City of Bloomington Common Council

Legislative Packet

16 October 2013

Regular Session

For material and legislation regarding Ordinance 13-09, please see the 01 May 2013: Legislative Packet.
All other legislation and background material contained herein.

Office of the Common Council
P.O. Box 100
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Bloomington, Indiana 47402
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http://www.bloomington.in.gov/council

City of Bloomington Indiana

City Hall
401 N. Morton St.
Post Office Box 100
Bloomington, Indiana 47402

Office of the Common Council
(812) 349-3409
Fax: (812) 349-3570
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To: **Council Members**
From: **Council Office**
Re: **Weekly Packet Memo**
Date: **October 11, 2013**

Packet Related Material

Memo
Agenda
Calendar
Notices and Agendas:
None

Legislation for Second Reading:

- **Ord 13-09** To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles and Traffic" - Re: Amending Schedules A and B of BMC 15.12.010 to Authorize a Multi-Way Stop at the Intersection of Moores Pike and Olcott Boulevard
  Contact:
  Councilmember Rollo at 349-3409 or rollod@bloomington.in.gov

  Please see the Council Legislative Packet prepared for the 1 May 2013 Regular Session for the Legislation, Associated Materials and Summary

Legislation and Background Material for First Reading:

- **Ord 13-19** To Authorize the Issuance of Bonds by the Monroe County Redevelopment Commission Pursuant to IC 36-7-14-3.5
  - Memo from Jeff Cockerill, Attorney, Monroe County
  - Letter from Financial Solutions Group, Financial Advisor for Bond Transaction
  - Maps of County TIF Districts and Its Westside TIF with City Parcels and Site of Project Identified

  Contact:
  Jeff Cockerill at 349-2525 or jcockerill@co.monroe.in.us

- **Ord 13-21** To Amend Title 8 of the Bloomington Municipal Code Entitled "Historic Preservation and Protection" (Changes to Chapter 8.02 - Definitions, Chapter 8.08 - Historic Districts and Standards, Chapter 8.12 - Demolition and Public Safety, Chapter 8.16 - Administration and Enforcement and Chapter 8.20 - List of Designated Historic Districts)
  - Memo to Council from Patty Mulvihill, Assistant City Attorney
  - Title 15 (Historic Preservation and Protection) with Changes Annotated

  Contact:

  Lisa Abbott at 349-3420 or abbottl@bloomington.in.gov or
  Patty Mulvihill at 349-3426 or mulvihip@bloomington.in.gov

Minutes from Regular Session:

None

Memo

One Ordinance (Postponed from May) Scheduled for Second Reading and Two Ordinances Scheduled for First Reading at the Regular Session on Wednesday, October 16th

After wrapping-up the budget for 2014, the Council will meet for a Regular Session next Wednesday to consider an item postponed from May and offer two ordinances for first reading. The item postponed from May is Ord 13-09, which can be found online as indicated above, is briefly mentioned below. The two ordinances for introduction next week are included in this material and summarized below.

Second Readings
Ord 13-19 Returns to the Agenda after Being Postponed in May

Ord 13-19 was sponsored by Councilmember Rollo, discussed by the Council in May, and postponed in May to a date no later than October 16th. It proposed a multi-way stop at the intersection of Olcott Boulevard and Moores Pike, but also implicated a recommendation in the April Council Sidewalk Committee Report to allocate about $18,500 to install a pedestrian crossing at that intersection. The motion for postponement requested more information about vehicular and pedestrian improvements (and the associated costs) that might address concerns raised by neighbors.

It's my understanding that Councilmember Rollo has met with the neighbors and worked with the Administration to identify a proposal for improvements that will obviate the need for a discussion about the multi-way stop Wednesday night. He anticipates offering a Motion to Table or Accept Withdrawal of the ordinance, but one that will allow him to present the proposal and allow comment by the public before action is taken on the motion.

First Readings

Item One - Ord 13-19 Approving the Issuance of $2 Million in County Westside TIF District Bonds for the Purchase of Land and a Building for Lease to IVY Tech for Use in Its Health Care Program

Ord 13-19 approves the issuance of $2 million in County Westside Economic Development Area (Westside TIF District) bonds for the purchase of about 1.54 acres of land and a building at 1101 Daniels Way for lease to IVY Tech for use in its Health Care Program. IVY Tech has agreed to make the improvements and open the building by the fall of 2015, and the bonds will run for ten years maturing in 2023. State law gives us a role in the County's decision because we have annexed three parcels within this TIF district (which also lie in the *City's* Westside TIF District) and need to protect our interest in the tax revenues that flow from those parcels. This ordinance, in essence, concludes that our interest in these tax revenues is not impaired by the issuance of these bonds and approves the transaction.

