



# **City of Bloomington Common Council**

## **Legislative Packet**

**12 June 2013**

## **Committee of the Whole**

Office of the Common Council  
P.O. Box 100  
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Bloomington, Indiana 47402  
812.349.3409

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<http://www.bloomington.in.gov>



## Packet Related Material

**Memo**

**Agenda**

**Calendar**

**Notices and Agendas:**

*None*

## Legislation and Background Material for Discussion at the Committee of the Whole:

- **Res 97-09** To Give Consent for the Town of Ellettsville to Annex Property Within Three (3) Miles of the Corporate Boundaries of the City of Bloomington – Re: 4444 West S. R. 46 (CVS Property)
  - Memo to the Council from Tom Micuda, Director of Planning;
  - Letter from Darla Brown, Attorney for the Town of Ellettsville;
  - Map Showing Site in Relation to City and the 3-Mile Radius from the City;
  - Materials Provided by Darla Brown - including Aerial Photos of the Site and Zoning Maps of the Town

*Contact:*

*Tom Micuda at 349-3 or [micudat@bloomington.in.gov](mailto:micudat@bloomington.in.gov)*

*Margie Rice at 349-3426 or [ricem@bloomington.in.gov](mailto:ricem@bloomington.in.gov)*

*Darla Brown at 336-9963 or [dbrown@kelleybelcherbrown.com](mailto:dbrown@kelleybelcherbrown.com)*

## Memo

### **One Resolution for Discussion at the Committee of the Whole on Wednesday, June 12th**

There is one resolution for discussion at the Committee of the Whole next Wednesday evening. It is included in this packet and is summarized below:

**Res 13-10 Granting Permission for  
Ellettsville to Pursue Annexation of a Parcel  
within 3 Miles of the City's Corporate Boundaries**

**Res 13-10** gives the Town of Ellettsville permission to annex the CVS property at 4444 West S.R. 46. Please know that annexations are a very long and complex process.<sup>1</sup> In this case, the annexation involves the City's consent only because IC 36-4-3-9(b)<sup>2</sup> requires consent before the town may pursue non-voluntary annexations of areas that lie within three miles of our corporate boundaries. This resolution follows Res 97-09 which was based upon an earlier request from the town and authorized a two-phased annexation plan. The first phase included land next the town's eastern border which, according to that resolution, could begin being annexed immediately upon adoption of the resolution. The second phase, which extends further west and includes the CVS property, would be favorably considered by the Council if certain conditions were met within three years of the adoption of the resolution.

Upon receiving the initial request from Ellettsville in 1996 or 1997, the City consulted with Monroe County, considered the request for consent for annexations in terms of long range planning objectives for the area between the two political subdivisions, and concluded this would be an excellent opportunity to define, coordinate and implement appropriate land use and development strategies. These opportunities were articulated in the five conditions relating to the second phase of the annexation request which were set forth in Sections 3 and 4 of that resolution.

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<sup>1</sup> This process is set forth in IC 36-4-3 and includes, among other steps, the adoption of a fiscal plan for providing municipal services to the annexed area, notice to property owners, a public hearing, adoption and publication of an ordinance, and expiration of a remonstrance period before an annexation may take effect.

<sup>2</sup> **IC 36-4-3-9 Certain towns annexing territory; consents required**

(a) A town must obtain the consent of both the metropolitan development commission and the legislative body of a county having a consolidated city before annexing territory within the county where a consolidated city is located.

**(b) A town must obtain the consent of the legislative body of a second or third class city before annexing territory within three (3) miles of the corporate boundaries of the city unless:**

**(1) the town that proposes to annex the territory is located in a different county than the city; or**

**(2) the annexation by the town is:**

**(A) an annexation under section 5 or 5.1 of this chapter (i.e. voluntary annexations); or**

**(B) consented to by at least fifty-one percent (51%) of the owners of land in the territory the town proposes to annex.**

(c) In determining the total number of landowners of the annexed territory and whether signers of a consent under subsection (b)(2)(B) are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(d) Each municipality that is known as an included town under IC 36-3-1-7 is also considered a town for purposes of this section.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.213, SEC.5; P.L.257-1993, SEC.2; P.L.224-2001, SEC.9; P.L.170-2002, SEC.143; P.L.111-2005, SEC.5.*

The remainder of this memo calls upon a memo provided by Tom Micuda, Director of Planning, which describes and confirms compliance with those five conditions.<sup>3</sup>

**The first condition**, found in Section 3 of the Res 97-09, requires Ellettsville to adopt an access control plan for what is now the SR 46 roadway from the eastern edge of Phase Two all the way through the town. The plan was required to provide for the maximum number of drive cuts, the minimum space between drive cuts as well as for joint use and cross access drives to minimize the number of drive cuts.

