Smith Rd., that the Hyde Park developers obtain from Grossman either an easement or a right of way in order to put the road in and the road was to be put in when the orange area was 75% built out. Then things got confused. Hyde Park actually purchased the blue area from Grossman, and this had not been authorized by the Plan Commission: they sought approval of a scaled down subdivision expansion of Hyde Park and the Plan Commission was unwilling to allow that without satisfying the condition of approval for a road out to Smith. That left us with a couple of alternatives: we could require that the orange area be developed with the extension to Smith or that a similar extension to be attached to the blue area, requiring a lot of litigation, possibly between the city, Grossman and the Hyde Park developers because by this time they have purchased the blue area and didn't have any control over the route to Smith Rd. The Plan Dept. chose a more conciliatory path, that approved the development of the blue area, provided Grossman brings in a plan and secures an approval that involves the desired road to Smith. The request of the Youngs to develop the blue part is dependent upon the approval of this. That was made a condition of approval. If this is not approved then they will not allowed to proceed with this development. It is long standing planning to have the necessary road access for circulation of traffic. These are not arterial streets that route traffic thru a neighborhood, but rather collectors that allow people within the neighborhood to travel in and out in the direction they desire. In the future the city is going to surround this square mile and we tend to think in the terms of the present, where all the trips are oriented to the north or west. These have been on the thoroughfare plan since 1978 when we first adopted our current plan. Two park sites that we would like to acquire are 1) on the Schmaltz farm on Rogers Rd. in the east fork floodplain and 2) the Rogers farm. Parts of the Grossman farm, south of the creek, will probably stay farm for a long time and it is the site of his home, farm and horsebarns. In the master plan the area to the north is designated as low density residential and this is the zone in which we advocate mixed uses density up to 4-6 units/ac being compatible with the surroundings and in effect urbanization. The creek and the floodplain is the divide and south of this it is rural residential and is not expected to urbanize in an intensive manner. The parks component of the master plan suggests that we acquire this floodplain that is not developable for a linear greenway and bikepath. A neighborhood park is proposed down in the vicinity of the Schmalz farm on E. Rogers because of thoroughfare access, serving a large general area and ease of acquisition. The other park that is proposed is the Rogers farm on Moores Pk. that would serve the north end of Hyde Park. Back to the rezone: There is a farm pond that would be traversed by the road to Smith as well as some trees in the woods and some beautiful Catalpa specimen trees on Smith Rd. Two large mature trees along the pond area would have to go as well as a few pine trees, not a lot of tree removal is necessary. The wetland to the north of the pond is created by a small causeway and when the causeway was built the wet, muddy area is just that, without much natural amenity. It does not harbor a community of aquatic plants, it doesn't have any particular wildlife and is unlike the area south of the pond that is a real marsh with lots of aquatic vegetation and potential wildlife and we certainly want to stay away from that area with any construction. The proposed units would benefit from the pond and floodplain and would be situated to take advantage of

that positioning. It's a good plan and follows some of the precepts of the master plan. It raises the density as we're talking about and it does so in such a manner that it doesn't create any adverse land use relationships with existing development. It isn't in anyone's backyard, is well buffered and the desired road links should be encouraged by development densities. Where we have a road on a plan that we would like to see achieved, over time, the plan suggests that we can use the high density to provide some incentives to create these somewhat uneconomic road links.

Kiesling asked about condo placement. Mueller said they would be strung out, in the meadow, outside the floodplain in a way that makes good use of the surrounding open space. She also asked about impact downstream from Jackson Creek. Mueller said the impact would depend on how the site was engineered. Even at the densities proposed, it is a very low number of units per acre and a very low percentage lot coverage and even so there would have to be storm water detention that would mitigate any effects downstream. Appropriate engineering would be required. Mueller said the pond offers the potential to add something to the detention that would benefit the stream.

Fernandez asked when the original plan was approved. Mueller said 1988. Fernandez asked if the purchase was made inconsistent with the initial approval. Mueller said yes. The orange area was approved specifying that the road to Smith be put in with 75% buildup and in the ensuing months, for whatever reason, Hyde Park bought the blue area from Grossman, they were allowed to record the deed without the required Plan Commission approval and the sale was consummated. Fernandez asked what the rationale was in allowing tract "D" to be segmented from "C" and "B" when the intent was to get a road through. Mueller said "C" was the part that Young was proposing to offer to buy from Grossman and we conditioned our approval of the area on the acquisition of a street stub. "D" is what is being added to the PUD by Grossman with this transaction. The orange area is already on record as a PUD, so Grossman's PUD is represented by the crosshatched area on the tract maps and we are approving a revised outline plan for the whole thing. So the recorded outline plan for SF is on the orange and will be altered. There will be two PUDs as defined on the map. Mueller said the SF development in the blue area is contingent upon the approval of this proposal tonight. Kiesling asked if tract "B" has been specifically approved as a PUD in its entirety, Mueller said yes, with the condition of approval. Kiesling restated that "B" does not include "A" and "C". Mueller said, right. Kiesling said she thought the original was A, B, and C. Mueller said that the blue tract was brought to us, "already consummated" and we said we will solve this problem in an agreeable, conciliatory fashion. We will allow you (developer) to develop Tract "B" provided somebody brings in a plan, a realistic plan, that gets the road out to Smith. Granted we will wait for development of this plan, we don't know when the will of the market will cause this land to be developed.