Jeff Cockerill, one of the County Attorneys, has sent a memo to the Council making this request and has included a letter from the Financial Solutions Group, Financial Advisor for the bond financing, indicating that the bonding will "not impact the (p)arcels or change the TIF Revenue received by the City of Bloomington."

Item Two – Ord 13-21 – Amending BMC Title 8 (Historic Preservation and Protection) to be Consistent with State Law and Address Matters of Compliance and Enforcement

Ord 13-21 amends all five chapters of Title 8 (Historic Preservation and Protection) in order to make local code consistent with statute (IC 36-7-11) and deal with matters regarding compliance and enforcement of the Title. Please see the Memo from Patty Mulvihill, Assistant City Attorney, for a concise statement of the changes and the reasons for them.

In order to bring local code in line with the historic preservation statutes, the ordinance:

- Revises the procedure for the elevation of conservation districts to historic districts (Ord Sections 1 & 6-8 revising BMC 8.02.020 and 8.08.010[b]);
- Simplifies the procedure for property owners to demolish historic buildings and structures without obtaining a Certificate of Appropriateness (Ord Section 18 revising BMC 8.12.020[d]);
- Introduces a procedure for removing a historic district (which was enacted by the General Assembly this year). (Ord. Section 17 adding BMC 8.08.070); and
- Corrects or adds various cites and powers granted by statute.[1]

In order to deal with issues regarding compliance and enforcement of Title 8, the ordinance:

- Redefines the term "moving" to exclude the mere lifting of the structure in the course of making repairs and returning the structure to the foundation;
- Adds the term "substantial removal" to clarify the point when removal requires the property owner to obtain a Certificate of Appropriateness; and
- Revises penalty provisions to establish separate penalties for subsequent offenses for demolishing a historic building or structure[2], and to clarify that such demolition, if in violation of the relevant provisions of Title 20 (Unified Development Ordinance), may cause a two-year wait before issuance of any Certificate of Zoning Compliance for that property.[3]

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[1] In particular, Ord Section 2, corrects the statutory cite for the State Historic Preservation Officer in BMC 8.02.020 – Definitions; Ord Section 12 and 13 add a cite for the application Certificates of Appropriateness and a sentence authorizing Historic Preservation Commission to "advise and make recommendations to the applicant before acting on an application for a certificate of appropriateness" in BMC 8.08.020 – Certificates of Appropriateness; and, Ord Section 25 and 26 add that interested parties need not post bond unless court determines that such posting to be in the interest of justice and that a decision or action of the Commission will be treated as if it were a final decision by the Board of Zoning Appeals in BMC 8.16.020 – Enforcement, Penalties, and Judicial Review.

[2] These changes establish fines for those who unlawfully demolish or remove a historic structure at $2,500, $5,000 and $7,500 for the first, second and third offense in addition to any other remedies provided by law. Currently, the ordinance imposes a $2,500 for the first violation of the ordinance and not more than $7,500 for the second and subsequent offenses in addition to any other remedies provided by law.

[3] In addition, the ordinance defines when such a violation has been corrected, thereby ending the issuance of fines. This occurs once the violator submits an "acceptable application" for Certificate of Appropriateness. (Ord Section 21 affecting BMC 8.16.020[b])

The ordinance also makes other minor and miscellaneous changes, which are listed here with footnotes, for those who want to know more about these changes and where to find them. In short, these minor changes include:

- Clarifying what is subject to Interim Protection; [4]
- Clarifying the context for determining the visible compatibility of changes in historic and conservation districts; [5]
- Combining references to "conservation district" with references to "historic districts"; [6] and
- Correcting grammar, formatting and references to other titles of the local code that have been amended.[7]

Highlights of Significant Changes

The rest of this summary will focus on some of the more significant changes proposed by this ordinance.

Changing Procedure for Elevating Conservation District to Historic District (As Required by Statute)

Perhaps the most significant change proposed by this ordinance relates to elevation of conservation districts to historic districts. State statute allows localities to establish historic districts in two phases - a conservation district followed by a historic district. This ordinance changes our local procedure to be consistent with State law. Currently, the local code provides for the Council – after a balloting of the property owners before the 3rd anniversary of the adoption of the ordinance designating an area as a conservation district – to decide whether a conservation district remains, elevates into an historic district, or is rescinded. State law calls for a conservation district to automatically elevate into a historic district after three years, unless a majority of the owners of property within the district object in writing within 60 – 180 days before the third anniversary.

