Final Vote 6 - 0

ORDINANCE 92 - 38

To Amend the Text of Title 20 of the Bloomington Municipal Code in Order to Add Compliance with the Master Plan as a Criterion for Approval of Conditional Uses and Special Exceptions

WHEREAS, the Plan Commission has considered and recommended that the Bloomington Municipal Code be changed.

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

SECTION I. In Chapter 20.10 REGULATIONS FOR CONDITIONAL USES, Section 20.10.01.00 Purpose shall be renumbered as 20.10.00.00.

SECTION II. A new Section 20.10.01.00 shall then be added and shall read as follows:

20.10.01.00 General Regulations and Conditions

20.10.01.01 Hearing. The Plan Commission shall hold a public hearing on each requested use.

20.10.01.02 Conditions. The Plan Commission may impose any conditions and restrictions deemed necessary to insure compatibility with the surrounding area.

20.10.01.03 Landscaping. The Plan Commission shall determine that adequate landscaping and buffering are provided where appropriate.

20.10.01.04 General Restrictions. The Plan Commission shall not grant conditional use approval of any use which it deems to be objectionable due to potential pedestrian or vehicular traffic, noise, pollution, odor, or any other condition which might interfere with the general health, safety, and welfare of the surrounding area.

20.10.01.05 Plan Compliance. The Plan Commission shall not grant conditional approval of any use which is not consistent with the Comprehensive Plan or which interferes with the achievement of the goals and objectives of the Comprehensive Plan.

SECTION III. In Chapter 20.11 REGULATIONS FOR SPECIAL EXCEPTIONS, Section 20.11.01.00 General Regulations and Conditions shall be amended to read as follows:

20.11.01.00 General Regulations and Conditions

20.11.01.01 Investigation. The Board of Zoning Appeals shall request a recommendation from the Plan Commission or their agent which shall investigate each proposed use to determine that it is properly related to adjacent land uses and with other uses permitted in the zone.

20.11.01.02 Hearing. The Board of Zoning Appeals shall hold a public hearing on each requested use.

20.11.01.03 Special Conditions. The Board of Zoning Appeals may impose such conditions and restrictions deemed necessary to insure compatibility with the surrounding area.

20.11.01.04 Landscaping. The Board of Zoning Appeals shall determine that adequate landscaping and buffering are provided where appropriate.

20.11.01.05 General Restrictions. The Board of Zoning Appeals shall not grant a special exception for any use which it deems to be objectionable due to potential pedestrian or vehicular traffic, noise, pollution, odor, or

any other condition which might interfere with the general health, safety, and welfare of the surrounding area.

20.11.01.06 Plan Compliance. The Board of Zoning Appeals shall not grant a special exception for any use which is not consistent with the Comprehensive Plan or which interferes with the achievement of the goals and objectives of the Comprehensive Plan.

20.11.01.07 Abatement. If at any time, the person who has been issued a special exception carries on an operation which is not in accord with the above standards or interferes with the general welfare of the surrounding area, the Board of Zoning Appeals shall have cause to terminate this special permit.

SECTION IV. SEVERABILITY. 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 parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

SECTION V. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 16th day of September, 1992.

PAM SERVICE, President
Bloomington Common Council

ATTEST:

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 17th day of September, 1992.

PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 17th day of September, 1992.

TOMILEA ALLISON, Mayor
City of Bloomington

SYNOPSIS

This ordinance adds Comprehensive Plan compliance as a criterion for conditional use and special exception approvals.

Signed copies to:
Planning
Code Enforcement
Legal (4)
BMC File
Clerk
CA/CA

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 92-38 is a true and complete copy of Plan Commission Case Number ZO-60-92 which was given a recommendation of approval by a vote of 7 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on August 10, 1992.

