

In Bloomington, Indiana on Wednesday, April 7, 2021 at 6:30pm, Council President Jim Sims presided over a Regular Session of the Common Council. Per the Governor's Executive Orders, this meeting was conducted electronically via Zoom.

COMMON COUNCIL
REGULAR SESSION
April 7, 2021

Councilmembers present via teleconference: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan
Councilmembers absent: none

ROLL CALL [6:32pm]

Council President Jim Sims summarized the agenda.

AGENDA SUMMATION [6:33pm]

Flaherty moved and it was seconded to approve the minutes of February 25, 2021. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

APPROVAL OF MINUTES [6:37pm]

February 25, 2021 (Special Session)

Piedmont-Smith noted that the minutes were corrected.

Sgambelluri acknowledged city staff Paula McDevitt, Mallory Rickbeil, Tim Street, and Erin Hatch for their work in the Lower Cascades Park. She also acknowledged Angela Van Rooy for her work with the neighborhood cleanup. Sgambelluri also acknowledged Alex Crowley and the Economic and Sustainable Development Department for their work.

REPORTS

- COUNCIL MEMBERS [6:38pm]

Piedmont-Smith thanked the members of the Plan Commission and the Planning and Transportation Department staff for their work with the Unified Development Ordinance (UDO) amendments. She also referenced her upcoming constituent meeting on April 10, 2021 via Zoom.

Flaherty mentioned his constituent meeting April 19, 2021 at 5:30pm via Zoom.

Sandberg strongly objected to Volan's characterizations on March 17, 2021 regarding those councilmembers who opposed Ordinance 21-06. She disagreed that they had no regard for the well-being of the community, nor were they to blame for the nine hour meeting. Sandberg commented on council procedure, and her reasoning for opposing Ordinance 21-06. She emphasized that it was crucial to focus on issues and not persons raising reasonable objections. She urged everyone to consider how they speak to one another in meetings. She gave examples of how the divisiveness creates the erosion of trust in elected officials. Sandberg stated that she wanted to get beyond the internal communication failure and incivility and that moving forward, she hoped the council and the public, could model respectful statesmanship.

Sims commented that Sandberg's response to Volan's comments was in regards to Ordinance 21-06 and that the legislation was concluded, that there was no longer a need to continue discussing that legislation. Sims thanked everyone for their comments regarding civility and Robert's Rules of Order. He added that he disagreed with The Herald Times reporter who characterized the council as battling lingering bitterness between two factions of city council. Sims reviewed legislation that was passed by the Common Council and voting history. He clarified that all but one were unanimous votes, including one piece of legislation that was unanimously rejected. Sims discussed mutual respect, collaboration, collegiality, and civility.

Alex Crowley, Director of the Economic and Sustainable Development Department, reported on the Kohr Building project, and thanked Sgambelluri for accepting the invitation, as the chair of the Economic and Sustainable Committee, for vetting the application process. He also discussed the Low Income Housing Tax Credit (LIHTC) and the request for information. He commented further on the process that had been ongoing in advance of the deadline for proposals. Crowley stated there were six proposals and discussed next steps. He also provided an update on affordable housing at the Night Moves site, the Arlington/17th Street Planned Unit Development (PUD), and the Thompson PUD.

- The MAYOR AND CITY OFFICES [6:49pm]

Smith asked Crowley when the demolition would start.

Council discussion:

Crowley stated it would start in early 2022 and that the hospital would be moving in late 2021.

There were no council committee reports.

- COUNCIL COMMITTEES [6:51pm]

Jim Shelton spoke about the Court Appointed Special Advocates (CASA) program, and that April was child abuse prevention month. He highlighted events in the community in support of that effort.

- PUBLIC [6:52pm]

Alex Goodlad responded to Sandberg's rebuttal and Sim's addendum. He spoke about civility, and consistency, and commented on the meeting where Ordinance 21-06 was discussed.

Nathan Mutchler commented on the unhoused population, and the need for civility, collegiality, accountability, and compassionate actions.

Volan moved and it was seconded to make the following appointments:

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:08pm]

- For the Community Advisory on Public Safety Commission: Matthew Diaz to seat C-2, Derek House to seat C-3, Nicole Johnson to seat C-4, Nejla Routsong to seat C-5, Kamala Brown-Sparks to seat C-6, Heather Lake to seat C-7, Alexander Mann to seat C-8, Renee Miller to seat C-9, Mateo Perez to seat C-10, and Jon Wunrow to seat C-11.

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

Smith moved and it was seconded to make the following appointments:

- For the Bicycle and Pedestrian Safety Commission: Ann Edmonds to seat C-1, and Casey Green to seat C-2.

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

Smith moved and it was seconded to make the following appointments:

- For the Traffic Commission: David Hoff to seat C-2, and Greg Alexander to seat C-5.