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[4] Ord Sections 9 and 10 add "sites" to create the phrase "buildings, structures, or sites" in BMC 8.08.015 – Interim Protection.

[5] Ord Section 16 adds "squares" to create the phrase "buildings, squares, and places" in BMC 8.08.040 – Development Standards. (Please note that Nancy Hiestand relays that these last two changes also make local code match statute.)

[6] In particular, Ord Section 4 adds "conservation district" to the title of BMC 8.08 – Historic Districts, Conservation Districts, and Standards; and, Ord Section 15 adds "conservation district" to heading for BMC 8.08.040(b) – Criteria for considering visual compatibility within historic primary areas or conservation districts.

[7] In particular, Ord Section 11 corrects the outlining in BMC 8.08.015 (d) – Interim Protection; Ord Section 14 corrects cites to Title 16 of the BMC (Residential Rental Inspections…) found in BMC 8.08.030 Maintenance Standards; and Ord Section 27 standardizes the references to historic and conservation districts in BMC 8.20 – List of Designated Historic Districts.

The chief difference between conservation districts and historic districts is in the limited range of changes requiring the issuance of a Certificate of Appropriateness (otherwise known as a "C of A") by the Historic Preservation Commission. For conservation districts, only the demolition, moving, or construction of a building subject to view from a public way require this certificate.[8] For historic districts, in addition to these three circumstances, any conspicuous change to the exterior of the buildings[9] subject to view from a public way also require such a certificate.

Conservation districts have been a popular and effective device to help maintain the visible character of neighborhoods facing various threats that include expansion of nearby institutional uses, conversion of owner-occupied dwellings to rentals, and replacement small homes by much larger ones. The City now has three conservation districts – McDoel which was approved in 2001 and 2004; Prospect Hill which was approved in 2008 and 2011, and Garden Hill, which is approaching its 3rd anniversary in 2014.

One practical effect of this change will be to increase the burden and risk of property owners who do not wish the conservation district to elevate to a historic district. Rather than let the matter ultimately be decided by the Council, these property owners will need the timely and written support of a *majority of all property owners*. In response to concerns about low participation, the HAND department has committed to going door-to-door, if necessary, to obtain higher participation and a more accurate sentiment of the district.

Removal of Historic Districts

While the process is onerous and may never be used, perhaps the second most significant change in the ordinance is the codification of a recent change is State law which sets forth a procedure for removing a historic designation.

In brief, the removal of historic designation entails:

- At least 60% of the owners of property in a district petitioning the City Council, which then submits the petition to the Historic Preservation Commission (Commission);
- Within 60 days after submission of the petition and notice to property owners (and, in the case of districts comprised of one property, owners of abutting property), the Commission must hold a hearing;

[8] Note that any construction applies to the construction of "accessory buildings and structures" as well.

[9] Although I don't recall the City making the following distinction, please note that statute and local code distinguish between "primary" and "secondary" areas and provide for more review in the former than the latter.

- Within 10 days after holding a hearing, the Commission must file its findings on the petition (which must address statutory criteria) and its recommendation to grant or deny the petition with the City Council;
- Within 45 days after receiving the findings and recommendations, the Council must either grant or deny the petition;
- If it grants the request (which must be by a 2/3s vote, if that action is contrary to the recommendation of the Commission), the Council must file the ordinance with the County Recorder within 10 days of its adoption; and
- If the Council fails to act within the 45 days, the recommendation of the Commission goes into effect (which, in the case of a granting of approval, requires the Council to affirm that recommendation by ordinance within another 10 days).

Changing the Procedure for Demolition of Historic Properties in Absence of a Certificate of Appropriateness

Perhaps the next most significant set of changes affect the procedure for demolition of historic properties in the absence of the issuance of a Certificate of Appropriateness. One change removes local requirements for property owners that (go beyond those set forth in statute and) require property owners to provide documented evidence of their good faith effort to sell or dispose of the property to an entity with a willingness to preserve and restore the property. With that requirement gone, owners need only "demonstrate that the building or structure is incapable of earning a reasonable return on its value." Another change extends the time-frame for providing notice of such demolitions, which are tied to the classification of the structures, but are no longer tied to the placing of the property on the open market.

Substantial Removal of a Structure

Another change is worth mentioning because it resolves a question that arose from a recent enforcement action. The question is: when does an alteration of a building or structure amount to a "substantial removal" (which will dictate the need for a Certificate of Appropriateness). By borrowing from similar ordinances around the country, the ordinance ties the term to alterations that either:

- jeopardize the structure's listing on official registers; or
- remove at least 25% of an architecturally-defining feature or 25% of the entire structure.

NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, OCTOBER 16, 2013
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: *None*

IV. REPORTS (A maximum of twenty minutes is set aside for each part of this section.)
1. **Councilmembers**
2. **The Mayor and City Offices**
3. **Council Committees**
4. **Public***

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. Ordinance 13-09 To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles and Traffic" – Re: Amending Schedules A and B of the BMC 15.12.010 to Authorize a Multi-Way Stop at the Intersection of Moores Pike and Olcott Boulevard

Committee Recommendation: (*8 May 2013*)	Do Pass	2 – 0 – 7
Regular Session Action: (*15 May 2013*)	Postpone Until No Later Than 16 Oct 2013	7 – 0

(Motion to Table or Accept Withdrawal Anticipated This Evening)

VII. LEGISLATION FOR FIRST READING

1. Ordinance 13-19 To Authorize The Issuance of Bonds by the Monroe County Redevelopment Commission Pursuant to IC 36-7-14-3.5

2. Ordinance 13-21 To Amend Title 8 of the Bloomington Municipal Code Entitled "Historic Preservation and Protection" (Changes to Chapter 8.02 - Definitions, Chapter 8.08 - Historic Districts and Standards, Chapter 8.12 - Demolition and Public Safety, Chapter 8.16 - Administration and Enforcement and Chapter 8.20 - List of Designated Historic Districts)

VIII. ADDITIONAL PUBLIC COMMENT* (A maximum of twenty-five minutes is set aside for this section.)

IX. COUNCIL SCHEDULE

X. ADJOURNMENT

* Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.

Posted & Distributed: Friday, October 11, 2012

City of Bloomington
Office of the Common Council

To Council Members
From Council Office
Re Weekly Calendar – 14 – 19 October 2013

Monday, 14 October

Columbus Day
Holiday – City Offices Closed

Tuesday, 15 October

11:30 am Plan Commission Work Session, Kelly
4:00 pm Board of Public Safety, McCloskey
5:30 pm Animal Control Commission, McCloskey
5:30 pm Commission on the Status of Children and Youth, Hooker Room

Wednesday, 16 October

9:30 am Tree Commission, Rosehill Cemetery Office - 930 W. 4th St.
2:00 pm Hearing Officer, Kelly
4:00 pm Board of Housing Quality Appeals, McCloskey
7:00 pm Council of Neighborhood Associations, Hooker Room
7:30 pm Common Council Regular Session, Council Chambers

Thursday, 17 October

8:00 am Bloomington Housing Authority – 1007 N. Summit, Community Room
4:00 pm Platinum Bike Summit, Council Chambers
5:15 pm Monroe County Solid Waste Management District Citizens' Advisory Council, McCloskey
7:00 pm Environmental Commission, McCloskey

Friday, 18 October

12:00 pm Council-Staff Internal Work Session, Hooker Room
12:00 pm Domestic Violence Task Force, McCloskey

Saturday, 19 October

9:00 am Bloomington Community Farmers' Market, Showers Common – 401 N. Morton

Posted and Distributed: Friday, 11 October 2013

401 N. Morton Street • Bloomington, IN 47404 **City Hall** **Phone: (812) 349-3409 • Fax: (812) 349-3570**
www.bloomington.in.gov/council
council@bloomington.in.gov