Date: August 24, 1992

Timothy A. Mueller
Planning Director

Tim Mueller, Secretary
Plan Commission

Received by the Common Council Office this 25 day of August,

Patricia Williams
Patricia Williams, City Clerk

Appropriation Ordinance #_____ Fiscal Impact Statement Ordinance #_____ Resolution #_____

Type of Legislation:

Appropriation	End of Program	Penal Ordinance
Budget Transfer	New Program	Grant Approval
Salary Change	Bonding	Administrative Change
Zoning Change	Investments	Short-Term Borrowing
New Fees	Annexation	Other_____

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure_____ Emergency_____
Unforseen Need _____ Other_____

Funds Affected by Request:

Fund(s) Affected		
Fund Balance as of January 1	$	$
Revenue to Date		
Revenue Expected for Rest of year		
Appropriations to Date		
Unappropriated Balance		
Effect of Proposed Legislation (+/-)		
Projected Balance	$	$

Signature of Controller_____

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues? Yes_____ No_____

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

EXHIBIT A

BOARD OF PUBLIC WORKS

RESOLUTION 92-33

TO APPROVE ASSIGNMENT OF LEASE FROM BDPDC TO BMFC FOR 4TH AND WALNUT LOT

WHEREAS, the City of Bloomington ("City"), acting by and through the Board of Public Works ("Board"), executed a lease dated January 30, 1986, ("1986 Lease") with the Bloomington Downtown Parking Development Corporation ("BDPDC") of a parking facility building located at 4th & Walnut in the City;

WHEREAS, the Common Council of the City adopted Resolution 90-12 recommending the creation of the Bloomington Municipal Facilities Corporation ("Corporation") to finance and acquire various municipal facilities and capital projects, including parking facilities for the City Hall project;

WHEREAS, the Board adopted Resolution 90-46 approving the formation of the Corporation;

WHEREAS, the BDPDC now desires to assign the 1986 Lease to the Corporation; now, therefore,

BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF BLOOMINGTON, that the Board hereby approves the assignment of the 1986 Lease to the Corporation, ("Assignment") which assignment is hereby attached as Exhibit A and incorporated by reference herein.

BE IT FURTHER RESOLVED, that following the execution of the Assignment any future rental or other payment to be made by the City under the Lease should be made in collected funds for the account of the Bloomington Municipal Facilities Corporation to _____

BE IT FURTHER RESOLVED, that the President and Secretary of the Board of Public Works be, and they are hereby authorized and directed to execute the Lease on behalf of the City of Bloomington.

SO APPROVED AND DATED THIS _____ DAY OF _____, 1992.

BLOOMINGTON BOARD OF PUBLIC WORKS

_____
President, Dr. Frank Hrisomalos

_____
Member, Martha Sims

_____
Member, Tobiatha Eagleson

ASSIGNMENT OF LEASE

THIS ASSIGNMENT OF LEASE, entered into as of _____, 1992, by the Bloomington Downtown Parking Development Corporation ("Assignor"), to the Bloomington Municipal Facilities Corporation ("Assignee").

W I T N E S S E T H

WHEREAS, the Assignor, as lessor, entered into a Lease, dated January 30, 1986, ("Lease"), with the City of Bloomington, acting by and through its Board of Public Works, as Lessee, which Lease was recorded in the office of the Recorder of Monroe County in the State of Indiana, on April 16, 1986, in Record Book 165, Page 519; and

WHEREAS, the Assignor issued $3,000,000 of First Mortgage Bonds, dated April 15, 1986 (the "Bonds") under a Trust Indenture with Monroe County Bank (the "1986 Trustee"); and

WHEREAS, upon the agreement to deposit securities and cash with the 1986 Trustee effecting a refunding of the Bonds, the Assignor has agreed to assign its interests under the Lease to the Assignee;

NOW, THEREFORE, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, receipt of which is hereby acknowledged by the undersigned, Assignor hereby conveys, transfers and assigns to Assignee all Assignor's rights and interest in the Lease, together with all of the rents, profits, income, charges and moneys payable and benefits arising from and under the Lease.

ASSIGNOR

BLOOMINGTON DOWNTOWN PARKING DEVELOPMENT CORPORATION

_____
President

Attest:

_____
Secretary

IDD03DBE.WP5

EXHIBIT A

ASSIGNEE

BLOOMINGTON MUNICIPAL FACILITIES CORPORATION

_____
President

Attest:

_____
Secretary-Treasurer

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known to be the President and Secretary, respectively, of the Bloomington Downtown Parking Development Corporation, and acknowledged the execution of the foregoing Assignment of Lease for and on behalf of said Corporation.