Fernandez asked about the timing of building the stub on tract "C" in the context of future development and has any progress been made with the developers as to when the road would be built. Mueller said the petitioners have not gone back to the Plan Commission with any final plan that would do that. The Plan Dept. would like to secure that commitment, whether we build

a road across or bond for it, our objective of achieving the connection and having the road weigh more heavily with us, than the interference with the pond. If they are unwilling to bond for it then we would prefer to see it constructed by Hyde Park developers. We want the road and do not see it as a disruption of the pond or the natural area. Fernandez asked if DNR or the Army Corp of Engineers has been contacted. Mueller said yes, DNR and the Soil Conservation people have been to the site. We have not made application to the Corp, they will not come out and walk the site on an informal basis. The "question mark" area is wet by virtue of construction and doesn't have a lot of environmental character or habitat. The impression we were given was that this would not be a problematic approval and that the intent of the wetlands regulations is not necessarily to prevent public facilities from interfering in a minor way with man made farm policy. The intent is to protect natural habitat.

Steve Smith, representing the petitioner, said this petition consummates a rezoning from 3 years ago and satisfies elements of the master plan currently approved. He described the layout details, detailed by Tim Mueller in his earlier presentation and the road layout and location has been thoroughly discussed. He said the pond is a wetland and the marshy area below the pond is a wetland and probably the marshy area above the pond. In April someone from SCS, Soil Conservation Services on site and he told them the approximate limit of the wetlands. Before he came out, this year, the road was proposed to go along the dam and would have required substantial fill and disturbance to the wetlands. Very shortly another plan was proposed as we see it now. The road has to dip into the floodplain, Smith Rd is in the 100 year floodplain and for the most part construction will take place in the meadow. Because of the clustered nature of the development, the wetland and floodplain remain intact.

Hogan asked what is intended downstream from the development. Smith said he did not anticipate flooding because if we retain one foot of elevation over that whole pond that would more than offset any increase in run off.

Lynn Coyne said the definition of a wetland is so broad that the Corp of Engineers soon became overloaded and they have adopted certain national permits which we will go through to permit and the corp of Engineers will decide: a) if it's a wetland b) if it is a wetland, what are we allowed to do and how are we allowed to do it and that is underway now. All this is going on now. We don't know what is a wetland until the Corp of Engineers acts on the permit and given the flux on what is going on with wetlands, we may submit this application and find out that the government doesn't think it's a wetlands anymore, Coyne said. In 1988 when this plan came before the council for the first time, a road was called for extending to Smith Rd. and it was a condition of approval and passed 8-0. The chances of the road being built immediately are very slim, it does conform to the master plan, and there is neighborhood opposition. The tract was originally owned by the Sinn family. He reminded the council that Dr. Grossman has not authorized anyone to speak on his behalf except Mr. Coyne and the engineer on this project and he also reminded the Hyde Park residents who might oppose this particular project that they are living on a farm with farm ponds. They've got

theirs, other people want some too, he said. The city needs the assurance that the availability/possibility of this road will exist.

Frank Barnhart, representing Hyde Park Development Corp. spoke with some reservations because of the opposition of some people here this evening. He stated his clients support of the Grossman petition and to the extent that they are committed in part to the improvement. It is important to consider the magnitude of the development of this square mile and the importance of a four directional access for a development of that size. He said his client supports the petition.

Norman Phillips presented 128 signatures against the petition collected in the last few days. He read some of the comments people put on the signature pages. He said that many area residents have sunk their life savings into this area, they were told the zoning was protected and now it may be changed. He showed maps of springfed lakes and said the area would make a wonderful park.

Mrs. Phillips supported her husband's comments. Jackson Biehl was concerned about the heavy traffic on Smith Rd and that this petition will create a dangerous intersection.

Bernard Elsey (sp) a Hyde Park resident said that people with business to the west would not be using the Smith Rd access road.