**Compliance:** The town amended its code to include Section 152.227, which regulates the installation of drive cuts “in terms of maximum width, distance to property line, minimum distance to street intersections, spacing of drive cuts per property, and allowances for shared drive cuts.”

**The second condition** required Ellettsville, and where necessary, Monroe County, to adopt a comprehensive plan, zoning designations, and land development regulations for areas extending to the eastern edge of Phase Two that:

- Minimized sprawl between the two cities;
- Preserved the existing rural character while accommodating development of the appropriate density;
- maximized open space and encouraged clustering;
- preserved the existing tree line along SR 46 to serve as buffers between the road and development;
- prevented a strip pattern of development from occurring along SR 46; and
- provided a sense of separation and transition between these two jurisdictions by requiring rural or lower densities away from their urban cores.

**Compliance:** Both the Ellettsville and Monroe County have adopted comprehensive plans covering their portions of the Phase Two area along with zoning and subdivision control ordinances affecting development in that area. In particular, the Ellettsville Area Rural Community Plan adopted by Monroe County includes the following goals:

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<sup>3</sup> Res 97-09, which is available in the Council Office, also required that the Director of Planning and City Plan Commission review Ellettsville’s actions and make recommendations to the Council regarding whether those conditions have been satisfied and whether consent to annex Phase Two serves the long term planning interests of the City. This review was performed by staff and is presented in this memo. By approving Res 13-09, the Council, in essence, is waiving the need for formal action by the Plan Commission.

- “Enhance the SR 46 Corridor through improved site design, access management and landscaping and facilitate the introduction of a mix of uses and to better link the corridor to adjoining neighborhoods;
- Maintain a discernable edge (for the town) consisting of low density, large lot residential development along the perimeter of the community;
- Support preferred development that is compact, expands upon traditional development patterns, and has edges separating urban areas from rural areas; and
- Limit infrastructure extensions into rural areas.” (per Memo)

**The third condition** required Ellettsville to improve their capacity for planning by retaining the services of a professional planner for an equivalent of at least 16 hours per week.

**Compliance:** Ellettsville retained a *full-time* professional planner many years ago.

**The fourth condition** required Ellettsville to compile and provide land use and planning data in a manner compatible with the Geographical Information System (GIS) used by City and County.

**Compliance:** Properties within Ellettsville are fully integrated into the County’s GIS database and the zoning information for these properties can be found on the town’s web site.

**The fifth condition**, found in Section 4 of Res 97-09, requires the City to request that the Metropolitan Planning Organization evaluate the fiscal consequences of extending the Bloomington Area Transportation Study to include Ellettsville.

**Compliance:** Ellettsville was incorporated into the Bloomington/ Monroe County official Bloomington Urbanized Area as a result of the population growth documented in the 2000 census, thus making this requirement moot.

Res 13-10 finds that the above conditions have been met, determines that the annexation of this territory is consistent with long range planning objectives of the City, and consents for the Town of Ellettsville to pursue this annexation.

**Happy Birthday Dave Rollo – June 11<sup>th</sup>**

**NOTICE AND AGENDA  
BLOOMINGTON COMMON COUNCIL  
COMMITTEE OF THE WHOLE  
7:30 P.M., WEDNESDAY, JUNE 12, 2013  
COUNCIL CHAMBERS  
SHOWERS BUILDING, 401 NORTH MORTON STREET (ROOM 115)**

**Chair: Marty Spechler**

1. Resolution 13-10 to Give Consent for the Town of Ellettsville to Annex Property Within Three (3) Miles of the Corporate Boundaries of the City of Bloomington - Re: 4444 West State Road 46 (CVS Property)

Asked to Attend: Tom Micuda, Planning Director, City of Bloomington  
Representatives from Town of Ellettsville -

- Darla Brown, Attorney, Town of Ellettsville
- Dan Swafford, Vice President Ellettsville Town Council



