

City fines developer over erosion - Gates Inc. - Herald-Times (Bloomington, IN) - February 13, 2002

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The Bloomington Board of Public Works on Tuesday rejected Gates Inc.'s appeal of what may be the largest fine ever levied against a Bloomington developer over failure to control erosion.

The city of Bloomington fined Gates Inc. \$26,000 for alleged violations of requirements to build structures that would have kept soil from leaving a construction site at the corner of East 10th Street and Pete Ellis Drive.

Gates Inc. plans to build 41 apartment units at the site, which was part of the historic Daisy Garton Farm.

At an appeals hearing before the Bloomington Board of Public Works Tuesday evening, city assistant engineer Rick Alexander said he had cited Gates for five different erosion control violations per day between Nov. 27, 2001, and Jan. 17, 2002. At \$100 per violation, Gates Inc. was assessed \$500 in penalties per day for 52 days.

City Public Works Director John Freeman said after the meeting that he can't remember another Bloomington developer receiving such a large fine.

Gates' attorney Geoff Grodner asked the Board of Public Works to reduce the fine to \$3,600.

Grodner said Whitney Gates and engineer Chris Smith are the managers of the construction project, not Whitney's father, Jerry Gates, who submitted the project to the plan commission.

Grodner said the younger Gates and Smith have made some mistakes in oversight of erosion control because of miscommunication and lack of follow-through, but that most of the city's fine should be disregarded because bad weather prevented any work from being done on the site from Nov. 17 to Jan. 7.

Grodner also disputed two of the five per-day violations, saying the city needs to be more specific in its written complaints and not double-count violations. Grodner appeared to be indicating Gates Inc. should be fined \$300 per day for 12 days.

County council member Scott Wells was the only person to speak during the public comments portion of the meeting. He presented photos he says demonstrate a pattern of arrogant disregard by Gates Inc. for erosion control requirements at the site since work began in May, resulting in "tons of soil leaving the site."

Wells was interrupted by Grodner, who said his comments were unfair, inaccurate and unnecessary given the presence of city inspectors who could discuss erosion control at the site.

Following the comment period, Board of Public Works member James McNamara, also Bloomington's deputy mayor, immediately moved to deny Gates Inc.'s appeal.

Without any further discussion, the three-member board, including McNamara, **Beth Hollingsworth** and Frank Hrisomalos, voted unanimously to deny the appeal.

Grodner said after the meeting that he and assistant city attorney Michael Flory will have further discussions before the 10-day deadline Gates Inc. has to request a review of the board's decision by a Monroe County Circuit Court judge.

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