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

Smith moved and it was seconded to make the following appointment:

- For the Parking Commission: to reappoint Adrienne Evans Fernandez to seat C-2.

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

Flaherty moved and it was seconded that Ordinance 21-27 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Clerk Nicole Bolden read the legislation by title and synopsis.

Flaherty moved and it was seconded that Resolution 21-07 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis.

Flaherty moved and it was seconded that Resolution 21-07 be adopted.

Alex Crowley, Director of the Economic and Sustainable (ESD) Development Department, presented the legislation. He described the Flywheel Fund (FF) which funds startups, and explained its alignment with The Mill's mission. Crowley encouraged the Common Council to vote in favor of Resolution 21-07 and provided reasons for doing so, including the work conducted via The Mill.

Piedmont-Smith asked if The Mill incurred the unrelated business income tax and how and why that happened.

Pat East, Executive Director of the Mill, explained that any monies returned to investors of the FF, The Mill received 80% and FF received 20%. He explained that the FF helped support startups but that it was not 100% on mission with The Mill's approved 501(c)3 status. He said that the resolution would allow capital investing to be a part of The Mill's mission, and allow The Mill to receive the money, which would not be taxable or result in The Mill risking losing its 501(c)3 status.

Ryan Waggoner, attorney, further explained that unrelated business income taxes were imposed on charities when they generate revenue that wasn't closely aligned with their mission. He provided examples, and explained the reasoning behind Resolution 21-07.

Greg Alexander stated that The Mill was not primarily engaged in charitable activities, and that its primary activity was investment and real estate management.

Piedmont-Smith asked if Waggoner wanted to follow up on the public comment by Alexander.

Waggoner stated that the designation of The Mill as a charity was done by the federal government and the Internal Revenue Service (IRS).

APPOINTMENTS TO BOARDS AND COMMISSIONS (*cont'd*)

LEGISLATION FOR FIRST READING [7:15pm]

Ordinance 21-27 - An Ordinance Correcting Scrivener's Errors in Ordinance 21-09, Which Amended Title 9 of the Bloomington Municipal Code Entitled "Water"

LEGISLATION FOR SECOND READING AND RESOLUTIONS [7:16pm]

Resolution 21-07 - A Resolution Regarding Dimension Mill, Inc.

Council discussion:

Public comment:

Council discussion:

Piedmont-Smith responded that the 501(c)3 encompassed more than what was typically thought of as charities.

Waggoner agreed and provided examples.

Sims commented on the fact that 13% of programs were for helping marginalized populations and asked Waggoner to expound on those programs.

Waggoner explained that 13% of the population was African American and that after the Black Lives Matter (BLM) protests the previous summer, he and the board issued a statement including two actions linked to the statement. He said one was to start a scholarship at The Mill for Black founders and professionals to match the 13% of the United States population. The other action was that when FF made their first investment, that 13% would go to Black founders. He further explained membership, scholarships to Black founders and Black professionals, as well as unrepresented minorities, and the purview of The Mill.

The motion to adopt Resolution 21-07 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded that Ordinance 21-27 be read by title and synopsis only.

Sims reminded councilmembers that the motion required unanimous consent for the Common Council to consider the adoption, and that for passage, a two-thirds vote was required.

The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis. There was no do-pass recommendation.

Flaherty moved and it was seconded that Ordinance 21-27 be adopted.

Stephen Lucas, Council Attorney/Administrator, presented the legislation. He explained that Ordinance 21-27 corrected two mistakes in Ordinance 21-09, which amended a table of monthly and annual rates and charges in the Bloomington Municipal Code (BMC), titled Private Fire Connections Per Connection. One was the table header and the second made a correction to the annual rate for the 4 inch or smaller fire line. He explained that the corrections were to be made before the legislation went to the Indiana Utility Regulatory Commission (IURC).

There were no questions from council.

There were no comments from the public.

There were no comments from council.

The motion to adopt Ordinance 21-27 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded that Ordinance 21-11 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, and the Committee of the Whole do-pass recommendation of Ayes: 8, Nays: 0, Abstain: 0.

Resolution 21-07 (cont'd)

Vote to adopt Resolution 21-07 [7:34pm]

Ordinance 21-27 – An Ordinance Correcting Scrivener’s Errors in Ordinance 21-09, Which Amended Title 9 of the Bloomington Municipal Code Entitled “Water” [7:36pm]

Council discussion:

Public comment:

Council discussion:

Vote to adopt Ordinance 21-27 as amended [7:41pm]

Ordinance 21-11 – To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” – Re: Updating and Harmonizing Portions of Title 2 of the Municipal Code [7:42pm]

Flaherty moved and it was seconded that Ordinance 21-11 be adopted.

