



Opponents of Issue 38 have been spreading a great deal of misinformation about what our citizens' initiative is and what it will do. This document is our response. We hope it helps Worthington voters make an informed and fact-based decision about this issue that is so important for the future of our community.

Issue 38: Facts & Fictions, 10.30.15

1. **FICTION**: It will hurt city finances, resulting in raised taxes.

FACT: This fiction ignores the fact that

- a) Issue 38 will affect few business, just those seeking rezoning legislation, and
- b) Issue 38 will encourage responsible development that is compatible with both our neighborhoods and the current economic mix of businesses.

Regarding point a), let's put the scope of rezoning in perspective. From 2007 to 2014 Worthington saw a total NET growth of 900 jobs. There were a total of six re-zoned properties during that time period, which accounted for 0% of that growth and 0% of the income tax revenue. Zero. City staff has done a good job building and growing businesses that do not require zoning law changes on the 483 parcels in Worthington already zoned for commercial and industrial use.

Regarding point b) above, what will, or would, hurt our city's long-term economic interests is to follow a me-too business plan, allowing high-density developments like Lifestyle to degrade our city's distinctive character. In the life of a business, and a community, having something to offer that is unique and authentic is the way to preserve value and long-term prosperity. We can do that by attracting responsible development, such as Trivium and CF Bank, neither of which required rezoning. Worthington's current top 10 employers never needed re-zoning. We don't need to sacrifice what we love about Worthington in order to remain prosperous.

2. **FICTION**: It's only about UMCH—other parts of our city have nothing to worry about.

FACT: The current trend among developers is to pack as many apartments and housing units in to as little space as possible. This means that many parcels in Worthington are vulnerable to high-density projects—if our Council is compliant with developers and the residents have no viable recourse if the project is deemed to be harmful. Here is a short list of property sites (there are no doubt more) that developers have expressed interest in “redeveloping,” or are actively engaged in planning a high-density project.

- **UMCH**: mixed-use, high-density, current proposal of 571 units, with streets egressing to Evening Street, Larrimer Avenue, and High Street.

- Harding Hospital property: prime property slated (in the city's 2005 Comprehensive Plan) for high-density, mixed use development, with the opening of Indianola Ave. and possibly East New England Avenue, as commuting routes.

- East Stafford Avenue: currently patio homes and single family residences, currently in planning stage for multi-story, high density senior housing. Located in the Historic District.

- Plesenton Drive: identified as high-density apartment/condo project, to be located on two plots currently zoned low-density residential, near Jeffers Mound (Hopewell earthwork) affecting not only immediate area, but traffic on Olentangy and Dublin Granville Rd.

Issue 38 applies not only to UMCH, and not only to today, but is a forward-thinking action that will empower residents in the face of present and future development pressures, and present and future councils. It will provide a legacy of good governance, something we can be proud of for its positive effect on our community.

3. FICTION: It will hurt small business.

FACT: If you're a property owner or small business owner, and wonder if Issue 38 would in any way impact you, just ask yourself this question: have I ever had to appear before city council and ask them to PASS A LAW regarding my property or business plans? If not, then Issue 38 would not relate to how you use, buy, and sell your properties or engage in business.

Issue 38 relates only to zoning-related legislation, NOT variances of the zoning code, basic administrative acts, or regular commercial activity on property already zoned commercial.

To cite one example, House Wine required only a conditional use variance to begin operations, but no legislation (because the property was already commercial). Accordingly, House Wine and any other business seeking to do business as usual in Worthington would not be impacted by Issue 38.

The focus of Issue 38 is the rezoning of significant properties—those requiring rezoning legislation—that would have a major impact on our neighborhoods, and thus warrant greater time for public dialog and scrutiny.

4. FICTION: If it passes, we won't be able to pave our streets, pick up trash, plow our roads, buy firetrucks, move an air-conditioner, sell our homes, put a new sign on business, build a fence, or get a building permit in a timely fashion.

FACT: This fiction—or cluster of fictions—has been asserted by members of the opposition from the very beginning and continues to this day. What these claims have in common is that they all falsely suggest that simple administrative acts, or variances of city code, would be subject to referendum because of Issue 38. This is false. Under Ohio law, ONLY legislation is subject to referendum, NOT variances, building permits, or other administrative acts commonly sought by homeowners and businesses.

The Worthington City Attorney, Pamela Fox, has stated:

“The city interprets Issue 38 at face value and would not apply the charter amendment to anything other than zoning changes: change in the zoning map or changing the zoning definitions. The city would not apply the charter amendment to variances or any other administrative acts.”

In sum, all of the excellent city services we enjoy will continue without interruption. The processes and timetable for permits commonly sought by both homeowners and business owners will remain unchanged.

