

MEMO FROM COUNCIL OFFICE:

To: Members of the Common Council

From: Ash Kulak, Deputy Administrator / Deputy Attorney

Date: April 5, 2024

Re: Ordinance 2024-07 - To Amend the City of Bloomington Zoning Maps by Rezoning A 138.51 Acre Property From Planned Unit Development (PUD) And Residential Medium Lot (R2) to Planned Unit Development (PUD) And to Approve a District Ordinance and Preliminary Plan – Re: S. Weimer Road (Sudbury Partners LLC, Petitioner)

Synopsis

Ordinance 2024-07 would rezone a 138.51 acre property from Planned Unit Development (PUD) and Residential Medium Lot (R2) to a Planned Unit Development (PUD) and approve a PUD District Ordinance and Preliminary Plan.

Relevant Materials

- Ordinance 2024-07
- Certification of Ordinance 2024-07 by Plan Commission, Case PUD-18-23
- Exhibit A
 - Staff Memo from Jacqueline Scanlan, AICP Development Services Manager
 - Memorandum from Bloomington Environmental Commission
 - GIS Maps from Planning & Transportation
 - Petitioner’s Statement
 - Legal Documents, including deed, legal property descriptions, and land title surveys
 - Proposed District Ordinance
 - Preliminary Plan
 - Petitioner Environmental Analysis
 - Estimated Project Schedule
 - Petitioner Memo Re: Sewer Impact
 - Public Comments
 - Traffic Analysis

Summary

Ordinance 2024-07 would rezone a 138.51 acre property into a Planned Unit Development and approve the associated District Ordinance and Preliminary Plan. The proposal was reviewed by the Plan Commission and given a positive recommendation, by a vote of 7-0-1, on March 19, 2024. The proposal was certified to the Council on March 28, 2024.

Council’s Review and Consideration

The Council’s review of a PUD proposal is guided by state statute and local code. The Council has wide discretion but must have a rational basis for its decision. Within ninety (90) days after such a proposal is certified to the Council by the Plan Commission, the

Council may adopt or reject the proposal and may also exercise powers set forth under Indiana Code [36-7-4-1500](#) et seq.

Those powers include:

- delegating authority to conduct secondary review of a PUD district ordinance;
- imposing reasonable conditions;
- conditioning the issuance of a certificate of zoning compliance on the furnishing of a bond or certain guarantees; and
- allowing or requiring the owner of real property to make written commitments.

Additionally, IC [36-7-4-1505](#) requires the legislative body to adopt and amend a PUD district ordinance in the same manner as a zoning map change initiated by the 600 Series. The [600 Series](#) of the Indiana Code applies generally to zoning ordinances and zoning changes. Under [IC 36-7-4-608](#) as well as [local code](#), the Council has 90 days after certification to act on a proposal to change the zoning maps. If the Council fails to act within 90 days after certification, the ordinance would take effect as if it had been adopted as certified by the Plan Commission.

In consideration of [Ordinance 2024-07](#), [IC 36-7-4-603](#) requires the Council to pay reasonable regard to:

1. the [Comprehensive Plan](#);
2. current conditions and the character of current structures and uses in each district;
3. the most desirable use for which the land in each district is adapted;
4. the conservation of property values throughout the jurisdiction; and
5. responsible development and growth.

It is not necessary that Council find absolute conformity with each of the factors outlined above. Rather, the Council is to take into consideration the entire constellation of criteria, balancing the factors.

The Council should review [Ordinance 2024-07](#) under Section [20.06.070\(c\)](#) of the UDO and should only approve a petition to rezone to a PUD district if the following are met under [20.06.070\(c\)\(4\)](#) – Approval Criteria for Rezoning to a Planned Unit Development (PUD) District:

- The petition is consistent with the purpose of the UDO and the purpose of Section [20.02.040](#), *Planned Unit Development (PUD) District*;
- The petitioner has demonstrated that the proposed rezoning is compatible with surrounding development or can be made compatible with surrounding development through commitments or conditions;
- Any portion of the PUD zoning district to be occupied by multifamily, mixed-use, or industrial development provides a greater level of internal connectivity and

connectivity to surrounding developments than would otherwise be required if the project were not being developed in a PUD zoning district;