Ordinance 21-11 (cont'd)

Michael Rouker, City Attorney in the Legal Department, presented the legislation. Rouker summarized the updates resulting from Ordinance 21-11 including references to the structure of the City of Bloomington and changes to its departments, primarily an independent Engineering Department, the Director of Engineering, the enabling ordinances related to city boards and commissions, the Telecommunications Council, and the party affiliation for members of boards and commissions. It also revised the Housing and Neighborhood Development (HAND) Department and the Housing Quality Appeals Board (HQAB) sections, as well as several miscellaneous updates and revisions. Rouker also listed some rewriting of titles to city positions within the Fire Department, including a non-gendered term of firefighter. He said that Chapter 2.52 was eliminated due to preemption by state code.

Sims asked if there was an amendment to Ordinance 21-11.

Smith confirmed that he had sponsored Amendment 01 by request.

Rouker explained that Amendment 01 corrected an oversight regarding the number of Plan Commission members from twelve down to ten members.

Volan commented that Amendment 01 was not properly introduced.

Amendment 01 to Ordinance 21-11

Smith moved and it was seconded to adopt Amendment 01 to Ordinance 21-11.

Amendment 01 Synopsis: This amendment corrects the number of members that would serve on the Plan Commission as a result of the changes proposed in Section V of Ordinance 21-11.

Council discussion:

There were no questions from council.

Public comment:

There were no comments from the public.

Council discussion:

There were no comments from council.

Vote to adopt Amendment 01 to Ordinance 21-11 [7:52pm]

The motion to adopt Amendment 01 to Ordinance 21-11 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Council discussion:

There were no questions from council on Ordinance 21-11 as amended.

Public comment:

There were no comments from the public on Ordinance 21-11 as amended.

Council discussion:

Piedmont-Smith mentioned that Ordinance 21-11 had already been discussed at a previous meeting, and had several questions that were answered at that time, and that council was not rushing the legislation through.

Vote to adopt Ordinance 21-11 as amended [7:54pm]

The motion to adopt Ordinance 21-11 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded that Ordinance 21-12 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, and the Committee of the Whole do-pass recommendation of Ayes: 8, Nays: 0, Abstain: 0.

Ordinance 21-12 – To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” - Re: Restricted Turns on Red at Signalized Intersections [7:55pm]

Flaherty moved and it was seconded that Ordinance 21-12 be adopted.

Rosenbarger presented Ordinance 21-12 and summarized the restricted turns on red at signalized intersections.

Neil Kopper, Senior Project Engineer of the Engineering Department, indicated he was present to answer questions.

Rosenbarger moved and it was seconded to adopt Amendment 01 to Ordinance 21-12.

Motion to adopt Amendment 01 to Ordinance 21-12

Amendment 01 Synopsis: This amendment removes an intersection turn location from the list of locations to be added to Bloomington Municipal Code Section 15.20.020, Schedule H.

There were no questions from the council.

Council discussion:

There were comments from the public.

Public comment:

There were no comments from council.

Council discussion:

The motion to adopt Amendment 01 to Ordinance 21-12 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Amendment 01 to Ordinance 21-12 [8:04pm]

Piedmont-Smith stated that a constituent reached out to her and said that it was more dangerous for pedestrians to cross an intersection when there is no turn allowed on red. She asked for clarification from the sponsors on the safety of pedestrians while crossing an intersection that was no-turn on red.

Council discussion:

Volan asked if the constituent had data showing that it was more dangerous. He also stated that in order to drive, a driver needed to be licensed and that the onus was on the driver to take precaution. He believed the data would show it was safer for pedestrians.

Rosenbarger presented data that showed that drivers do not tend to look at cross walks when turning right on a red light. She also provided examples from the pedestrian’s perspective and described a 1995 study that showed that fatalities within no-turn on red intersections was relatively small, and included pedestrians and bicyclists. She said that allowing cars to turn right at a red light increased risk. She provided additional data on fatalities at those intersections.

Kopper stated that staff looked at a national clearinghouse of crash modification factors which showed what could be expected in crashes. He said there were eighteen studies cited and every study indicated that crashes would increase if right turns at red lights were permitted.

Sims asked about the data cited and if there were different percentages for each state, of the three that were surveyed.

Rosenbarger clarified that it was just for three states; Indiana, Maryland, and Missouri.

Sims asked if Maryland and Missouri were comparable to Indiana regarding the increase in crashes and fatalities.

Rosenbarger responded that all three states had similar percentages.

Sims also asked about the response from the Bloomington Police Department (BPD) regarding the legislation.

Rosenbarger stated that BPD found it straightforward and had no issues with it.

Sims asked about the fiscal impact including signage and more.

Rosenbarger stated that for about seventy-five to one hundred signs would be about \$7500-9000.

