

**BLOOMINGTON PLAN COMMISSION
STAFF REPORT
LOCATION: 3100 W. Fullerton Pike**

**CASE #: ZO-23-20
DATE: November 9, 2020**

PETITIONER: Bill C. Brown Revocable Trust
300 S. State Road 446, Bloomington

CONSULTANT: Michael L. Carmin.
116 W. 6th Street, Bloomington

REQUEST: The petitioner is requesting to rezone 87 acres from Planned Unit Development (PUD) to Mixed Use Corridor (MC). Also requested is a waiver from the required second hearing.

BACKGROUND:

Area: 87 acres
Current Zoning: Planned Unit Development
Comp Plan Designation: Employment
Existing Land Use: Undeveloped
Proposed Land Use: None
Surrounding Uses: North – Southern Indiana Medical Park
South – Undeveloped (County Jurisdiction)
East – Quarry (County Jurisdiction)
West – Interstate 69 (County Jurisdiction)

REPORT: This 87 acre property is located at the northeast corner of State Road 37 and W. Fullerton Pike. The site is currently undeveloped. This property was zoned Planned Unit Development (PUD) in 1988 (PCD-36-88) largely for industrial uses. The property received a final plan approval for an assisted care living facility in 1997 (PUD-6-97) and a PUD amendment in 1999 (PUD-15-99) to include a nine-hole, Par 3 golf course to the list of approved uses. This site was also evaluated in 2003 and 2004 in association with rezoning requests for the large vacant property to the north (Southern Indiana Medical Park II). No formal approvals for this parcel were sought at that time. A site plan approval (PUD-10-15) was approved in 2015 to allow for some of the topsoil from this site to be removed for the construction of I-69. The portions of the site that contain tree canopy coverage and riparian buffers were set aside in the required easements with the 2015 site plan approval.

The petitioner is requesting to rezone this property from a Planned Unit Development to Mixed-Use Corridor (MC). No development plan is being requested at this time and no conceptual site plan has been submitted. For reference, on the draft zoning map that has been proposed, this area is proposed to be rezoned to Mixed-Use Employment. While there are some uses within the Mixed-Use Corridor that are also allowed in the Mixed-Use Employment district, there are some specific uses that may or may not be appropriate for this area including big box retail, vehicle fuel station (e.g. truck stop), car washes, vehicle sales, and vehicle repair. Through the map update and text amendment process, the Department is evaluating possible changes to the use list for the Mixed-Use Employment district, however it is unlikely that the uses listed above would be proposed additions.

COMPREHENSIVE PLAN: The Comprehensive Plan designates this site as ‘Employment’. The Employment district includes professional and business offices, light assembly plants, flex-tenant

facilities, and research and development centers. The Plan also states that the Employment district should contain a mix of office and light/high-tech manufacturing uses that provide quality employment opportunities for the Bloomington community. The proposed district, MC, would not align as well with the Employment category as the Employment or Mixed-Use Employment zoning districts would. However, there are uses within the Mixed Use Corridor district that could be high employment uses.

20.06.070(b)(3)(E)(i)(1) ZONING MAP AMENDMENT PLAN COMMISSION REVIEW AND RECOMMENDATION:

The following criteria are those that the Plan Commission must consider when reviewing a zoning map amendment request. The Department will provide specific proposed findings before the required second hearing, but preliminarily believes that the petition will meet these requirements.

- [a] The recommendations of the Comprehensive Plan;
- [b] Current conditions and character of structures and uses in each zoning district;
- [c] The most desirable use for which the land in each zoning district is adapted;
- [d] The conservation of sensitive environmental features;
- [e] The conservation of property values throughout the jurisdiction; and
- [f] Responsible development and growth

CONCLUSION: The Department believes that the rezoning of this site to Mixed Use Corridor would not match the Comprehensive Plan designation of the site as Employment. While some of the uses in MC are conducive to employment, many more uses are not and the EM or ME zoning districts are more appropriate for this prominent intersection, and in line with the Comprehensive Plan.