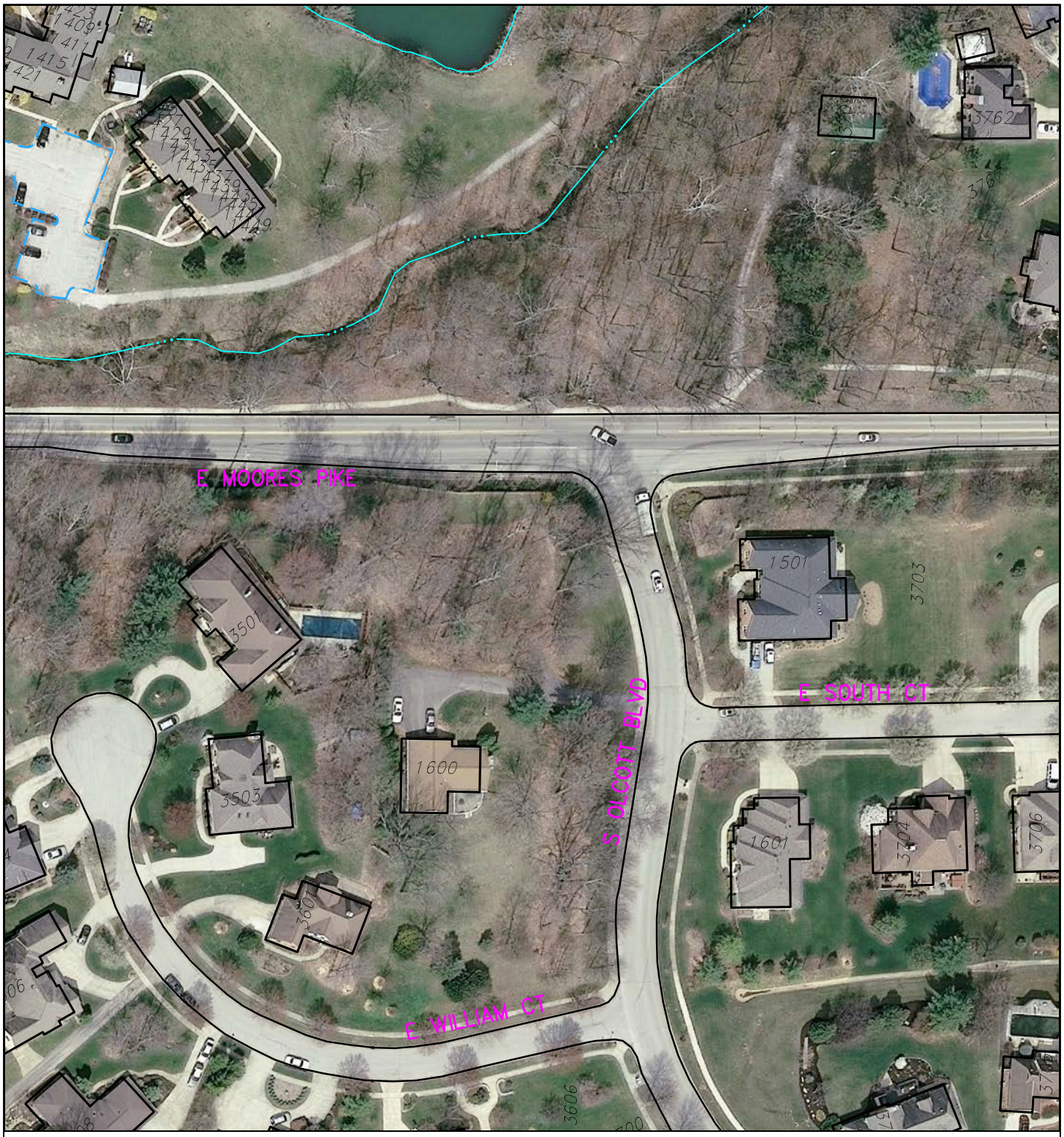
Ordinance 13-09

To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles and Traffic" – Re: Amending Schedules A and B of the BMC 15.12.010 to Authorize a Multi-Way Stop at the Intersection of Moores Pike and Olcott Boulevard

Material In Packet

Photographs of Intersection

For all other material and legislation, please see the 1 May 2013: Common Council Legislative Packet.



By: kehrberp
16 May 11

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City of Bloomington
Engineering

Scale: 1" = 100'

For reference only; map information NOT warranted.

SPEED
LIMIT
30

HYDE

ORDINANCE 13 –19

TO AUTHORIZE THE ISSUANCE OF BONDS BY THE MONROE COUNTY REDEVELOPMENT COMMISSION PURSUANT TO IC 36-7-14-3.5

WHEREAS, the Monroe County Redevelopment Commission ("Commission") did on February 25, 1993, adopt a Declaratory Resolution establishing the Westside Economic Development Area ("Area"); and

WHEREAS, the City of Bloomington, Indiana ("City") has annexed part of the real estate within the Area ("Annexation"); and

WHEREAS, the Commission has adopted a resolution authorizing bonds in an aggregate principal amount not to exceed Two Million Dollars ($2,000,000) ("Bond Resolution") payable from Tax Increment and, to the extent Tax Increment is not sufficient, from a Special Benefits Tax for the purpose of paying the costs of the Project (each as defined in the Bond Resolution) ("Bonds"); and

WHEREAS, the Commission will use the proceeds of the Bonds to finance the acquisition of approximately 1.540 acres of property commonly known as 1101 North Daniels Way, Bloomington, Indiana, and the building located thereon, for the purpose of repurposing the building through one or more leases to be entered into by the Commission; and

WHEREAS, IC 36-7-14-3.5 requires the approval of the issuance of the Bonds payable from Tax Increment by the Common Council of the City;

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

SECTION 1. The Common Council hereby approves the issuance of the Bonds by the Commission.