Ordinance 21-12 (cont'd)

Piedmont-Smith inquired about intersections with a high number of pedestrians and vehicles, and if it was possible to have a phase in the traffic lights that was pedestrian crossing only.

Rosenbarger responded that there was some capability but it was limited due to technology.

Kopper added that it was feasible to be evaluated on a case-by-case basis. He said that it would cause a delay in pedestrian crossing, which resulted in higher incidents of pedestrians crossing outside of their exclusive turn.

Greg Alexander commented that Ordinance 21-12 was a great ordinance and provided supporting information, and stated that there were significant additional challenges to address.

Public comment:

Paul Ash spoke in support of Ordinance 21-12.

Stephen Lucas, Council Attorney, read a comment sent via Zoom chat from Sam Dove regarding cracks in sidewalks.

Smith acknowledged the hard work and research Rosenbarger had done for Ordinance 21-12.

Council discussion:

Volan echoed Smith in his acknowledgement of Rosenbarger's work on Ordinance 21-12. He also acknowledged the comment from Greg Alexander.

The motion to adopt Ordinance 21-12 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 21-12 as amended [8:21pm]

Flaherty moved and it was seconded that Ordinance 21-13 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis, and the Committee of the Whole do-pass recommendation of Ayes: 8, Nays: 0, Abstain: 0.

Ordinance 21-13 – To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles And Traffic" Re: Amending Chapters 12.32.080, Schedule M, "No Parking Zones," to remove three "no parking" zones and add ten "no parking" zones; and to amend Chapter 15.32.100, Schedule O, "Loading Zones," to add two loading zones [8:22pm]

Flaherty moved and it was seconded that Ordinance 21-13 be adopted.

Amir Farshchi, Long Range Planner for the Planning and Transportation Department, presented Ordinance 21-13. He summarized the recommendations based on the feedback from the Planning and Transportation Department, Engineering Department, Parking Services, and Legal Department.

Rosenbarger moved and it was seconded to adopt Amendment 01 to Ordinance 21-13.

Amendment 01 to Ordinance 21-13

Amendment 01 Synopsis: This amendment corrects a reference in the title to the section of the Bloomington Municipal Code amended by the ordinance.

Council discussion:

There were no questions from the council.

Public comment:

There were comments from the public.

Council discussion:

There were no comments from council.

Vote to adopt Amendment 01 to Ordinance 21-13 [8:29pm]

The motion to adopt Amendment 01 to Ordinance 21-13 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Council discussion:

There were no questions from council on Ordinance 21-13 as amended.

Public comment:

Steve Shatz stated his opposition to no parking on 6th Street and provided details in support of his opposition.

Council discussion:

Smith asked Farshchi to comment on Steve Shatz's comment.

Farshchi responded that staff did not expect there would be additional on street parking, but that if there was a small increase, that 6th Street had enough on street parking spaces. He also explained that staff evaluation, feedback from the Sanitation Department, and resident input for the Parking Commission indicated that the street width was sufficient.

Smith asked what a resident could do if it became a problem.

Farshchi stated the resident could contact Parking Services and the Planning and Transportation Department.

Sims asked Lucas to display the image that was sent to council by Shatz.

Piedmont-Smith stated that she didn't see there was a problem as long as cars were not parked on that section all day long. She explained that purposefully narrow streets, where one car had to pull over for another car to pass, created calm streets. She said that if cars were parked on both sides, bumper to bumper, that it could be addressed in the future.

Vote to adopt Ordinance 21-13 as amended [8:38pm]

The motion to adopt Ordinance 21-13 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Flaherty moved and it was seconded that Ordinance 21-07 be read by title and synopsis only. The motion received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0 (Volan out of the room). Bolden read the legislation by title and synopsis, and the Land Use Committee do-pass recommendation, with reasonable conditions, of Ayes: 1, Nays: 0, Abstain: 3. Reasonable Condition 01 received a do-pass recommendation of Ayes: 4, Nays: 0, Abstain: 0. Reasonable Condition 03 received a do-pass recommendation of Ayes: 4, Nays: 0, Abstain: 0. Reasonable Condition 04 was withdrawn.

Ordinance 21-07 – To Amend the City of Bloomington Zoning Maps by Amending the District Ordinance and Preliminary Plan for Parcel E of the Thomson PUD. Re: 300 W. Hillside Drive (Tom Brennan, Petitioner) [8:40pm]

Flaherty moved and it was seconded that Ordinance 21-07 be adopted.

Eric Greulich, Senior Zoning Planner in the Planning and Transportation Department, presented Ordinance 21-07. He summarized the request as an amendment to the preliminary plan and district ordinance for the Thompson Planned Unit Development (PUD) to allow nineteen townhomes and one hundred and four

multi-family residences on Parcel E. He described the rendering of the site and referenced the Plan Commission's 7-1 vote to forward the petition to the council with a positive recommendation and summarized certain conditions of approval, including Leadership in Energy and Environmental Design (LEED) certification, affordable housing, connectivity, and sidewalk requirements.