RECOMMENDATION: The Department recommends forwarding this petition to the Common Council with a denial recommendation.



City of Bloomington
Bloomington Environmental Commission

MEMORANDUM

Date: November 9, 2020

To: Bloomington Plan Commission

From: Bloomington Environmental Commission

Subject: ZO-23-20: Bill C. Brown Revocable Trust Rezone
3100 W. Fullerton Pike

The purpose of this memo is to convey the environmental concerns and recommendations for conditions of approval from the Environmental Commission (EC) with the hope that action will follow to enhance its environment-enriching attributes. The request is to rezone the property from PUD to Mixed-Use Corridor (MC).

The EC has no objection to the rezoning of this property with the following conditions of approval.

COMMENTS

1. Conservation Easement signs

All easements shall be identified with public signs located along the boundary of the easement. Public signs shall be placed at intervals of no more than two hundred feet, and each sign shall be a maximum of one and one-half square feet in area. A minimum of one public sign is required, regardless of easement size. The property owner shall be responsible for installing and maintaining required signage.

2. Additional information regarding the karst geology

At the time of the previous petitioner's request, the EC recommended a through geologic investigation. The reason is that the soil is very thin and there are sinkholes and springs on the site and the surrounding area. Excavation of the soil and bedrock will likely expose more sensitive features. Because karst features that are not now obvious should also be protected if exposed, the EC believes the geologic investigation should be conducted. The staff report from 2015 states that staff thinks this investigation should be completed at the time of rezone, which is now.

Below you find the part of the staff report referred to. Additionally, you will find the 2015 EC memo requesting further investigations. The part that is struck out, does not relate to this petition.

BLOOMINGTON PLAN COMMISSION CASE NO: PUD-10-15**STAFF REPORT DATE: April 13, 2015****LOCATION: 3100 W. Fullerton Pike****PETITIONER: Bill C. Brown**

300 S. SR 446, Bloomington

ENVIRONMENTAL COMMISSION: The Environmental Commission has reviewed this petition and offered the following recommendations:

1.) The Petitioner should get a geological evaluation to describe what karst features are hidden beneath the ground surface and describe how the surface and subsurface water regime will be impacted with soil excavation.

2.) The Petitioner should get an evaluation from a Soil Scientist that describes the health and vitality of the subsurface soil that will eventually be on the surface.

Staff's Response (1 & 2): Staff finds that the proposed testing would only be appropriately required if it were attached through a rezoning process and not at a final plan stage. The proposed grading meets the environmental standards and will be protected in a manner consistent with the UDO and the PUD.

3.) The Petitioner should reconsider the location of the road bed to avoid the high quality woods to the north.

Staff's Response: Staff finds that the proposed location is both appropriate and consistent with the past approvals for this property and the property to the north. Furthermore, no construction of the road is proposed and future construction will be reviewed by the Plan Commission.

CONCLUSION: As previously stated, this proposal does not include any buildings or use of the property and only proposes grading activities. The proposal must receive Plan Commission approval only because no grading can occur without a PUD final plan approval. The proposed grading will not excessively denude the site of usable soil and will not encroach into environmentally sensitive portions of the site as regulated by the Unified Development Ordinance. Therefore, staff is supportive of this request.

RECOMMENDATION: Staff recommends approval of PUD-10-15 with the following conditions:

1. The petitioner must retain 50 percent of the topsoil for use on-site to promote stabilization of the soil after grading.

2. No grading is permitted without an approved grading permit.

3. Required easements for slopes over 18 percent, riparian buffers, and karst features must be identified and recorded prior to the release of a grading permit



City of Bloomington
Bloomington Environmental Commission

MEMORANDUM

Date: April 6, 2015

To: Bloomington Plan Commission

From: Bloomington Environmental Commission

Through: Linda Thompson, Senior Environmental Planner

Subject: PUD-10-2015, Bill Brown Trust, Fullerton Pike
South SR 37 and West Fullerton Pike

This memorandum contains the Environmental Commission's (EC) input and recommendations regarding a request for a PUD Final Plan for grading work. The request includes removal of several feet of topsoil and road bed preparation. The EC believes this project will have negative environmental effects that may not be apparent at first glance, thus does not support the proposal.

