Passed:

ORDINANCE 98-42

TO AMEND TITLE 20 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "ZONING"
(Authorizing the Use of Recordable Commitments for Rezoning Petitions and Providing for Appeals of Staff Decisions Regarding Final Plans for Planned Unit Developments)

WHEREAS, the Bloomington Plan Commission wishes to extend its authority to authorize the use of written commitments in a recordable form and impose reasonable conditions with rezoning of property and in Planned Unit Developments; and

WHEREAS, the Bloomington Plan Commission has considered this case, ZO-51-98, 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 1. Section 20.03.03.01, entitled "Jurisdiction and Authority," shall be amended to add part (x) at the end of the provision, which shall read as follows:

(x) To permit, require, modify and terminate commitments, and to hear appeals from final plan decisions by planning staff, as authorized elsewhere in this ordinance.

SECTION 2. Section 20.03.05.01, entitled "Authority" shall be amended to add part (g) at the very end of the provision, which shall read as follows:

(g) To approve, or forward to the Plan Commission, applications for approval of final Planned Unit Development plans, which shall include authority to permit or require commitments and impose reasonable conditions, as authorized elsewhere in this ordinance.

SECTION 3. Section 20.05.02.01, entitled "Notice Requirements" shall be amended to read as follows:

20.05.02.01 Notice Requirements

This section shall apply to the Board of Zoning Appeals, the Plan Commission and to any Hearing Officer or Plat Committee appointed by the Plan Commission.

(a) Whenever a public hearing is required by this zoning ordinance or by state law, notice of the hearing shall be given in the following manner:

(1) Publication. Notice shall be published in a daily newspaper of general circulation in the planning jurisdiction at least ten (10) days prior to the public hearing, in accordance with Ind. Code 5-3-1. Provided, however, except as expressly provided in this zoning ordinance, notice by publication shall not be required in any case where not required by state law, including but not limited to adoption of rules of procedure by the Plan Commission or Board of Zoning Appeals. Modification or termination of a commitment under Section 20.05.07.04, and appeals to Plan Commission of final Planned Unit Development plan decisions under 20.05.09.04(e)(5)(F) shall require notice by publication hereunder.

(2) Notice to Interested Parties. Whenever required by state law or by this zoning ordinance, which shall include any hearing on an application to the Board of Zoning Appeals, and any application to the Plan Commission for approval of a planned development, an amendment to the zoning maps, or a site plan, notice shall be sent to interested parties in accordance with this ordinance or with rules adopted by the Board of Zoning Appeals or Plan Commission respectively. Said rules shall specify who are interested parties in

each case, how notice is to be given to them, and who is to give that notice. Notice of the proposed modification or termination of a commitment shall be given in accordance with 20.05.07.04. Notice of an appeal to the Plan Commission from staff review of a final Planned Unit Development plan shall be given in accordance with the Plan Commission rules and procedures. Except where expressly provided, this section shall not be construed to require notice to interested parties in any situation where the Plan Commission, by rule, determines no such notice shall be required.

SECTION 4. Section 20.05.07.01, entitled "Authority and Procedures" shall be amended to read as follows:

20.05.07.01 Authority and Procedures

This zoning ordinance and the zoning map may be amended from time to time by ordinance duly enacted by the Common Council in accordance with the procedures set out in Indiana Code Chapter 36-7-4, 600 Series - Zoning Ordinance, and this Chapter, and also in accordance with Indiana Code Chapter 36-7-4 - 1500 Series - Planned Unit Development, and with 20.05.09 of this zoning ordinance.

SECTION 5. Section 20.05.07.04, entitled "Written Commitments" shall be added to the ordinance and shall read as follows:

20.05.07.04 Written Commitments

The Plan Commission may require or permit the owner of a parcel of real property to make a written commitment concerning use and/or development of that parcel in connection with a proposal to amend the zoning map under Indiana Code 36-7-4-608 and this chapter, or in connection with a proposal to adopt a Planned Unit Development District Ordinance under Indiana Code 36-7-4, 1500 Series and 20.05.09 of this ordinance.

(a) The Plan Commission may permit or require a written commitment to be made in any case where the making of such commitment will further the goals of the zoning ordinance or the comprehensive plan.