Ordinance 21-07 (cont'd)

Doug Bruce, representative for the petitioner, stated that he had sent some updates via a PDF document. He stated he would defer to council on how it wished to proceed.

Volan stated that since there were many changes since the Land Use Committee meeting that he would prefer to hear the presentation from the petitioner.

Bruce reviewed previous items and highlighted updates and changes to the original petition. He commented that it hadn't been considered in years past that Switchyard Park would be built next to the site, and that now, the petitioner wished to remove the warehouse and update the site to include residential usage. He commented on accessibility to the site, traffic, housing and affordable housing, green projects and LEED certification, and making the area a walkable neighborhood. He also commented on the Plan Commission's conditions of approval. Bruce summarized some modifications to the proposal based on feedback from the Land Use Committee and the Plan Commission. He also reviewed onsite parking and other specifications to the proposed structures and spoke about the history of working with the city on the proposal. Bruce highlighted that there had been questions regarding impervious surfaces, and that the petitioner had made revisions to that topic. He provided additional details about parking on site and the impervious surface on site.

Tom Brennan, Petitioner, spoke about the proposal and said that it was environmentally sound. He also commented on the architecture plan, and thanked the Plan Commission, city staff, the mayor's office, and the Land Use Committee.

Piedmont-Smith gave a brief report from the Land Use Committee and spoke about information from the Planning and Transportation Department, height and configuration of buildings, parking, applicable requirements within the Unified Development Ordinance (UDO), affordable housing component, and surrounding property owners. She also commented on the tearing down of two-thirds of the structure and the assurance of the petitioner's engineer that it was possible. The committee also heard from neighbors about density and storm water runoff, as well as the Environmental Commission's opposition to the proposal based on the high impervious surface percentage.

Volan moved and it was seconded to adopt Reasonable Condition 01 to Ordinance 21-07.

Reasonable Condition 01 to Ordinance 21-07

Reasonable Condition 01 Synopsis: This Reasonable Condition is sponsored by Cm. Piedmont-Smith and would limit the height of Building 7 on Lot 4 to 50 feet or 4 stories. The intent of this reasonable condition is to reduce the impact of the development's density on neighboring properties.

Piedmont-Smith presented Reasonable Condition 01 to Ordinance 21-07.

Greulich stated that staff did not have any objections to Reasonable Condition 01 to Ordinance 21-07.

Volan asked for clarification on how the height was determined.

Greulich explained that the UDO allowed for height to be determined by an average grade.

Volan explained that the minimum operating height of an aerial truck was fifty feet, and asked if there was any elevation on the site above fifty feet.

Greulich said that building number two was six stories and would be sixty five feet tall. He clarified that building seven would be limited to fifty feet.

Reasonable Condition 01 to Ordinance 21-07 (cont'd)

Flaherty asked President Sims if it was proper to hear from the petitioners.

Sims explained that he thought it pertinent to hear from staff.

Council discussion:

Elizabeth Cox Ash spoke about the building height and said it was too dense.

Public comment:

There was no additional council discussion on Reasonable Condition 01 to Ordinance 21-07.

Council discussion:

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

Vote to adopt Reasonable Condition 01 to Ordinance 21-07 [9:29pm]

Flaherty moved and it was seconded to adopt Reasonable Condition 03 to Ordinance 21-07.

Reasonable Condition 03 to Ordinance 21-07

Reasonable Condition 03 Synopsis: This Reasonable Condition is sponsored by Cm. Flaherty and would require buildings within the development to meet the Cool or Vegetated Roof standards of BMC 20.04.110(d)(2)(A)(iv). The intent of this reasonable condition is to mitigate urban heat island effects and to provide a greater level of design quality than would be required by the UDO if the project were not being developed in a PUD zoning district, as called for in Bloomington Municipal Code 20.06.070(c)(4)(D).

Flaherty presented Reasonable Condition 03 to Ordinance 21-07.

Greulich stated that staff did not have any objections to Reasonable Condition 03 to Ordinance 21-07.

There was no council discussion.

Council discussion:

There was no comment from the public.

Public comment:

There was no additional council discussion.

Council discussion:

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

Vote to adopt Reasonable Condition 03 to Ordinance 21-07 [9:33pm]

Flaherty moved and it was seconded to adopt Reasonable Condition 04 revised to Ordinance 21-07.

Reasonable Condition 04 revised to Ordinance 21-07

Reasonable Condition 04 revised Synopsis: This Reasonable Condition is sponsored by Cm. Flaherty and would require a direct sidewalk connection for each townhome building that

fronts on the B-Line trail. The intent of this reasonable condition is to promote a greater level of connectivity to surrounding developments, as called for in Bloomington Municipal Code 20.06.070(c)(4)(C).