ISSUES OF SOUND ENVIRONMENTAL DESIGN:

1.) KARST PROTECTION:

There are two sinkholes on the western edge of the site where it is nearly the highest point on the property. The sinkholes will be protected during excavation, and afterwards the outer edge of the sinkholes will be higher than the surrounding surface. To help envision this after grading is complete, imagine a volcano that extends upward from the ground surface, or perhaps a sump drain that is elevated above the floor. What this means is that no water will be able to flow into the sinkholes, thus cutting off the existing water supply to the subsurface karst system. The UDO (20.05.042 (a) (6)) states "Stormwater discharge into a karst feature shall not be increased over its pre-development rate. In addition, such discharge into a karst feature shall not be substantially reduced from pre-development conditions." The EC fears that depleting the sinkholes of their current water infiltration will diminish the water reaching the spring just downslope and change the entire water regime leading to the wetlands near the bottom of the watershed.

Because of the probable negative impact to this entire ecosystem, the EC believes that the Petitioner should do more research regarding the effects of changing the hydrologic behavior in the entire watershed. Some information to be gleaned before approval include the following.

A geotechnical audit that identifies karst features that may be uncovered with excavation, thus revealing the limitations such features impose on site development, and predict changes in hydrologic behavior.

This will require a geologic investigation conducted by a Professional Geologist. The investigation results need to include, depict, illustrate, and/or portray at least the following to the satisfaction of the EC and the Senior Environmental Planner.

- a. A karst inventory for the whole sub watershed. The site is an integral part of a regional karst system and does not stand alone; therefore, it cannot be evaluated without considering the whole surface and subsurface drainage system. This includes all karst features (sinkholes, springs, grikes, underground water conduits, fracture liniments, voids, caves, etc.) expressed on the surface and in the subsurface.*
- b. Due to the intensity of karst features in the vicinity, any soil borings used to portray the bedrock surface should be drilled on a grid spaced more densely than typically used to identify a bedrock surface.*
- c. After identifying any newly-found karst features, which will contribute to the control and form the drainage regime, the stormwater and groundwater flow patterns must be identified and mapped.*
- d. Map the bedrock topography (this means the top of the subsurface rock and not the surface soil topography) and locate bedrock voids.*
- e. The results of the research and methods used to reach the conclusions of the above suggestions should be included within the environmental review plan. Examples of research methods that could be employed are:*

*Natural Potential (NP)
 Electrical Resistivity Tomography (ERT)
 Seismic
 Electromagnetic (EM)
 Microgravity
 Infrared Thermal Scanning
 Dye Tracing
 Exploratory Soil Boring
 Exploratory Rock Coring
 Ground-Penetrating Radar*

2.) DENUDED SOIL BIOLOGY:

Because there are so many living organisms in soil, the EC recommends that a Soil Scientist be employed to describe what the remaining surface will contain and whether or not it will be able to support life. If terra Rosa is all that is left on the surface, amendments may need to be applied in order for plant life to regenerate. The soil ecosystem is teaming with biodiverse organisms that enable plants to take up nutrients necessary for survival. A chart from Colorado State University Extension <http://www.ext.colostate.edu/mg/gardennotes/212.html> exemplifies this.