5. FICTION: The current “process” works, so who needs Issue 38?

FACT: Here is an example of how well the process is working for Worthington residents. The members of the Worthington Alliance for Responsible Development (WARD) have spent several years and countless hours working through “the process” with city council, city staff, developers, and consultants, seeking to achieve a reasonable development at UMCH. As a simple, quantifiable example of how the process has worked for them, they explain:

“WARD conducted a survey in early 2013, completed by 758 Worthington residents, with 80% indicating that they were opposed to 3-4 story apartments at the UMCH site. Yet two years later, after countless discussions and issuance of formal position statements, Lifestyles Communities presented a plan that included 350 apartments in four-story buildings. Clearly, this developer did not listen.”

And, we would add, neither did our city council and staff that were facilitating this process. To this point, our city hired MKSK, a local consulting firm, to facilitate a public process (beginning in late 2013) of rewriting the UMCH portion of the Comprehensive Plan. During multiple meetings, attended by hundreds of Worthington residents, a total of 439 comments/suggestions were made to the facilitators. Out of these 439 public remarks, only THREE were actually incorporated in to the revised comprehensive plan. Three out of four hundred thirty nine. See #25 below.

Having thus experienced the city’s process, **WARD urges a YES vote on Issue 38.**

“WARD views Issue 38 as increasing the chances for a favorable outcome in the development of the UMCH property, and as an act of good government for the long term. Passage of Issue 38 will restore a balance in the relationship among citizens, city government, and developers with regard to development decisions that impact the entire community. That such a balance has been lacking has been amply demonstrated.”

6. FICTION: It is broadly and ambiguously written, so it will have all kinds of unintended bad effects.

FACT: Issue 38 was carefully drafted by one of Ohio’s leading election lawyers, Donald J. McTigue, former Chief Elections Counsel to the Ohio Secretary of State and former Counsel to the Ohio Elections Commission. McTigue has over thirty years experience in

election law, and has been counsel for numerous referendums and initiatives. The language of Issue 38 is clear, succinct, and direct to its purpose.

7. FICTION: It is anti-development.

FACT: No, Issue 38 is for responsible development, which is more likely achieved when the residents of Worthington have a strong voice, with meaningful impact, upon the decision-making process of our city government. We don't need to sacrifice what we love about Worthington to remain economically vibrant. In fact, the two go hand in hand. See #1, 3, and 4 above.

9. FICTION: will kill jobs

FACT: See #1, 3, 7, and 8 above, and 10 below.

10. FICTION: It will cripple the local economy.

FACT: This fiction is based on three fallacies: a) that our long-term economic vitality is best served by imitative development (i.e., high-density, mixed-use, so common in neighboring communities), b) that Issue 38 will deter businesses from wanting to locate in Worthington (we polled recent entrants to our market, see below), and c) that Issue 38 will have a broad impact on diverse economic activity (we've got #s below).

All three of these assertions are false. In fact, Issue 38 a) will strengthen our economic position and increase our attractiveness, b) will not detract businesses from wanting to locate in Worthington, and c) is narrowly focused on possible rezoning legislation (the type of legislation, because effectively permanent, that warrants special attention and care).

a) Most basically, Issue 38 will help us to maintain and enhance the distinctive character of Worthington, which is the underlying economic strength of our city. What makes Worthington most attractive to business owners, their employees, and their customers, is an environment and experience that is authentic and unique. This is our golden goose. If we lose it, we lose our competitive edge. Opponents to Issue 38 don't seem to get this, claiming that the upfront municipal planning process is the chief reason businesses choose to locate in our city. This is backwards thinking, and can lead to a short-term mindset that undersells and undermines the true strengths of our city.

Because of the primary importance of maintaining our differentiation from surrounding communities, changing the zoning map warrants particular care because of the effective permanence of the decisions being made. Issue 38 will help us to proceed thoughtfully and prudently regarding irreversible change to real property, thereby protecting the distinctive environment and experience that makes Worthington attractive to businesses and residents alike.

b) For those few businesses that seek to change our zoning map when they move to Worthington, adding 40 days to the effective date of a rezoning ordinance will not be a

material deterrent. They want to locate in Worthington because of our distinctive character and market demographics, not because of the upfront municipal planning process.

We say this not as a matter of opinion or conjecture, but because of actual testimonies: from 2001 through 2015, there were sixteen developers that obtained a property rezoning in Worthington (on a total of 28 parcels). Councilman Doug Smith personally contacted these developers in order to directly ask them whether an additional 40 days would have affected their decision to locate in Worthington. He was able to directly reach eleven of the developers, and every one of them said they wanted to locate here because our city matched their target demographic and the additional time would not have made any difference in their decision.

In contrast to these actual testimonies, opponents of Issue 38 offer only generalized statements such as “it will put a chill on development.” We challenge them to provide examples of businesses seeking a rezoning ordinance that say they will not locate in Worthington if an additional 40 days is added to the ordinance effective date. We have not been given a single instance to date. The reality is that market forces will drive development in Worthington, and the most significant thing we can do to strengthen our position is to avoid ill-suited, short-sighted developments that would degrade our distinctive character.