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

To Council Members  
From Council Office  
Re Weekly Calendar – 10 June - 15 June 2013

**Monday, 10 June**

4:30 pm Plat Committee, Hooker Room  
5:30 pm Plan Commission, Council Chambers

**Tuesday, 11 June**

9:00 am Fallen Officers Blood Drive, Council Chambers  
4:00 pm Bloomington Community Farmers' Market, between 6<sup>th</sup> and Madison St  
4:30 pm Commission on Aging, Hooker Room  
6:00 pm City of Bloomington Commission on Sustainability, McCloskey  
6:30 pm Sister Cities International, CubAmistad, Dunlap  
6:30 pm Sister Cities International, Posoltega, Kelly  
7:30 pm Sister Cities International, Kelly

*Happy Birthday Councilmember Dave Rollo!*

**Wednesday, 12 June**

4:30 pm Environmental Resources Advisory Council, Ferguson Park, E. Stone Mill Rd  
5:00 pm City of Bloomington Arts Commission, McCloskey  
5:30 pm Commission on the Status of Black Males, Hooker Room  
7:30 pm Common Council, *Committee of the Whole*, Council Chambers

**Thursday, 13 June**

12:00 pm Housing Network, Council Chambers  
4:00 pm Monroe County Solid Waste Management District, Monroe County Courthouse, Judge Nat U. Hill, III Room  
4:30 pm Bloomington Historic Preservation Commission, McCloskey

**Friday, 14 June**

1:30 pm Metropolitan Planning Organization – Policy Committee, Council Chambers

**Saturday, 15 June**

8:00 am Bloomington Community Farmers' Market, Showers Common, 401 N. Morton

*Posted and Distributed: Friday, 7 June 2013*

**RESOLUTION 13-10**

**TO GIVE CONSENT FOR THE TOWN OF ELLETTSVILLE  
TO ANNEX PROPERTY WITHIN THREE (3) MILES  
OF THE CORPORATE BOUNDARIES OF THE CITY OF BLOOMINGTON  
- Re: 4444 West State Road 46 (CVS Property)**

WHEREAS, I.C. 36-4-3-9 requires the Town of Ellettsville to obtain the consent of the Common Council of the City of Bloomington before annexing territory within three (3) miles of the corporate boundaries of the City; and

WHEREAS, the Common Council of the City of Bloomington on August 6, 1997 passed Resolution 97-09 by which it agreed to favorably consider a request by the Town of Ellettsville to annex territory described in the Resolution as Phase Two if the Town met certain conditions; and

WHEREAS, the Town of Ellettsville wishes to annex approximately 3.58 acres within Phase Two located at 4444 West State Road 46, Bloomington, Indiana, and on which CVS Caremark Corporation operates a pharmacy and retail store; and

WHEREAS, the Town of Ellettsville has satisfactorily met all of the conditions set forth in Section 3 of Resolution 97-09; and

WHEREAS, the Common Council of the City of Bloomington concludes that the Town of Ellettsville's annexation of said territory is consistent with long range planning objectives of the City of Bloomington, the Town of Ellettsville, and Monroe County and is an appropriate development strategy for the area;

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

SECTION 1. The Common Council of the City of Bloomington hereby consents to the Town of Ellettsville's annexation of territory located within three miles of the City's corporate boundaries at 4444 West State Road 46 in Bloomington, Monroe County, Indiana, and further described below:

A part of the Southwest quarter of Section 13, Township 9 North, Range 2 West, Monroe County, Indiana more particularly described as follows:

Commencing at a Harrison monument (4" diameter solid iron stamped; County Surveyor) at the Northwest corner of said Southwest quarter; thence North 89 degrees 18 minutes 16 seconds East, along the North line of the Southwest quarter, 16.51 feet to a 5/8-inch rebar with Bledsoe Tapp cap at the point of beginning; thence continuing along said North line of the Southwest quarter North 89 degrees 18 minutes 16 seconds East 417.24 feet; thence South 01 degree 49 minutes 37 seconds East, leaving the North line of the Southwest quarter 528.28 feet to the North right-of-way line of St. Rd. 46; thence along said North right-of-way line of St. Rd. 46 the following four courses:

1. North 44 degrees 35 minutes 43 seconds West (basis of bearings) 461.03 feet to a 5/8-inch rebar with Bledsoe Tapp cap;
2. Along a curve to the left which has a radius of 1,827.95 feet, an arc length of 32.09 feet, and a chord which bears North 45 degrees 05 minutes 53 seconds West 32.09 feet to a 5/8 inch rebar with Bledsoe Tapp cap;
3. North 09 degrees 25 minutes 21 seconds East 18.26 feet to a 5/8-inch rebar with Bledsoe Tapp cap and



4. Along a curve to the left which has a radius of 1842.95 feet, an arc length of 118.24 feet, and a chord which bears thence North 47 degrees 45 minutes 51 seconds West 118.24 feet 5/8-inch rebar with Bledsoe Tapp cap in the East line of Union Valley Road; thence North 02 degrees 23 minutes 42 seconds West along said East line of Union Valley Road and leaving the St. Rd. 46 right-of-way 74.59 feet to the point of beginning. Containing 2.91 (2.905) acres, more or less.

More commonly known as 4444 W. State Road 46, Bloomington, IN 47404; Parcel # 53-04-13-300-040.001-011.

SECTION 2. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
DARRYL NEHER, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

#### SYNOPSIS

Pursuant to statute, the Town of Ellettsville has requested that the City of Bloomington give permission for the town to annex an area within three miles of the City's corporate boundaries. This resolution follows upon Resolution 97-09, which declared that the City Council would favorably consider a request to annex territory within an area identified as Phase Two in that resolution if certain conditions were met within 3 years of adoption of that resolution. By passage of this resolution, the Council finds that those conditions have been met and that the annexation of said territory is consistent with long range planning objectives of the City, and consents for the Town of Ellettsville to annex the area known as 4444 West S.R. 46 immediately upon its adoption.



**CITY OF BLOOMINGTON  
PLANNING DEPARTMENT  
MEMORANDUM**

**DATE:** May 24, 2013  
**TO:** City of Bloomington Common Council Members  
**FROM:** Tom Micuda, Planning Director  
**SUBJECT:** Request from Town of Ellettsville for Annexation

Per the request of Common Council Attorney Dan Sherman, this memo outlines the actions taken by the Town of Ellettsville to fulfill Council Resolution 97-09. This resolution gave permission for the Town of Ellettsville to annex within three miles of the City of Bloomington's corporate boundaries provided the Town fulfilled five conditions expressed within the Resolution. This memo identifies the five conditions as well as Ellettsville's actions to fulfill the Resolution.

**Condition #1 (found within Section 3 of the Resolution)** – Ellettsville shall adopt an access control plan for the entirety of the future SR 46 alignment through the town and to the eastern edge of Phase Two. This access control plan shall limit by mutual agreement the maximum eventual number of drive cuts, the minimum spacing of drive cuts, and the provisions for joint use drives and cross access drives to minimize drive cuts.

**Action Taken** – Ellettsville's Town Code has been amended to include access control regulations. Specifically, Section 152.227 of the Town Code regulates the installation of drive cuts in terms of maximum width, distance to property line, minimum distance to street intersections, spacing of drive cuts per property, and allowances for shared drive cuts.

**Condition #2** – Ellettsville and, where necessary, Monroe County shall adopt a comprehensive plan, zoning designations, and land development regulations for areas extending to the eastern edge of Phase Two that achieve the following goals: minimize sprawl between the two cities; preserve the existing rural character while accommodating development of appropriate density; maximize open space and encourage clustering; preserve existing tree lines along SR 46 to serve as buffers between the road and development; prevent a strip pattern of development from occurring along SR 46; and, provide a sense of separation and transition between these two jurisdictions by requiring rural or lower densities away from their urban cores.

**Action Taken** – Both Ellettsville and Monroe County have adopted comprehensive plans covering their portions of the Phase Two area. Additionally, both units of government have adopted zoning and subdivision control ordinances that affect development in the Phase Two area. The Ellettsville Area Rural Community Plan

adopted by Monroe County contains the following goals that are relevant to Condition #2:

- Enhance the SR 46 Corridor through improved site design, access management and landscaping and facilitate the introduction of a mix of uses and to better link the corridor to adjoining neighborhoods.
- Maintain a discernable edge [for the Town of Ellettsville] consisting of low density, large lot residential development along the perimeter of the community.
- Support preferred development that is compact, expands upon traditional development patterns, and has edges separating urban areas from rural areas.
- Limit infrastructure extensions into rural areas.