City of Bloomington
Bloomington Environmental Commission

*Table 1.
Organisms typically found in one cup of undisturbed native soil*

<i>Organism</i>	<i>Number</i>
<i>Bacteria</i>	<i>200 billion</i>
<i>Protozoa</i>	<i>20 million</i>
<i>Fungi</i>	<i>100,000 meters</i>
<i>Nematodes</i>	<i>100,000</i>
<i>Arthropods</i>	<i>50,000</i>

3.) ROAD CONNECTION:

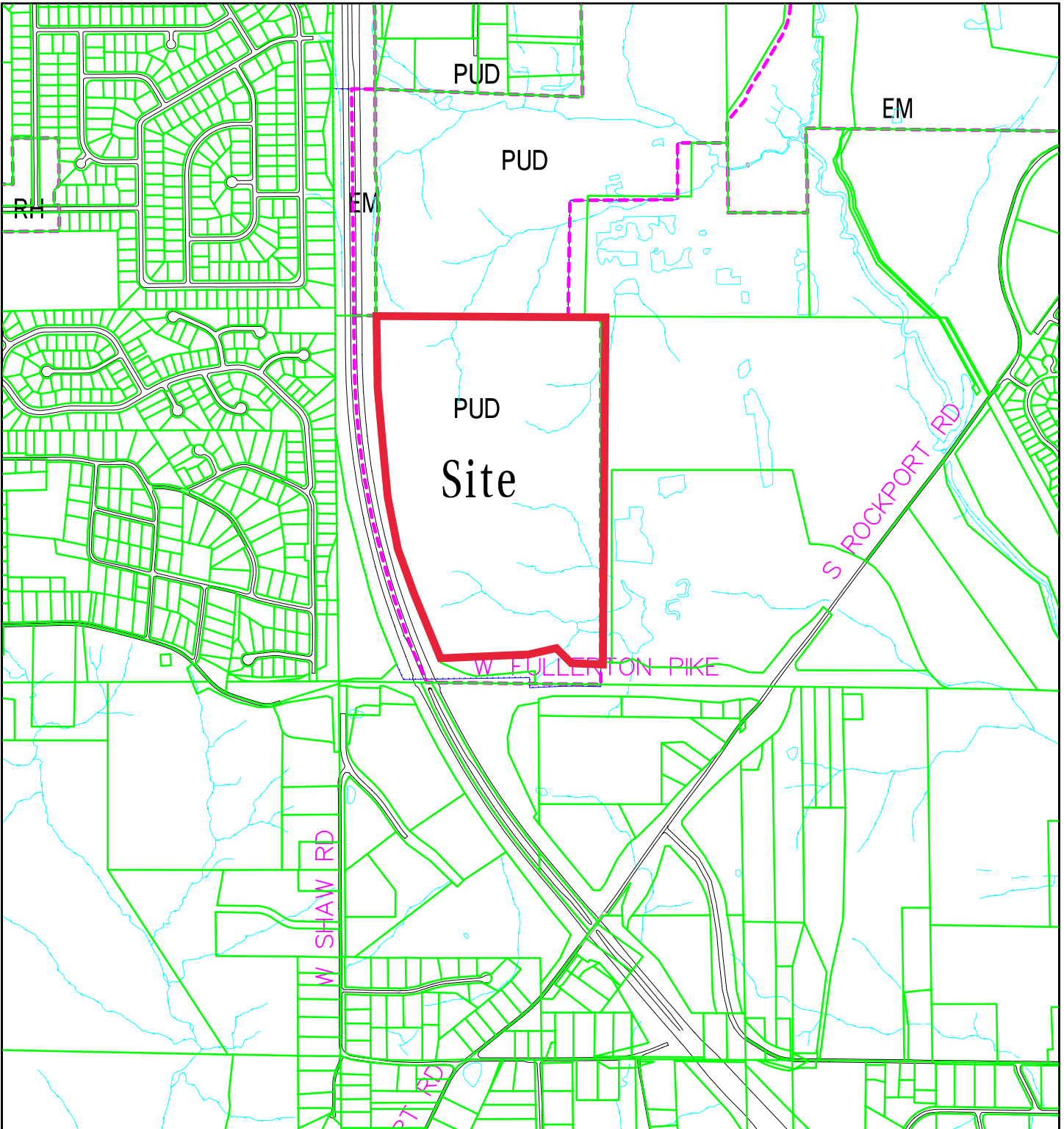
The EC is not in favor of the future road stubbing into the adjoining woods at the location shown on the plans. In the past, there was much discussion regarding saving the mature woodland to the north of this property. The EC would still recommend protecting that woods.