- c) The vast majority of business in Worthington is carried out on property already zoned commercial (there are 483 parcels in Worthington already zone for commercial and industrial use), and would not be affected by Issue 38. From 2007-2014 there were just six rezoning requests, accounting for 0% of permanent job growth during that time period.

Opponents of Issue 38 have been falsely claiming that a wide range of simple, everyday business activities would be impacted by Issue 38. They falsely claim and suggest that simple administrative acts, variances of city code, and regular building permits, would all be subject to delay and referendum because of Issue 38. This is false. Under Ohio law, ONLY legislation is subject to referendum, NOT variances, building permits, or other administrative acts commonly sought by homeowners and businesses. Issue 38 is focused on the rezoning of property, the type of action that requires legislation from city council.

11. FICTION: It impinges on property rights.

FACT: Issue 38 empowers residents and will enhance property rights in the most fundamental way—by protecting the integrity and character of our neighborhoods. Issue 38 will help to protect your right to not have your home value destroyed by overwhelming and inappropriate development nearby. Issue 38 will help ensure that your quiet neighborhood street, the one your children use to walk to school, will not be turned in to a high-density apartment commuting thoroughfare. These, and more, are basic property rights that are currently at risk here in Worthington, and ones that our initiative seeks to protect.

Issue 38 has nothing to do with a homeowner’s ability to request and receive permits and/or variances for home projects, additions, etc.

12. FICTION: It creates excessive, new powers for residents.

FACT: Issue 38 creates no new powers, only more time to exercise the established right of referendum on zoning-related legislation, if it is judged to be harmful to the broad interests of the community. All non-zoning legislation will be unaffected by Issue 38. This citizens' initiative is narrowly focused in scope, but effective in giving residents a stronger say in development decisions through our right of referendum.

13. FICTION: 20-30 days is plenty enough time to gather petition signatures. Why 60?

FACT: There is a lot more than just signature gathering that needs to happen during this period. From the time City Council passes and posts the zoning legislation, the clock starts ticking. Citizens need to research the legislation - understand exactly what it does, what building may take place, how property values, traffic patterns, possibly even school enrollment - might be affected.

After such study, a decision needs to be made as to whether the legislation is objectionable. If it is, citizens will then need to assess the advisability and feasibility of launching a referendum effort. If they decide to launch such an effort, an attorney will need to be hired, to draft petition language based on the legislation. The petition language will need to be filed, approved, and paper petitions printed. Volunteers must be recruited, educated, and trained regarding petition signature gathering.

Then and only then can citizens begin knocking on their neighbors' doors and asking for their signatures - neighbors who may have never previously heard of either the proposed development project or the re-zoning legislation. Currently, approximately 600 valid signatures will need to be submitted, which means 900-1,000 should be gathered to ensure an adequate number of valid signatures.

Residents who are being asked to sign such a petition will similarly need time to do their own research, if they are not already familiar with the issue. They will need time to read about the issue, discuss it with family and neighbors, and make their decisions about whether they wish to sign. It should be noted that not every re-zoning issue is going to have the advantage of years of public awareness, media coverage, etc. that the UMCH property has garnered. Toward the end of the petitioning period, the citizens will need to check and re-check each signature, before submitting them to the Board of Elections for validation.

Under current law, citizens must accomplish all of the above steps within 20 days after legislation is passed by city council and subsequently published. Those who claim that 10 additional days (30 instead of the current 20) for this process would be adequate are not recognizing the robust public discourse that these far-reaching decisions deserve.

14. FICTION: High density apartments will help city finances.

FACT: All residential property is a net drain on city finances, and high-density apartments is the most costly for the city and its taxpayers. The city receives net positive revenue from

commercial and industrial activity, which, from a city budget perspective, is what should be emphasized in city development plans, on property already zoned commercial/industrial.

15. FICTION: We will be outliers (bad for our business reputation).

FACT: This fiction has several problems with it.

First, it suggests that the upfront municipal planning process is of primary importance in attracting business to Worthington. This is simply not the reality in the business world. Businesses choose to locate in a community like Worthington because this is where their customers are, where the owners and workers want to live, and where they want their brand to be reinforced. In short, where they can make money and enjoy doing it.

Further, this fiction reflects a reluctance to be to be bold about what makes us distinct and attractive. Rather than trying to be like everyone else, Worthington can take a leadership position in protecting our property rights and the neighborhoods we love.

The merits of Issue 38, and its broad-based appeal to other communities, was recently demonstrated by the creation of Keep Hilliard Beautiful, a citizens' charter amendment initiative with the same basic terms as our Keep Worthington Beautiful: 60 days for right of referendum and no emergency zoning legislation.