**Condition #3** – Ellettsville shall improve their capacity for planning by retaining the services of a professional planner for an equivalent of at least 16 hours per week.

**Action Taken** – The Town of Ellettsville exceeded this condition by retaining a full-time professional planner many years ago.

**Condition #4** – Ellettsville shall gather land use and planning data consistent with what is already collected by the City and Monroe County and provide this data in a manner that is compatible with the Geographic Information System program used by the City and Monroe County.

**Action Taken** – Properties within the Town of Ellettsville have been fully integrated into the County's GIS database. Zoning information for properties within Ellettsville can be found on the Town's web site.

**Condition #5 (found in Section 4 of the Resolution)** – In order to foster intergovernmental coordination of long range planning, the City agrees to request that the Metropolitan Planning Organization [MPO] evaluate the fiscal consequences of extending the Bloomington Area Transportation Study [MPO] to include the Town of Ellettsville.

**Action Taken** – As a result of County population growth documented in the Year 2000 census, Ellettsville was incorporated into the Bloomington/Monroe County MPO as an official part of the Bloomington Urbanized Area.

# KELLEY, BELCHER & BROWN

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May 14, 2013  
*Sent Via Email*

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Bloomington Common Council Counsel  
City of Bloomington  
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Bloomington, Indiana 47402

Re: Town of Ellettsville - CVS Annexation  
Parcel No. 53-04-13-300-040.001-011

Dear Margie and Dan:

As you are aware, the Town of Ellettsville would like to proceed with an annexation of CVS Store 6713, which is located at 4444 W. State Road 46 in Bloomington. I enclose for the Bloomington Common Council's consideration a proposed Resolution regarding that annexation.

Please feel free to contact me with your questions or proposed revisions.

Sincerely,



Darla S. Brown

DSB:jm  
Enclosure



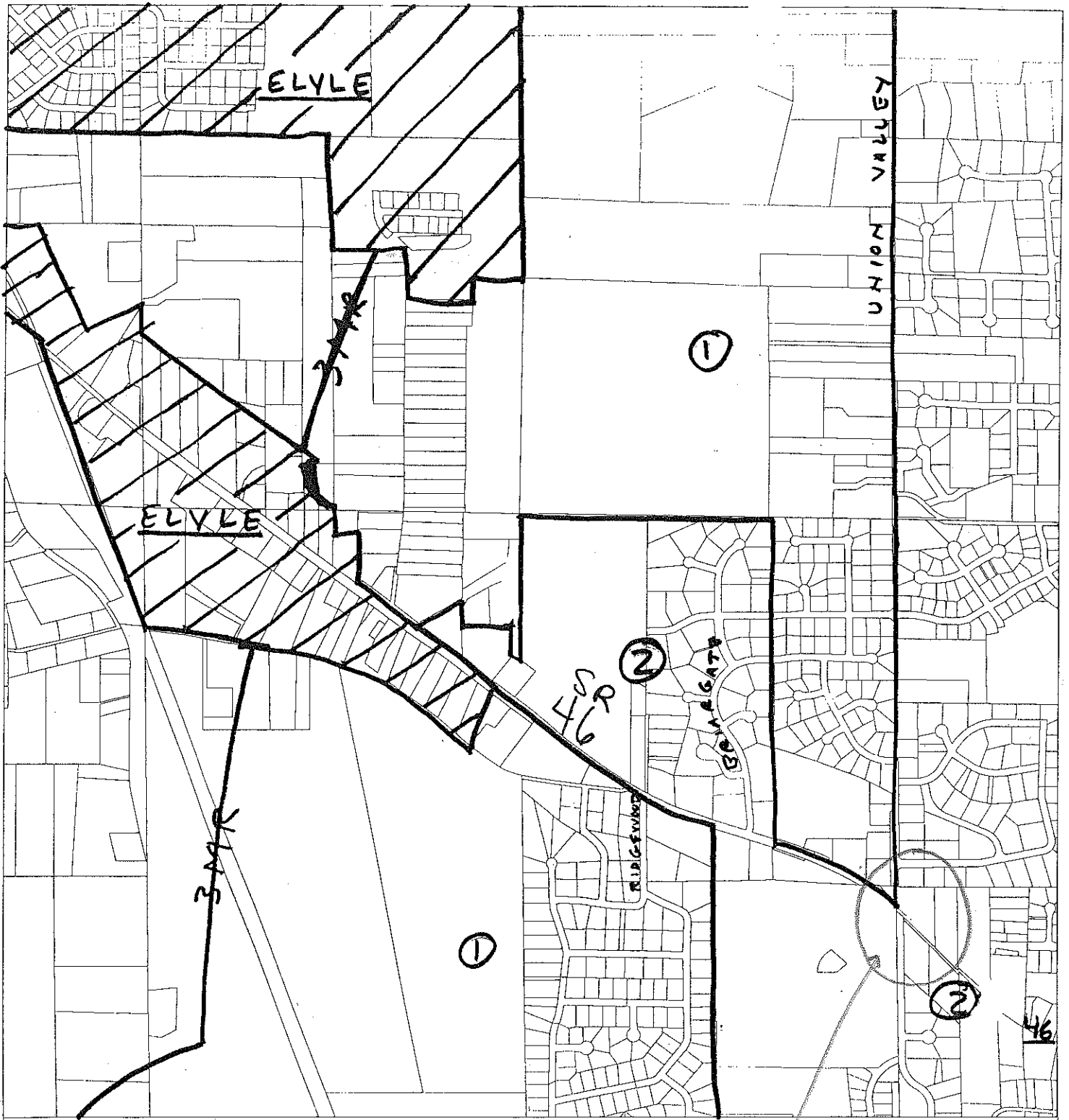
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Map data ©2013 Google