SECTION 2. This ordinance shall be in full force and effect from and after its passage and execution by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Indiana this ____ day of _____, 2013.

_____
DARRYL NEHER, President
Bloomington Common Council

ATTEST:

_____
REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2013.

_____
REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2013.

_____
MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance by the City of Bloomington approves Monroe County Redevelopment Commission's issuance of bonds payable with Tax Increment Finance (TIF) from Monroe County's Westside TIF District, a part of which has been annexed by the City. The City's approval for issuing new bonds is required whenever the City has annexed property within a County TIF district and the tax from that property will be used to repay TIF bonds. (See IC 36-7-14-3.5).

OFFICE OF
MONROE COUNTY ATTORNEY
100 W. Kirkwood Avenue, Room 220
Bloomington, Indiana 47404
Telephone: (812) 349-2525
Facsimile: (812) 349-2982
e-mail: legal@co.monroe.in.us

DAVID B. SCHILLING

E. JEFF COCKERILL

KEVIN W. DOGAN

October 9, 2013

Mr. Dan Sherman
Council Administrator
Common Council of the City of Bloomington
City Hall
401 N. Morton Street
Post Office Box 100
Bloomington, IN 47402

RE: Request for City Council approval of TIF financing.

Dear Dan:

The Monroe County Redevelopment Commission respectfully requests the City Council approval to issue Bonds in an amount not to exceed two million dollars. The bonds will be issued in the County's Westside Economic Development Area ("WEDA"). Bond revenues will be used to finance the purchase of a vacant two story 14,802 square foot building that sits on 1.54 acres. Upon purchase of the building by the Monroe County Redevelopment Commission, it will be leased to Ivy Tech for use in its health care program. Ivy Tech has committed to make the necessary improvements and have the building ready for use no later than the 2015 fall semester.

The WEDA was formed in 1993 and includes portions of Sections 26 35, and 36 of Richland Township. The Monroe County Redevelopment authority issued bonds in 1995 to pay for road improvements within the WEDA. Subsequent to the issuance of the bonds, the City annexed a portion of the Whitehall Crossing development which is located within the WEDA. Indiana Code 36-7-14-3.5 requires city council approval in order for the bonds to be issued.

Enclosed please find a copy of a letter from the County's financial advisor, which states: "The proposed bond will not impact the Parcels or change the TIF revenue received by the City of Bloomington." The Parcels referred to in the quote are those parcels in the WEDA that have been annexed by the City of Bloomington. I know of no reason to question the financial adviser's conclusion.

If you have any questions regarding this matter, please give me a call. I look forward to working with you and the City Council to help make the proposed project a reality.

Sincerely,

Jeff Cockerill

Enclosure

Financial
Solutions
Group,
Inc.

2680 East Main Street
Suite 223
Plainfield, IN 46168
Phone: 317.837.4933
Fax: 317.837.4935

Email Addresses:

finance@msn.com

greg@fsgcorp.com

October 8, 2013

Monroe County
Attn: Mr. Jeff Cockerill
100 W. Kirkwood Avenue
Courthouse, Room 220
Bloomington, IN 47404

VIA EMAIL: jcockerill@co.monroe.in.us

RE: PROPOSED REDEVELOPMENT COMMISSION TIF BONDS

Mr. Cockerill:

Pursuant to your request, we have reviewed the possible impact to the parcels in the County's Westside Tax Increment Financing Area that have been annexed by the City of Bloomington (the "Parcels"). As you know, the County Redevelopment Commission receives shares TIF Revenue from the Parcels with the City of Bloomington. The City receives TIF Revenue based on the City's tax rate and the County receives the remaining TIF Revenue.

