Passed: 8-0

ORDINANCE 98-47

TO AMEND TITLE 20 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "ZONING"
(Redefining Zoning Commitments and Clarifying the Guidelines for Their Use)

WHEREAS, the Bloomington Plan Commission wishes to redefine the term "Commitment" in the Zoning Ordinance and to provide specific guidelines for the written recordable commitment; and

WHEREAS, the Bloomington Plan Commission has considered this case, ZO-63-98, and recommended that the Bloomington Municipal Code be changed and requests that the Common Council consider their petition;

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

SECTION 1. Section 20.02.01.00, entitled "DEFINITIONS" shall be amended by striking the current definition of "Commitment" and replacing that definition with the following:

Commitment. A written document in recordable form, which may include maps, site plans or other exhibits, and which contains the following information and any other information necessary to effect the provisions of this ordinance or the approval to which the commitment is connected:

1. The address and legal description of the parcel of real property to which the commitment is attached.

2. The name and address of the property owner(s) executing the commitment.

3. The Plan Commission docket number and a brief description of the proposal in connection with which the commitment is being made (example: "Proposal to change zoning map from CA to IL, Plan Commission Case Number ZO-82-99.")

4. A detailed statement of the owner's commitment regarding use and/or development of the property. The commitment may include the obligation to perform or refrain from performing any action and the obligation may be of a continuing nature.

5. A statement that the commitment shall be recorded in the Office of the Recorder of Monroe County and shall run with the land and be binding on the signatories and upon any subsequent owner or other person acquiring an interest in the real estate.

6. A statement that the commitment shall be enforceable by the City of Bloomington, or by any adjacent property owner or other interested party as defined by the Plan Commission Rules and Procedures.

7. A statement of whether the commitment was permitted by the Plan Commission (or by staff on final plan approval) or required as a condition of approval; if required, a statement that failure to honor the commitment shall constitute a violation of the zoning ordinance and shall be subject to the penalties for the same in addition to any other enforcement remedies.

8. A statement that the commitment may be modified or terminated only by action of the Plan Commission.

9. A statement about how the recording of the commitment to be executed shall be verified by the Planning Department.

SECTION 2. Section 20.05.07.04, entitled "Written Commitments" shall be amended to add a new paragraph (e) as follows and to redesignate the current paragraphs (e) through (g) accordingly.

(e) A commitment made under this section takes effect upon approval of the proposal in connection with which the commitment is made. An unrecorded commitment is binding upon the owner(s) of the parcel but is only binding upon a subsequent owner or other person acquiring an interest in the parcel if that person has actual notice of the commitment. A recorded commitment is binding upon any subsequent owner and any person acquiring an interest in the parcel.

Comment: restates the provisions of 36-7-4-615.

SECTION 3. 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 4. 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 18th day of November, 1998.

TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

Patricia Williams
PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of November, 1998.

Patricia Williams
PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED AND APPROVED by me upon this 19 day of November, 1998.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends the definition of a zoning commitment as it appears in Title 20 and clarifies the guidelines for the application of such commitments.

Signed copies to:
Planning
BLC File + 25
City CA
Clerk