16. FICTION: It won't help us with UMCH.

FACT: While Issue 38 is good public policy for the long term, it will go in to effect immediately if passed. It will prevent any "emergency" rezoning of UMCH that would eliminate our right of referendum. But more likely, with an enhanced ability to conduct a referendum, the UMCH Board will be motivated to proceed only with developers and proposals compatible with the public interest. In sum, the probability of a positive outcome at UMCH will be greatly enhanced with the passage of Issue 38.

16. FICTION: It will hurt our emergency services (we won't be able to buy firetrucks in a timely manner).

FACT: See #5 above.

17. FICTION: Issue 38 will scare away developers.

FACT: Worthington's greatest economic asset is its distinctive character. This is why businesses want to come here, and this is what Issue 38 will help protect by encouraging responsible development that is compatible with our existing neighborhoods. Our opponents, who insist that the upfront municipal planning process is the determining factor in our competitiveness, don't seem to get this. See #1, 3, 7, 8, and 10 above.

18. FICTION: Keep Worthington Beautiful organizers gathered signatures in just 17 days [it actually took 75], so who needs 60?

FACT: From conception to completion of signature gathering, Keep Worthington Beautiful took roughly 75 days, under ideal conditions (summertime, heightened awareness among the public, no absolute deadlines). The formal signature gathering period of a referendum is only the culmination of a lengthy process preceding it.

Issue 38 provides residents more time to study a rezoning decision; discuss it with family, friends, and neighbors; assess the planned development's impact on their streets, schools, neighborhoods, home values; and, if they judge it to be warranted, to pursue a referendum effort through signature gathering on legal petitions. See #13 above.

19. FICTION: The city doesn't own UMCH so we can't control it (and other properties) anyway

FACT: Yes, UMCH owns the property, but City Council has sole legal authority over any rezoning of the property. This control over rezoning provides the city with significant leverage over how any given property is redeveloped and who the rezoning benefits. And Issue 38, by giving residents a stronger voice over development decisions that require rezoning, will increase the likelihood of responsible development at the site, compatible with neighboring communities and the city as a whole.

20. FICTION: It divides the community

FACT: By giving the residents a stronger voice in big development decisions, Issue 38 will restore balance to our city government. It will serve as a safety net, hopefully never needed, and will foster a cooperative relationship with city officials, based on mutual respect. We will be able work together to make sure that only responsible development occurs, for the benefit of our economy, yes, but never at the price of sacrificing what we love about Worthington.

21. FICTION: Everything is working just fine—what's to be concerned about?

FACT: Our city is facing heightened development pressure throughout our city and neighborhoods. High-density developments—possible at UMCH, Harding Hospital property, Stafford Avenue, Plesenton Drive, Park Boulevard, and elsewhere—that would be incompatible and disruptive of our existing neighborhoods, are being proposed or actively planned. These projects, if allowed to proceed without taking due account of the judgment and assessment of the residents, would be harmful to our economy, our city budget, and the well-being of our neighborhoods.

22. FICTION: It will be bad for our city government.

FACT: Issue 38 will improve the health of our body politic. By providing the residents with a stronger voice, Issue 38 will help to restore balance to our government, and the relations between City Council, staff, and the residents they serve.

23. FICTION: Issue 38 won't stop Lifestyles from developing UMCH, it's too late.

FACT: See #16 and 19 above.

24. FICTION: The public is already listened to (so just get involved in the community planning process).

FACT: See #5 above.

25. FICTION: The Comprehensive Plan protects us from bad development so Issue 38 is not needed, or is an over-reaction.

FACT: Consider the following, and ask yourself whether the Comprehensive Plan serves the public interest:

a) In 2013, the City hired consulting firm MKSK to author the revised Comprehensive Plan for the UMCH property. The contract was awarded to MKSK without competitive bids. MKSK is well known for their "urban-core" design work, such as the Nationwide Realty Investors (NRI) projects at the Arena District and Grandview Yard.

b) Both Continental Realty (the ill-fated Giant Eagle project), and Lifestyle Communities have long-standing commercial relations with NRI.

c) The Chair of the Board at UMCH is zoning attorney David Fisher. In addition to his position on the UMCH Board, Fisher also serves as legal counsel for Lifestyle Communities, the current prospective buyer and developer of the UMCH property, AND he has served as legal counsel for NRI (e.g., Jerome Village), and for Continental Realty (e.g., Hilliard Gateway). Recently, Fisher and MKSK worked concurrently on the Braun Farm development project in Westerville.

These tight relationships between the property owner, prospective buyer, legal counsel, paid consultant, and the city that hired the consultant, call in to question whether the revised Comprehensive Plan is the "public consensus" document that the City claims. Given these facts, supporters of Issue 38 believe it is wise, balanced, good governance for the residents to solidify the safety net provided through our right of referendum.