Libby Frey, a Smith Rd resident addressed the traffic on Smith Rd. and read a letter from an adjacent property owner who had a vehicle go through her front yard, knocking down posts and fence rails. There have been 4 accidents in the last 2 weeks. People simply take the turn too quickly and the road is just as good as the most hazardous part of it. She also said she was concerned about the wetlands. The whole area was a marsh before the causeway was put in place.

Lee Schmid, also a Smith Rd resident, said that 44 units with 88 cars will affect the area along Smith Rd. He has had 6 mailboxes taken down this year already. He thought it was rude to do something like this to the neighbors who have lived here most of their lives.

Fernandez asked if the expansion of Hyde Park is contingent upon this road to the extent that it is contingent upon proper permits? Mueller said yes. Fernandez asked if the wetlands are dealt with negatively will the expansion not take place. Mueller said that was right.

Service asked about progress toward acquiring the land for a park (to the neighbors present) and also who is responsible for the polywogs in bowls in front of the councilmembers. Whatever the purpose was it is offensive.

Mr. Phillips said that the neighborhood has not had an opportunity to organize or the chance to put together a park land acquisition plan.

Libby Frey asked about the status of the entire road or is only the stub being approved. Mueller said Hyde Park is responsible for the pond part of the road and then Grossman is responsible for taking it beyond that point.

Frey thought the whole road should be considered at one time.

Fernandez questioned that should the extension be approved by the corp that we would incur the disruption prior to any actual securing of the other development

to the east. He was concerned about Smith Rd and too often because we have planning jurisdiction over an area and we don't have jurisdiction over other aspects or improvements when these kinds of problems arise. Service supported the petition even though a preferred use would be a park, even though the city cannot possibly buy it. We must have access as the city develops to the east for in the future questions would be asked as to why the council/planners didn't put a road in. If the DNR says no, then that's it for the road as well as the Hyde Park expansion. Hogan thought there should be an access road to Smith Rd. It will all be very expensive to do, and if it does go through it will be a very expensive upscale development.

White encouraged people, when they get ready to buy in an area to ask if the overall development plan for the area has plans for a dedicated park area that the city might use. It raises the cost of lots but it guarantees a park and the cost is then shared by everyone. He expressed concern about how much we ask of developers which then translates to the actual property owners. He said that he thought that developers and lot owners ought to pay a major share of the added infrastructure costs. The city can pick up some of it with increased tax revenue, but the initial development of the neighborhood should bear a lot of those costs and that is what is happening here.

Olcott said we will have a park area with the floodplain much like the Sherwood Oaks park. If we have a major city park then there will be a lot of traffic in that area.

Kiesling said the 1988 petition did not clearly state where the road would be nor that it was in the flood area and she said she did not like rezonings in areas without the approval of concerned parties.

House said many of the concerns need to be addressed by the county road system rather than here and the road to Smith is important to future development.

The ordinance received a roll call vote of Ayes:7,
Nays: 1 (Kiesling), Abstain:1 (Regester).

It was moved and seconded that the following ordinances be introduced and read by title only by the Clerk.

Clerk Williams read the legislation by title only.

Ordinance 91-41 To Amend Ordinance 91-37 Fixing the Salaries of Elected City Officials for the City of Bloomington.

Ordinance 91-49 An Ordinance Regarding Approval of Lease Between the Bloomington Redevelopment Commission and the Bloomington Municipal Facilities Corporation.

Ordinance 91-50 To Amend Title 15 of the BMC Entitled "Vehicles and Traffic".

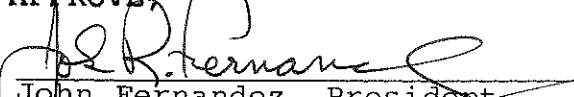
Ordinance 91-51 To Amend the Bloomington Zoning Maps from MQ to ML and to Grant PCD Designation and Outline Plan Approval, re: Property located on the north side of 17th Street between Crescent Rd and Lindberg Drive (Covenanter Properties).

Ordinance 91-52 To Amend the Bloomington Zoning Maps from RS to BA and to grant PCD designation and outline plan approval re: property located at the NW corner of Kinser Pike and the S.R. 45/46 Bypass (Winger/Stolberg Group, Inc.).

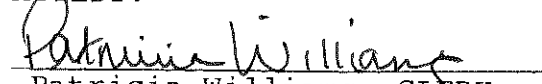
There were no petitions or communications from the public.

The meeting was adjourned at 9:55 P.M.

APPROVE:


John Fernandez, President
Bloomington Common Council

ATTEST:


Patricia Williams, CLERK
City of Bloomington