- Each multifamily, mixed-use, or nonresidential principal structure in the PUD district provides a greater level of design quality than would otherwise be required if the project were not being developed in a PUD zoning district; and
- The proposed PUD district does at least one of the following:
 - Includes construction of a substantial open space (not reconfigured open space required by the UDO), recreational, entertainment, or cultural amenity open and usable by the general public that would not otherwise be required by the UDO;
 - Protects a significant ecological, natural, historical, architectural, or archeological resource that was not already protected from development by the UDO, state law, or federal law and which is not merely avoidance of designated floodplains or wetland areas or provision of additional buffers around these areas; or
 - Provides affordable housing beyond the amounts required to earn a Tier 1 or Tier 2 affordable housing incentive under the UDO by either (1) income restricting at least 10% more of the dwelling units at or below the required amounts to earn a Tier 1 or Tier 2 incentive, or (2) income restricting the same number of dwelling units required to earn a Tier 1 or Tier 2 incentive but limiting incomes to at least 10% lower AMI than otherwise required to earn such an incentive.

Further, staff and the Plan Commission have reviewed this proposal under the [approval criteria](#) cross-referenced in Section 20.06.070 applicable to PUDs, which is summarized below:

- Whether the proposed use and development is consistent with the Comprehensive Plan, other adopted planning policy documents, and intergovernmental agreements;
- Whether the proposed use and development minimizes or mitigates adverse impacts, including:
 - minimize/mitigate significant adverse fiscal impacts on the city
 - minimize/mitigate excessive destruction, loss or damage of any natural, scenic, or historic feature of significant importance
 - minimize/mitigate adverse impacts on the natural environment including water, air, noise, stormwater management, wildlife habitat, soils, and native vegetation
 - make a good faith effort to address concerns of adjoining property owners;
- Whether adequacy of road systems exist:
 - Is there adequate road capacity to serve the uses permitted under the proposed development?

- Is the proposed use and development designed to ensure safe ingress and egress onto the site and safe road conditions around the side, including adequate access for fire, public safety, and EMS services?
- Does the proposed use and development cause undue traffic congestion or does it draw significant amount of traffic through residential streets?
- Whether the proposed use and development provides adequate public services and facilities:
 - Public services include but are not limited to streets, potable water, sewer, stormwater management structures, school, public safety, fire protection, libraries, vehicle/pedestrian connections and access within the side and to adjacent properties
 - Public services and facilities should accommodate uses permitted under the proposed development at the time the needs or demands arise, while also maintaining adequate levels of service to existing development
- If the petition involves phases, whether there is a rational phasing plan:
 - Does each phase of the proposed development contain all of the required streets, utilities, landscaping, open space, and other improvements required to comply with the project’s cumulative development?
 - No one phase depends upon subsequent phases for those improvements?

Finally, [local code](#) provides that permitted uses in a PUD are subject to the discretion and approval of the Plan Commission and the Council. Permitted uses are determined in consideration of the Comprehensive Plan, existing zoning, land uses contiguous to the area being rezoned, and the development standards outlined in the UDO. If the terms of the PUD do not clearly address specific uses in all or part of the development, the uses and use-specific standards in the UDO that would otherwise apply become applicable, subject to the discretion of the Planning & Transportation Director.

Certified by Plan Commission

Ordinance 2024-07 was certified to the Council by the Plan Commission on March 28, 2024 with a favorable recommendation (7-0-1). The findings of the Plan Commission are outlined in the staff memo, which concludes that development of the property is an important part of providing additional housing and that the petitioner has worked with various City Departments to find a balance that allows the project to work while meeting City goals. The petition is forwarded to the Council by the Plan Commission with a favorable recommendation and 10 conditions, which are listed in the staff memo.

Contact

Jacqueline Scanlan, Development Services Manager, Planning & Transportation, 812-349-3423, scanlanj@bloomington.in.gov