Flaherty presented Reasonable Condition 04 revised to Ordinance 21-07.

Reasonable Condition 04 revised to Ordinance 21-07 (cont'd)

Sims asked if it was correct that each townhome's entrance had a path to the shared walkway.

Council discussion:

Flaherty confirmed that was correct for the units that front onto the B Line Trail.

There was no public comment.

Public comment:

There was no additional council discussion.

Council discussion:

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

Vote to adopt Reasonable Condition 04 revised to Ordinance 21-07 [9:37pm]

Flaherty moved and it was seconded to adopt Reasonable Condition 05 to Ordinance 21-07.

Reasonable Condition 05 to Ordinance 21-07

Reasonable Condition 05 Synopsis: This Reasonable Condition is sponsored by Cm. Flaherty. It memorializes that the petitioner will meet the criteria of Bloomington Municipal Code Section 20.06.070(c)(4)(E) by providing additional affordable housing as called for in Section 20.06.070(c)(4)(E)(iii)(2).

Volan asked for the petitioner's response to Reasonable Condition 05 to Ordinance 21-07.

Council discussion:

Greulich stated that staff did not have any objections to Reasonable Condition 05 to Ordinance 21-07.

Bruce stated that the petitioner did not have any objections to Reasonable Condition 05 to Ordinance 21-07.

Dave Askins asked about the calculation of the affordable housing component, and asked for clarification.

Public comment:

Sims asked Flaherty to expound on the public comment.

Council discussion:

Flaherty explained the process and stated that city staff had consulted with the Legal Department and explained the percentages.

Sims verified the calculation.

Flaherty confirmed the verification and provided additional clarification.

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

Vote to adopt Reasonable Condition 05 to Ordinance 21-07 [9:46pm]

Piedmont-Smith moved and it was seconded to adopt Reasonable Condition 06 to Ordinance 21-07.

Reasonable Condition 06 to Ordinance 21-07

Reasonable Condition 06 Synopsis: This Reasonable Condition is sponsored by Cm. Piedmont-Smith and would require that the income-restricted residential units be interspersed with the market-priced units.

Piedmont-Smith presented Reasonable Condition 06 to Ordinance 21-07.

Greulich clarified that each building or unit would have fifteen percent set aside for affordable housing. There was no council discussion.

Paula Cox Ash spoke about affordability and the need to spread it out.

There was no additional council discussion.

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

Flaherty moved and it was seconded to adopt Reasonable Condition 07 to Ordinance 21-07.

Reasonable Condition 07 Synopsis: This Reasonable Condition is sponsored by Cm. Flaherty and Cm. Volan. It is intended to better align the project with the city's Comprehensive Plan. Specifically, decoupling the cost of rent from the cost of parking is a form of transportation demand management. It helps to incentivize more sustainable modes of transportation, such as transit, walking, and bicycling, by removing the cross subsidy from those users to drivers.

Flaherty presented Reasonable Condition 07 to Ordinance 21-07.

Greulich stated that staff did not have any objections.

Piedmont-Smith asked if Reasonable Condition 07 included the townhomes which were slated to be owner-occupied.

Flaherty stated he intended it to apply to all units.

Piedmont-Smith clarified that the language said it did not include parking spaces in rent.

Flaherty stated that was an oversight and asked petitioner or staff to weigh in on the question.

Greulich stated that staff had no objection in including the townhomes.

Bruce stated that the petitioner had no objection to Reasonable Condition 07.

Flaherty asked Bruce if the petitioner had objections to including all homes and not just those that were rented.

Jeff Fanyo, Petitioner's attorney, stated that there was no objection to including all the homes in Reasonable Condition 07.

Sims asked how the price of a townhome for sale was affected if parking was decoupled or added.

Fanyo stated that those calculations had not been made yet.

Sims asked if it would be close between owner-occupied units and those that were rented.

Fanyo confirmed that was correct.

Greulich commented that townhomes would be owned, and so would the parking spot which could be advantageous for the selling of the townhome.

Council discussion:

Public comment:

Council discussion:

Vote to adopt Reasonable Condition 06 to Ordinance 21-07 [9:50pm]

Reasonable Condition 07 to Ordinance 21-07

Council discussion:

Flaherty commented on the language delineating parking spaces would not be included in rent and said that removing that language and instead stating that parking would be a la carte.

Sims asked if one would have to rent a parking spot if they purchased a townhome.

Flaherty responded that was correct and that parking spaces were always included in the purchase but it wasn't visible. He explained that Reasonable Condition 07 decoupled parking from the purchase of the unit.