EC RECOMMENDATIONS:

- 1.) The Petitioner should get a geological evaluation to describe what karst features are hidden beneath the ground surface and describe how the surface and subsurface water regime will be impacted with soil excavation.*
- 2.) The Petitioner should get an evaluation from a Soil Scientist that describes the health and vitality of the subsurface soil that will eventually be on the surface.*
- 3.) ~~The Petitioner should reconsider the location of the road bed to avoid the high quality woods to the north.~~*

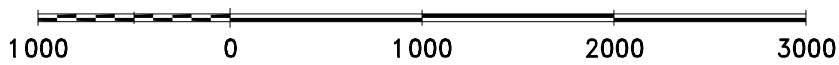
RECOMMENDED CONDITIONS OF APPROVAL for November 9, 2020

1. All signs that were required to be installed at the edges of the Conservancy Easements shall be installed now. This requirement is found in both the previous and current UDOs.
2. A geologic evaluation of the hydrology, soil health, and karst features will be conducted by a Licensed Professional Geologist (LPG) per the request in the April 6, 2015 EC memo to the Plan Commission before the issuance of any permits.

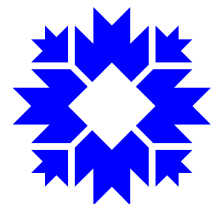


Bill Brown Fullerton Pike

By: greulice
9 Oct 20

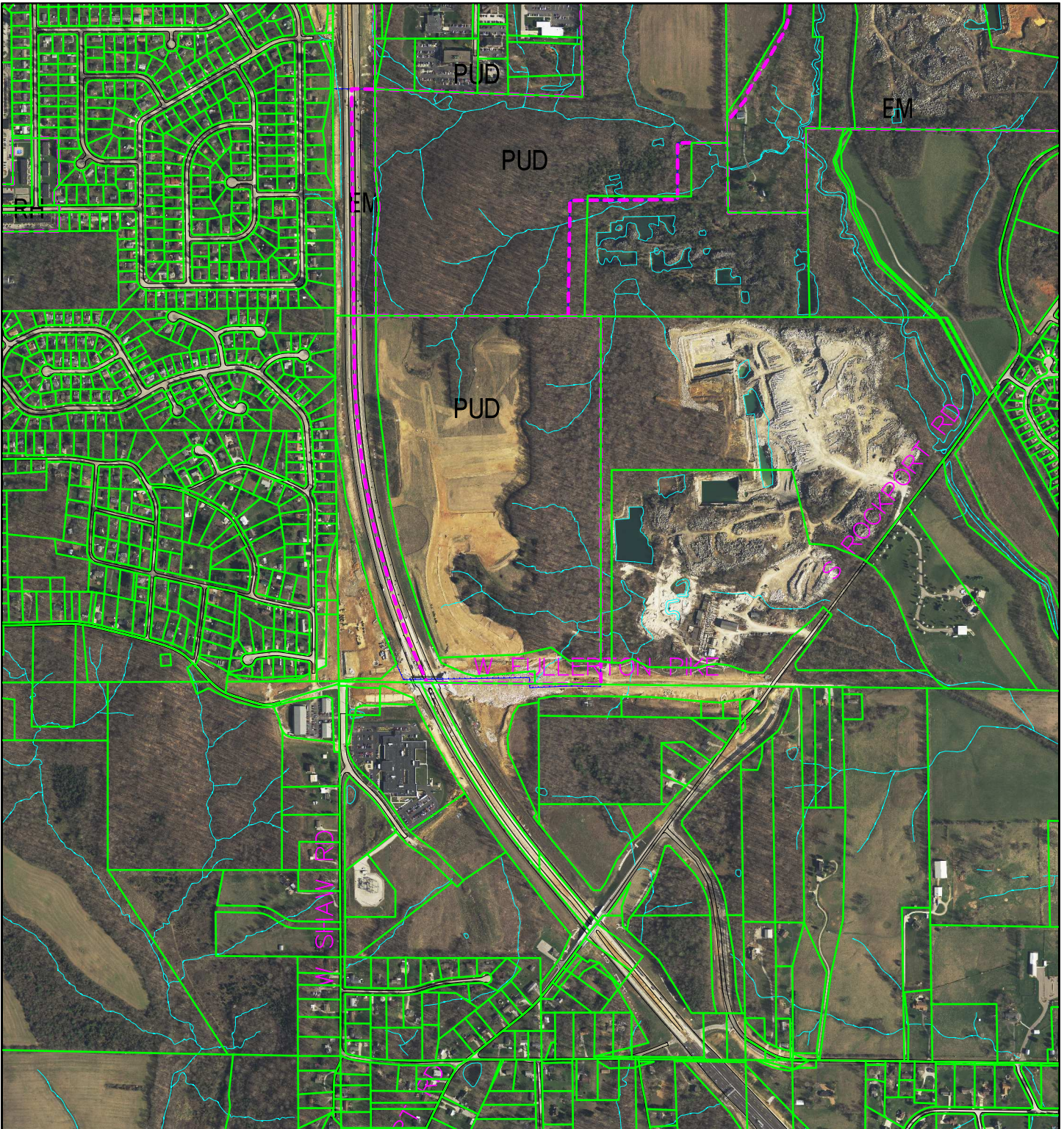


City of Bloomington
Planning & Transportation

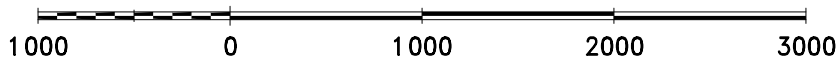


Scale: 1" = 1000'

For reference only; map information NOT warranted.



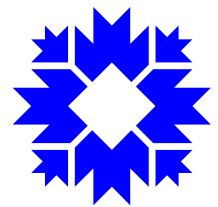
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For reference only; map information NOT warranted.



City of Bloomington
Planning & Transportation



Scale: 1" = 1000'



**City of Bloomington
Planning and Transportation Department**



- PLAN COMMISSION
- PLAT COMMITTEE