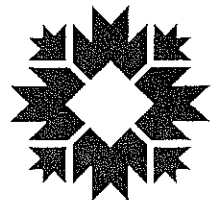
AREA IN AND AROUND PROPOSED  
ANNEXATION [RES 13-10]

By: shaym  
11 Mar 97

1000 0 1000 2000 3000

For reference only; map information NOT warranted.

City of Bloomington



Scale: 1" = 1000'



**Town of Ellettsville  
CVS Annexation Area**







Union Valley Road

W Lynwest Dr

46

State Road 46

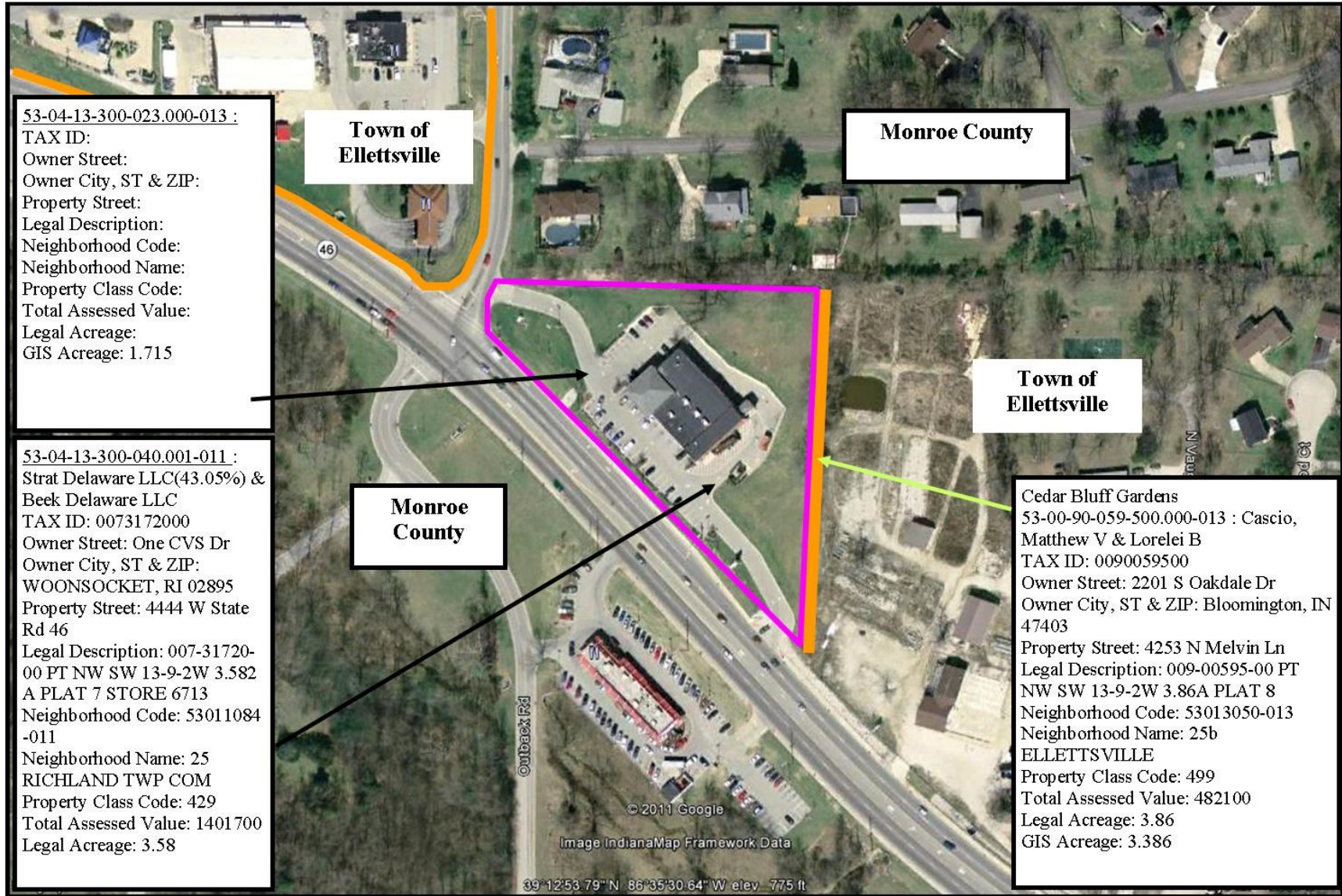
CVS

Former Cedar Bluff Gardens

CVS  
4444 West SR 46  
Bloomington, IN 47404



# CVS Annexation Area



Contiguity Areas Town of Ellettsville ———  
 CVS Annexation Area ———