(b) The procedure by which the Plan Commission permits or requires the making of a written commitment shall be the same as the procedure for the underlying proposal to amend the zone map or to adopt a Planned Unit Development District Ordinance, and no additional notice or hearing shall be required.

(c) A written commitment may be modified or terminated by Plan Commission after notice and public hearing. Such notice and public hearing shall be in accordance with Chapter 20.05.02 of this ordinance, and the Plan Commission shall provide for notice to adjacent property owners and other interested parties as defined in the Plan Commission Rules and Procedures at least ten (10) days before the hearing. Modification or termination of commitments shall be allowed for good cause which may include but shall not be limited to change in circumstances such that the modification or termination will further the goals of the zoning ordinance or the comprehensive plan.

(d) A written commitment shall be in recordable form and shall contain such matters as are necessary to effectuate the commitment, and shall be subject to final approval by the City Legal Department as to form.

(e) A commitment made hereunder shall be recorded in the office of the County Recorder prior to approval of the proposal and prior to issuance of any building permits or Certificates of Zoning Compliance for the area involved in the proposal.

(f) A commitment made hereunder terminates automatically if after adoption of the

proposal the zoning map applicable to the area involved in the proposal is changed (which shall include designation as a Planned Unit Development).

(g) A written commitment shall be enforceable by the Corporation Counsel pursuant to Chapter 20.09 of this zoning ordinance. A written commitment shall also be enforceable by any property owner adjacent to the parcel of real estate which was the subject of the underlying proposal in connection with which the commitment was made, or other interested party as defined by the Plan Commission Rules and Procedures.

SECTION 6. Section 20.05.09.04 (c)(6) regarding the "Procedure for Approval of Planned Unit Development" shall be amended to read as follows:

(6) Upon completion of its review, the Plan Commission shall certify the application to the Council with a favorable recommendation, an unfavorable recommendation, or no recommendation. The Plan Commission may also permit or require a written commitment pursuant to 20.05.07.04, and may also impose reasonable conditions upon the proposed Planned Unit Development.

SECTION 7. Section 20.05.09.04 (e)(5)(C), entitled "Staff Approval" shall be amended to read as follows:

(5)(C) Staff Approval. It shall generally be the responsibility of staff to review final plans and unless Plan Commission reviews the final plans as provided in Sections 20.03.03.01(b) and 20.05.09.04(c)(5), or the final plan involves major changes from the approved preliminary plans, the planning staff shall review the final plan. The planning staff may permit or require a written commitment pursuant to 20.05.07.04, and may also impose reasonable conditions.

SECTION 8. Section 20.05.09.04 (e)(5)(E), regarding Plan Commission review of planned unit developments shall be amended to read as follows:

(5)(E) Plan Commission Review. If the Plan Commission has specified approval of final plan by the Plan Commission, the Plan Commission shall hold a public hearing on the application for final plan approval in accordance with Section 20.05.02 of this zoning ordinance. The commission may approve, deny, or approve with modifications, and may permit or require a written commitment pursuant to 20.05.07.04, and may also impose reasonable conditions.

SECTION 9. Section 20.05.09.04 (e)(5)(F), regarding the "Appeal to Plan Commission of Staff Decision" regarding final plans for planned unit developments shall be inserted into the ordinance and shall read as follows:

(5)(F) Appeal to Plan Commission of Staff Decision. Interested parties, as defined by the Plan Commission Rules and Procedures, affected by the decision of staff upon review of a final plan may within fourteen (14) days of such decision request that the Plan Commission review the staff decision. Such request shall be in writing and shall specify the grounds of the appeal. A public hearing shall be required with notice pursuant to 20.05.02.01. The Plan Commission may affirm, reverse or modify the staff decision.

SECTION 10. 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 sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 11. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor and promulgation by law.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 21 day of October, 1998.

TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this 21st day of October, 1998.

PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED AND APPROVED by me upon this 21st day of October, 1998.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance makes two changes to Title 20 of the BMC entitled "Zoning." First, it authorizes the Plan Commission to require written commitments and impose reasonable conditions on amendments to the zoning maps and, second, it provides an avenue for interested parties to appeal staff decisions regarding final plans for PUDs to the Plan Commission.

Signed copies to:
BMC file
Clerk + CA/CA
User file - 25

Planning
Legal - 5