- BOARD OF ZONING APPEALS
- HEARING OFFICER
- COMMON COUNCIL
- STAFF LEVEL

CASE# _____
 FILING DATE _____
 FILING FEE \$ _____
 HEARING DATE(S) _____
 HT ACCT# _____
 PLANNER: _____

ADDRESS OF PROPERTY W. Fullerton Place

Applicant's Name B. U. C. Brown Revocable Trust Phone _____
 Address 300 S. S.R. 446 Email billycbrown@gmail.com
 Owner's Name Bill C. Brown Revocable Trust Phone _____
 Address _____ Email _____
 Counsel or Consultant Michael L. Carraai Phone 612-332-6556
 Address 116 W 62nd St Suite 200 Bloomington Email michael@carraiparker.com

STAFF USE ONLY – TO BE COMPLETED BY STAFF

Plan Commission/Plat Committee

- Change of Zone
- Site Plan Review
- Planned Unit Development (Preliminary Plan)
- Planned Unit Development (Final Plan)
- Preliminary Plat Review
- Final Plat Review

BZA/Hearing Officer

- Appeal from Administrative Decision
- Conditional Use
- Variance
- Use Variance

Common Council

- Right-of-Way Vacation

Description of Request:

This application must be accompanied by all required submittals and plan elements, as indicated for the requested approval. Submittal of plans for review by City of Bloomington Utilities is required at or prior to time of application. Present CBU verification of receipt of plans at time of filing. Applicants are required to meet with a planner to review their request prior to filing an application. No applications will be accepted without prior Staff consultation. Staff reserves the right to schedule hearing dates for petitions subject to complete submittals and previously filed cases. Notices to adjacent property owners should not be mailed until hearing dates have been confirmed.