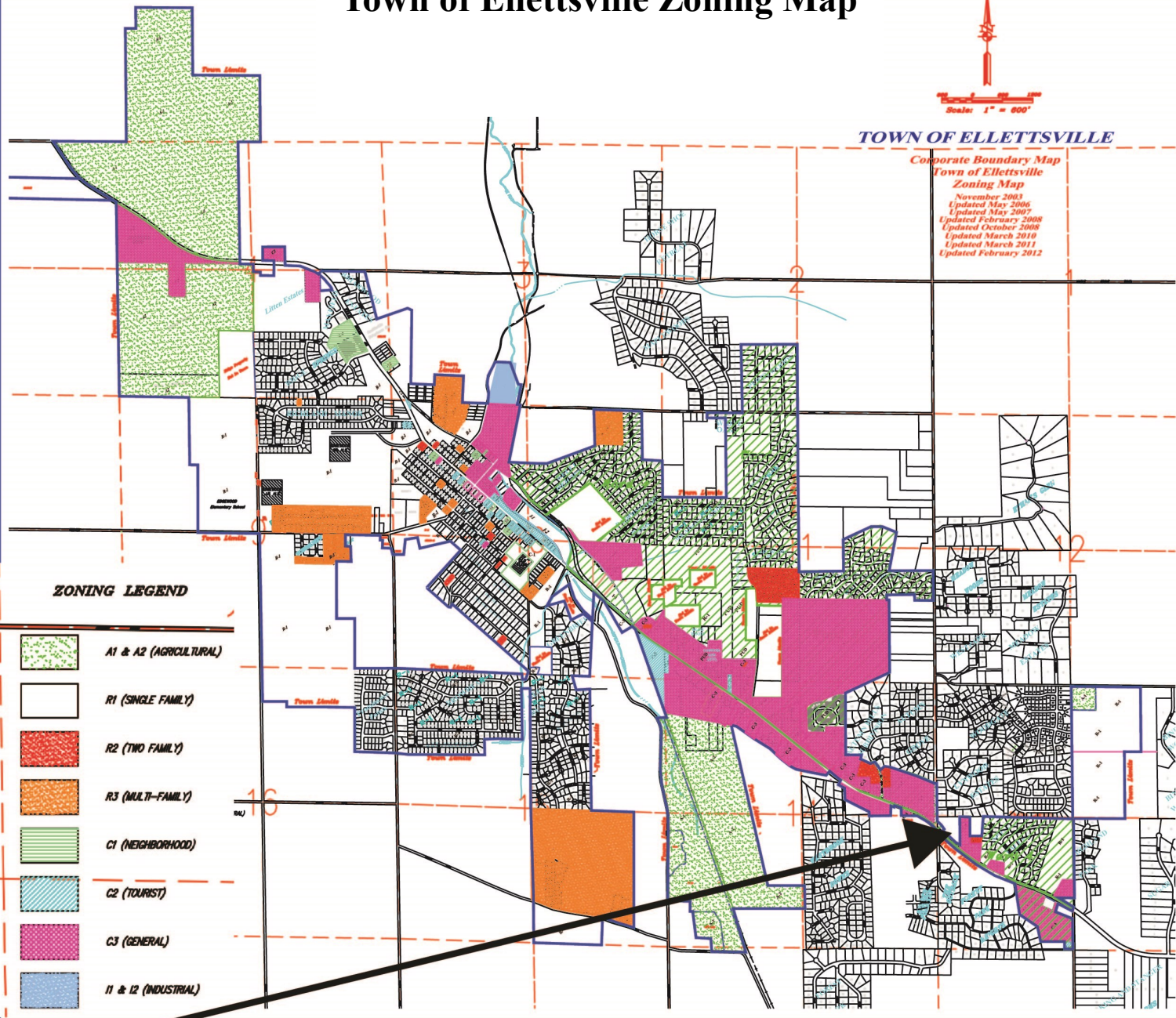


# Town of Ellettsville Zoning Map











## TOWN OF ELLETTSVILLE

Corporate Boundary Map  
Town of Ellettsville  
Zoning Map  
November 2003  
Updated May 2006  
Updated May 2007  
Updated February 2008  
Updated October 2008  
Updated March 2010  
Updated March 2011  
Updated February 2012



### ZONING LEGEND

-  A1 & A2 (AGRICULTURAL)
-  R1 (SINGLE FAMILY)
-  R2 (TWO FAMILY)
-  R3 (MULTI-FAMILY)
-  C1 (NEIGHBORHOOD)
-  C2 (TOURIST)
-  C3 (GENERAL)
-  I1 & I2 (INDUSTRIAL)

Scale: 1" = 600'

BY: [Signature]