Flaherty asked the petitioner if there was a plan in place for selling every townhome unit one parking spot with the option to rent more, if necessary.

Fanyo explained that it was optional to buy a parking space, or not, but that there was limited parking in that area. He commented that the conversation wasn't final.

Volan asked Flaherty if it was better to say that the owner of a townhome had the right to purchase a permit versus a space.

Flaherty said that was fair to say.

Elizabeth Cox Ash commented on the density and parking issues in the proposal.

Flaherty moved and it was seconded to remove the clause stating "and not include parking spaces in rent" and to add "only a la carte."

Piedmont-Smith asked if the amendment could be accepted with unanimous consent.

Flaherty said that was appropriate.

Sims asked what unanimous consent was in this case.

Piedmont-Smith stated that it meant that there were no objections.

Sims stated that he didn't feel comfortable in decoupling parking from townhomes and stated his objection.

Piedmont-Smith said that the question of how parking applied to the townhomes could be left open ended.

Sims confirmed that if there were no objections, the amendment would be unanimously adopted.

Flaherty agreed that was correct.

There was no public comment.

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

Piedmont-Smith moved and it was seconded to adopt Reasonable Condition 08 to Ordinance 21-07.

Reasonable Condition 08 Synopsis: This Reasonable Condition approves of a modified Preliminary Plan, as presented by the petitioner on April 7, 2021, and makes the same a condition of approval for the proposal.

Reasonable Condition 07 to Ordinance 21-07 (cont'd)

Public comment:

Motion to amend Reasonable Condition 07 to Ordinance 21-07

Council discussion:

Public comment:

Vote to adopt Reasonable Condition as amended to Ordinance 21-07 [10:12pm]

Reasonable Condition 08 to Ordinance 21-07

Piedmont-Smith presented Reasonable Condition 08 to Ordinance 21-07.

Greulich confirmed that he spoke to the fire department and said they were not supportive of moving the roundabout to the north of the site.

Reasonable Condition 08 to
Ordinance 21-07

Sims said that he understood that there was an agreement regarding the roundabout and asked the petitioner to comment.

Council discussion:

Bruce responded that they had spoken with Tim Clapp, Fire Inspection Officer, and that the roundabout could go on the north side or in the middle and just needed clarification. He discussed reasons for placement, size, and further discussions to be had.

Piedmont-Smith stated that Reasonable Condition 08 included angled parking and asked Bruce for clarification on parking and the roundabout.

Bruce explained that if the roundabout was at the north end, then angled parking would work. If the roundabout was in the middle, then the angled parking would not work. He commented on the size of the parking spots, impervious surface area, and traffic flow.

Piedmont-Smith asked about the site plan that included angled parking and reduced impervious surface.

Bruce said that the impervious surface would remain the same, and that the confusion was likely due to the roundabout being returned to the middle area based on the conversation with Gruelich and Clapp, and due to timing. He commented that Greulich mentioned that the petitioner, planning staff, and the fire department could come to an agreement at a later date.

Rollo asked the authors of Reasonable Condition 08 to consider revising the language to allow staff to negotiate an agreement for parking and the roundabout.

Flaherty stated that if Piedmont-Smith was in agreement, he would be fine with withdrawing Reasonable Condition 08.

Volan interceded that the point of having a reasonable condition was to compel the petitioner and this was council's opportunity to do so.

Piedmont-Smith said that she was in favor of withdrawing Reasonable Condition 08 to allow the petitioner, staff, and the fire department to come to an agreement.

Flaherty explained that if there was no objection to the withdrawal of Reasonable Condition 08 that it could be withdrawn.

Volan objected and commented that he had spoken with Fire Chief Jason Moore and discussed concerns with fire safety, and environmental concerns and impervious surface area. He said that he was in agreement to have the petitioner, staff, and fire department to come to an agreement, but that he was concerned about withdrawing Reasonable Condition 08.

Rollo said that council could state a preference, to have the roundabout on the north end with angled parking.

Volan stated his agreement.

Sims commented that the concern was safety and commented on vehicles.

Flaherty asked Lucas for clarity on an advisory reasonable condition.

Lucas stated that council did not typically adopt reasonable conditions on preliminary plans, and that it was important to include the correct preliminary plan with the legislation. He said there was no binding impact on council determining a preference.

Reasonable Condition 08 to Ordinance 21-07 (cont'd)

Greulich added that, for a preliminary plan and district ordinance, the general size and placement of buildings, et cetera, were approved, and that the final plan was where specifics were considered, including working with the fire department. He said it might not be necessary to have a reasonable condition stating council's preference.

Sims commented on the Land Use Committee meeting where the need to obtain permission for space for emergency vehicles from the Parks Department was discussed. He said until that was clearer, he would not be able to support Reasonable Condition 08.