WITNESS my hand and notarial seal this ____ day of _____, 1992.

_____
(Written Signature)

_____
(Printed Name)

(Seal)

Notary Public

My Commission Expires:

_____

My County of Residence:

_____

STATE OF INDIANA)
) SS:
COUNTY OF MONROE

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known to be the President and Secretary-Treasurer, respectively, of the Bloomington Municipal Facilities Corporation, and acknowledged the execution of the foregoing Assignment of Lease for and on behalf of said Corporation.

WITNESS my hand and notarial seal this ___ day of _____, 1992.

_____
(Written Signature)

_____
(Printed Name)
Notary Public

(Seal)
My Commission Expires:

_____

My County of Residence:

_____

NOTICE OF ASSIGNMENT OF LEASE

City of Bloomington
Board of Public Works
Box 100
Municipal Building
Bloomington, Indiana 47402

You are hereby notified that the Lessor's interest in the Lease dated January 30, 1986 (the "Lease") will be assigned to the Bloomington Municipal Facilities Corporation, and pursuant to the Lease, any future rental or other payment to be made to the Lessor under the Lease should be made in collected funds for the account of the Bloomington Municipal Facilities Corporation to _____, Corporate Trust Department, _____, _____, Indiana _____.

BLOOMINGTON DOWNTOWN PARKING DEVELOPMENT CORPORATION

By:_____
President

BLOOMINGTON MUNICIPAL FACILITIES CORPORATION

By:_____
President

Dated: _____, 1992

IDD03DBE.WP5

ACKNOWLEDGMENT OF RECEIPT AND ACCEPTANCE

The City of Bloomington, acting by and through its Board of Public Works, hereby acknowledges receipt of and accepts the designation of a revised location for payment of rentals and other moneys payable by it under the Lease dated January 30, 1986, between it and the Bloomington Downtown Parking Development Corporation and agrees that it will make such payments in collected funds at such revised location.

CITY OF BLOOMINGTON, ACTING BY AND THROUGH ITS BOARD OF PUBLIC WORKS

_____
President, Board of Public Works

Attest:

_____
Secretary

Dated: _____, 1992

IDD03DBE.WP5

EXHIBIT B

BOARD OF PUBLIC WORKS

RESOLUTION 92-34

TO AUTHORIZE EXECUTION OF LEASE BETWEEN BMFC AND BOARD OF WORKS

WHEREAS, this Board of Public Works has previously examined and approved a form of lease proposed by Bloomington Municipal Facilities Corporation on August 25, 1992 ("Lease"); and,

WHEREAS, notice of a hearing on the proposed lease was given by publication in the Bloomington Herald-Times on August 28, 1992, and the hearing has been held in accordance with the notice; and,

WHEREAS, by statute the Bloomington Municipal Facilities Corporation is required to own the land to be leased to the City of Bloomington and the City of Bloomington is required to have the value of the land determined by professional appraisers; now, therefore,

BE IT RESOLVED by the Board of Public Works of the City of Bloomington, that this Board now finds the drawings, plans, specifications and estimates provide the necessary facilities for the City of Bloomington and are hereby approved, and the members of the Board of Public Works be, and they are hereby authorized and directed to endorse their approval upon such drawings, plans, specifications and estimates.

BE IT FURTHER RESOLVED, that the proposed Lease with Bloomington Municipal Facilities Corporation, as lessor, provides for a fair and reasonable rental and further that the execution of the Lease is necessary and wise.

BE IT FURTHER RESOLVED, that the Secretary is authorized and directed to initial and date a copy of the proposed Lease and to place it in the minute book immediately following the minutes of this meeting, and the Lease is made a part of this resolution as fully as if the same were set forth herein.

BE IT FURTHER RESOLVED, that the President and Secretary of the Board of Public Works be, and they are hereby authorized and directed to execute the Lease on behalf of the City of Bloomington.

SO APPROVED AND DATED THIS _____ DAY OF _____, 1992.

BLOOMINGTON BOARD OF PUBLIC WORKS

_____
President

_____
Member

_____
Member