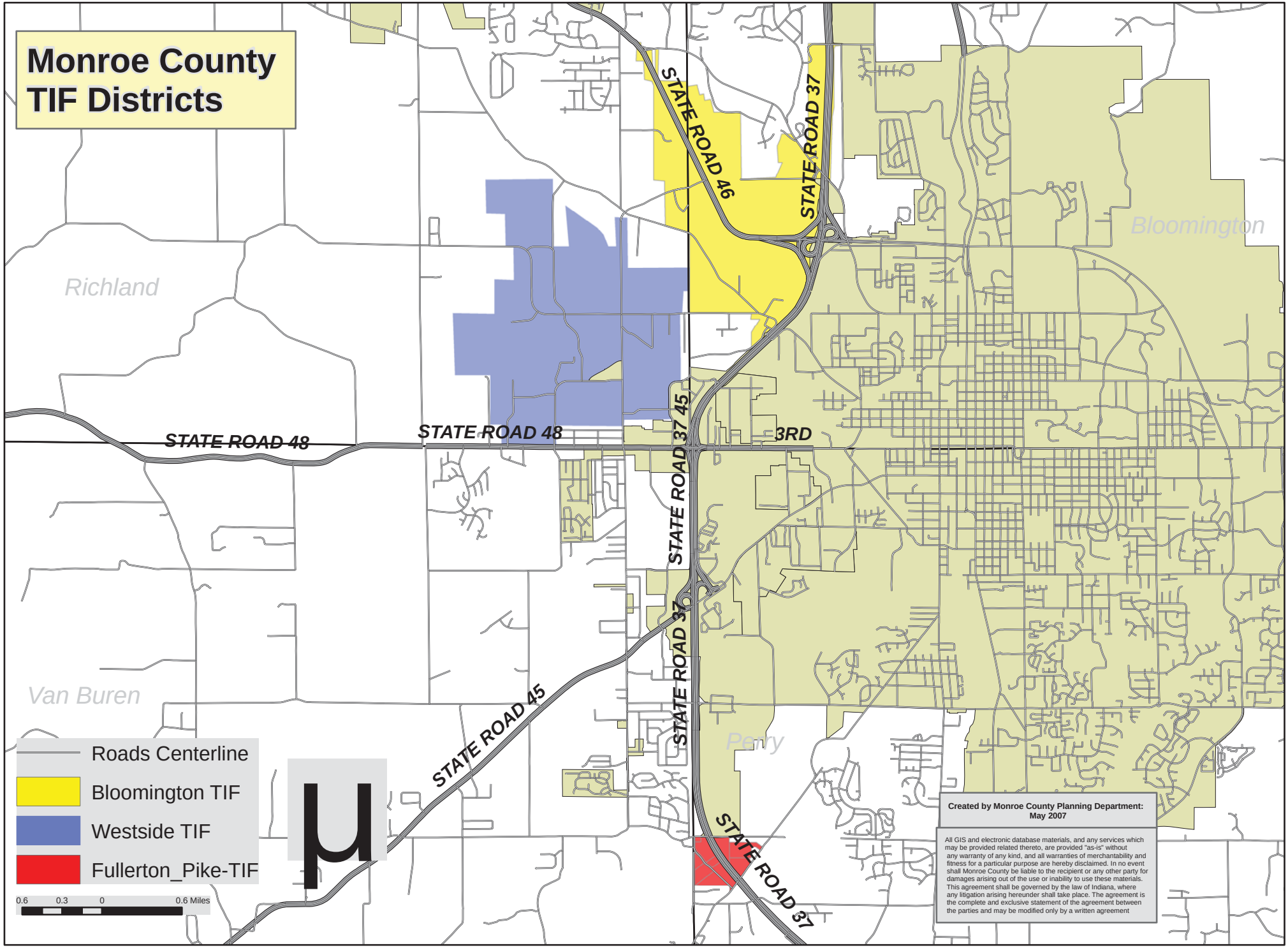
The proposed bonds will not impact the Parcels or change the TIF Revenue received by the City of Bloomington. In addition, the project to be funded by the proposed bonds is not in area covered by the Parcels. The County currently has TIF Bonds outstanding through July 15, 2024. The final maturity of the proposed bonds is July 15, 2023.

If you have any questions, please do not hesitate to call.