Vote to adopt Reasonable Condition 08 to Ordinance 21-07 [10:36pm]

The motion to adopt Reasonable Condition 08 to Ordinance 21-07 received a roll call vote of Ayes: 2 (Rosenbarger, Volan), Nays: 7, Abstain: 0. FAILED.

Council discussion:

Volan asked the petitioners if the buildings would be sprinkled [have a sprinkler system].

Bruce said that buildings 1, 2, and 7 would be sprinkled but that the townhomes were not required to have sprinklers. He explained that would be determined during the building code discussions.

Volan asked about further fire safety concerns, including access points for fire trucks.

Bruce explained the plan for townhomes, including separation to reduce the spread of fire, fire hydrants, and the cost of adding a sprinkler system to townhomes.

Volan asked further about fire hydrants.

Bruce said that it was part of the discussion the petitioner was having regarding fire safety, building code, and affordability.

Volan asked about outdoor parking spaces and if the petitioner was amenable to back-in angled spaces.

Bruce responded that the petitioner was in favor of that and there were ongoing discussions.

Sgambelluri asked about the concerns of the northernmost property owners, and what the process was to address those concerns.

Greulich stated that it would be worked out with the building permit process to ensure the building met code.

Sgambelluri asked about non-fire related concerns.

Greulich explained that fire code and building code were the main considerations, and that damages to a building was a matter between two property owners.

Volan displayed an image of permeable parking spots and asked the petitioner if they were in favor of that and not having only paved parking surfaces.

Fanyo responded that permeable parking was two-to-three times more expensive and provided reasoning.

Volan also asked about permeable parking and its cost.

Fanyo said they were approximately \$28 per square foot and the UDO did not count that towards impervious surface area.

Public comment:

Elizabeth Cox-Ash stated that the project was too dense for the area, parking, and housing affordability.

Michael McBride, representing Storage Express, commented on his client's concerns including the potential damage to Storage Express's building with the partial demolition, parking, extension of roads, and future use and development. He stated that his client opposed the proposal.

Public comment: (cont'd)

Chris Cockerham commented on the history of Mr. Brennan's experience with selling or leasing his building. He also commented on Mr. Brennan's goals for the property and asked councilmembers to support the proposal.

Council discussion:

Piedmont-Smith stated that she attended the last two McDoel Gardens neighborhood association meetings and clarified that no formal vote was taken against the proposal. She also clarified that council was requiring affordable housing regardless of any future owners. Piedmont-Smith stated that there would be 15% of the units at a cost point that was affordable for those making 110% of the area median income. She said that housing of all kinds was needed in Bloomington and that the development wouldn't negatively impact the neighbors directly to the west and provided reasons. Piedmont-Smith explained that the site was a great location because it did not require dependency on a car, and because it was replacing a 95% impermeable surface parcel of land with a LEED-certified, green building development. Piedmont-Smith addressed McBride's public comment and said that legal issues were not under the purview of the council, and that further reports, including engineering reports, would need to be done. She said she looked forward to having more neighbors in the area.

Rollo stated that the proposal was excellent and set a precedent for redevelopment. He said it was a prime location, alongside the B Line Trail, and agreed with Piedmont-Smith in that it met multiple criteria and set the bar. He said he would support Ordinance 21-07.

Flaherty stated that he had expressed most of his comments during the Land Use Committee meeting and thanked the petitioners and staff for their work on a variety of issues. He spoke about affordability and said that Bruce correctly noted that attached housing was more affordable, which was supported by local and national data. It was ideal to have owner-occupied housing and appreciated its inclusion in the proposal.

Volan agreed that the petitioner had done a decent job with the proposal, and commented on impervious surface, parking, and the discussion on roundabout placement. He commented that with the design, angled parking gained at least one thousand feet of green space, and the new impervious surface calculation was below 70%. He also commented on the possibility of reducing the width of the roundabout. Volan stated that the serious concerns could be addressed by the petitioner and provided examples. In general he was supportive of the proposal and would vote in favor.

Vote to adopt Ordinance 21-07 as amended [11:11pm]

The motion to adopt Ordinance 21-07 as amended received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

There was no additional public comment.

ADDITIONAL PUBLIC COMMENT

Lucas reviewed the upcoming council schedule and legislation.

COUNCIL SCHEDULE [11:13pm]


Sgambelluri moved and it was seconded to adjourn. Sims adjourned the meeting.

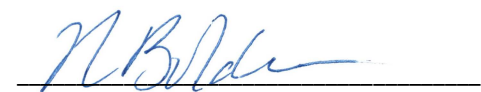
ADJOURNMENT [11:17pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this 7 day of September, 2022.

APPROVE:

ATTEST:


Susan Sandberg, PRESIDENT
Bloomington Common Council


Nicole Bolden, CLERK
City of Bloomington