I (we) agree that the applicant will notify all adjacent property owners at the applicant's expense.
 I (we) further agree that the Planning and Transportation Department will cause a legal notice of this application to be published in a paper having general circulation in Bloomington at the applicant's expense.
 I (we) certify that all foregoing information is correct and that I (we) are the owners (legal agents for owners) of property subject to this application and authorize Staff to inspect the site as needed.
 If applicant is other than recorded owner, an affidavit designating authority to act on owner's behalf, must accompany this application.

Applicant Signature: Michael L. Carraai Date: 10/6/2020 Staff Initial: _____
MICHAEL L. CARRAAI ATTORNEY FOR PETITIONER

PETITIONER'S REZONING STATEMENT

Bill C. Brown Revocable Trust, Petitioner, requests rezoning of the PUD land located at Fullerton Pike and I-69 (northeast corner) consisting of 87.12 acres to mixed use-corridor (MC).

Unified Development Ordinance states the purpose for the MC zone as “intended to accommodate medium scaled developments with a mix of store front retail, professional office, and/or residential dwelling units along arterial and collector corners at a scale larger than the neighborhood-scale uses accommodated by the MN zoning district.”

Current Planned Unit Development zone. The existing PUD contains a variety of permitted uses, including:

- ◆ Commercial, retail
- ◆ Commercial, trade
- ◆ Commercial, wholesale
- ◆ Industrial – manufacturing and processing uses
- ◆ Industrial – non-processing use (warehouse)
- ◆ Professional, corporate and commercial offices
- ◆ Healthcare (extended care)
- ◆ Mail order sales offices and storage with limited retail

PUD Development. The Fullerton Pike PUD remains undeveloped. Approximately three acres of the PUD land along the south property line adjacent to Fullerton Pike was acquired by State of Indiana in connection with the I-69 development project. West Fullerton Pike adjacent to the PUD was widened and a roundabout constructed.

Proposed/Anticipated future development of the property includes:

- ◆ Hotel/motel
- ◆ Trade offices
- ◆ Governmental uses, including a training center
- ◆ Other employment uses
- ◆ Multi-family apartments

Adjacent and surrounding uses. The property is bordered on the east by a limestone quarry operation, on the north by vacant, undeveloped land, on the west by I-69 and west of I-69 are single family home developments, southwest is the Monroe Hospital development and the remaining land bordering on the south side of Fullerton Pike is one single family lot and undeveloped ground.

Environmental Issues. In August, 2015, Petitioner granted to the City of Bloomington conservancy and karst easements encumbering the PUD to identify, protect and preserve natural areas, slope areas, drainage ways and karst features.

Petitioner's Intent. The MC zone closely matches the PUD permitted uses. The property is bordered by I-69, an established corridor through the Monroe County community. Fullerton Pike is under development and is projected with land improvements and further development east to become a corridor from I-69 to South Walnut Street/Old State Road 37. The permitted uses in the MC zone are closely aligned with the breadth and scope of permitted uses in the existing PUD. Development standards for the MC zone are suitable for future development at this location. A specific development of the property is not planned at this time. Petitioner has been approached for possible development of a hotel in the southwest corner of the property, adjacent to I-69. Petitioner has also been approached to develop a large part of the property as a training center for fire and emergency services. It is expected that the City of Bloomington will seek to rezone the PUD at a future date. In order to promote development of the property, Petitioner seeks to clarify the zoning classification consistent with the recently adopted new Unified Development Ordinance with permitted uses appropriate to the zone without undue delay.

Petitioners request waiver of second hearing before the Plan Commission.


Michael L. Carmin
Attorney for Petitioners

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