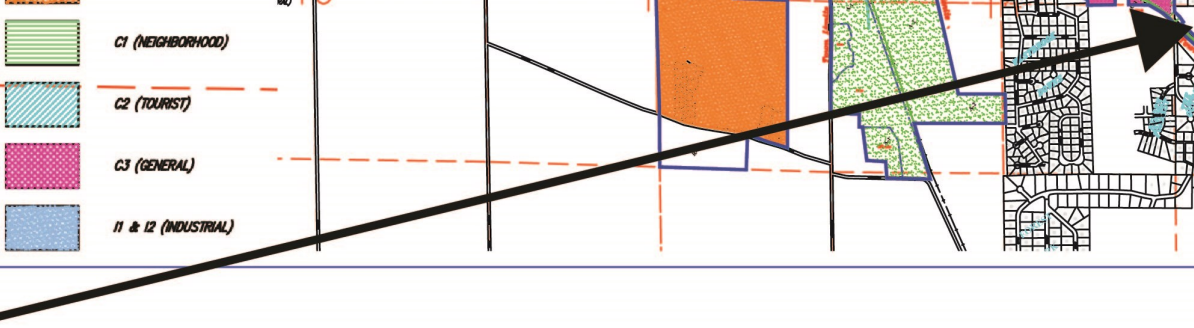
FOR: [Signature]

DATE: [Signature]

Zoning Map  
Town of Ellettsville

ELLETTSVILLE  
ZONING MAP

CVS Annexation Area





Current Zoning Monroe County  
General Business, and Town of  
Ellettsville Municipal Boundary.  
(Blue line marks Ellettsville’s juris-  
diction)



Proposed Zoning– CVS-Commercial 3  
CVS shown in Town’s Jurisdictional  
Boundary (blue boundary line).

ZONING LEGEND	
	A1 & A2 (AGRICULTURAL)
	R1 (SINGLE FAMILY)
	R2 (TWO FAMILY)
	R3 (MULTI-FAMILY)
	C1 (NEIGHBORHOOD)
	C2 (TOURIST)
	C3 (GENERAL)
	I1 & I2 (INDUSTRIAL)