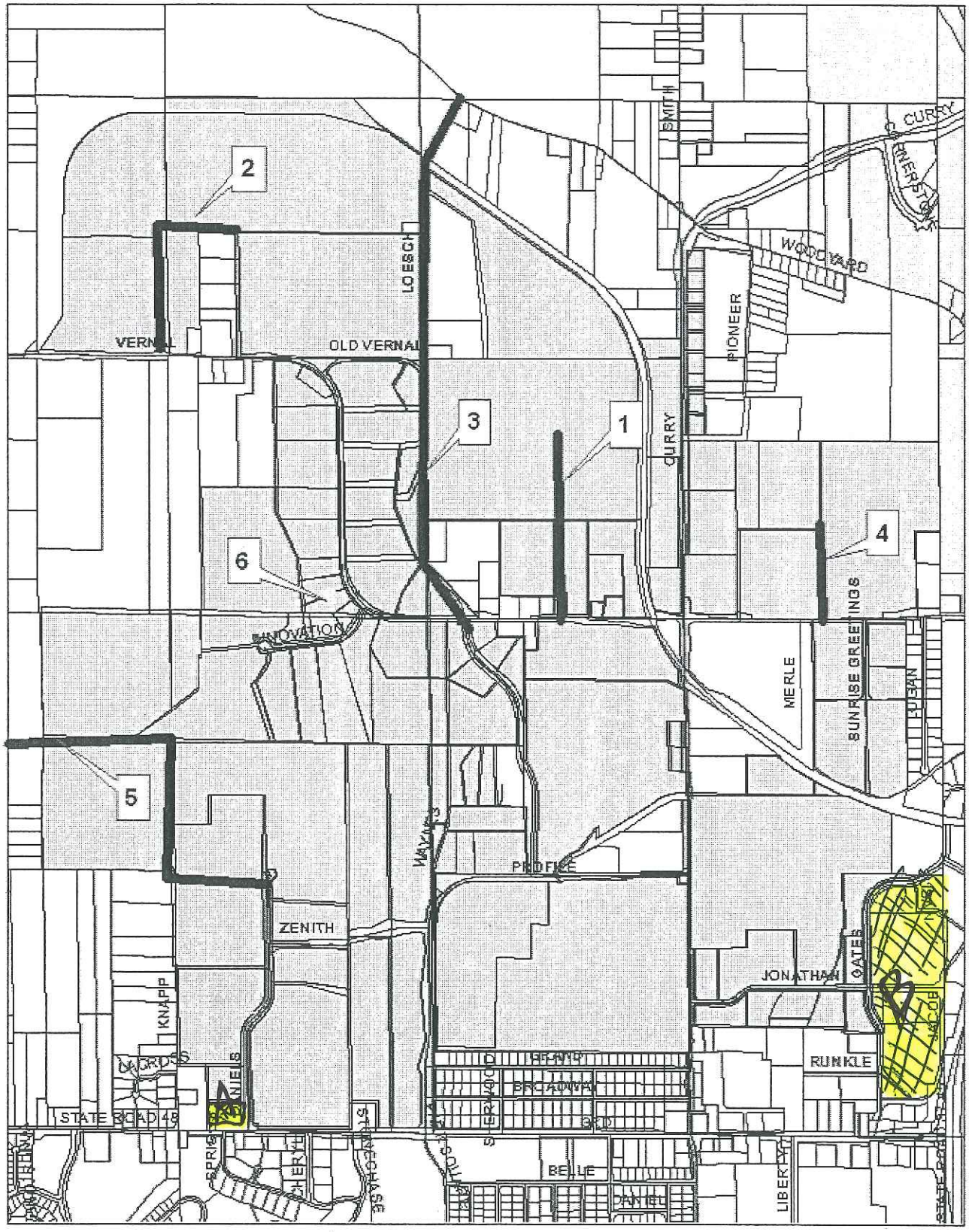
Sincerely,

Financial Solutions Group, Inc.

Gregory T. Guerrettaz


Monroe County
TIF Districts
Richland
Bloomington
Van Buren
Perry
STATE ROAD 48
STATE ROAD 48
STATE ROAD 46
STATE ROAD 37
STATE ROAD 37 45
STATE ROAD 37
STATE ROAD 37
STATE ROAD 45
3RD
Roads Centerline
Bloomington TIF
Westside TIF
Fullerton_Pike-TIF
0.6 0.3 0 0.6 Miles
Created by Monroe County Planning Department:
May 2007
All GIS and electronic database materials, and any services which may be provided related thereto, are provided "as-is" without any warranty of any kind, and all warranties of merchantability and fitness for a particular purpose are hereby disclaimed. In no event shall Monroe County be liable to the recipient or any other party for damages arising out of the use or inability to use these materials. This agreement shall be governed by the law of Indiana, where any litigation arising hereunder shall take place. The agreement is the complete and exclusive statement of the agreement between the parties and may be modified only by a written agreement

RICHLAND TIF



A SITE OF LAND & BUILDING

B 3 CITY PARCELS

1,100 550 0 1,100 Feet

ORDINANCE 13-21

TO AMEND TITLE 8 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "HISTORIC PRESERVATION AND PROTECTION"
(Changes to Chapter 8.02 - Definitions, Chapter 8.08 - Historic Districts and Standards, Chapter 8.12 - Demolition and Public Safety, Chapter 8.16 - Administration and Enforcement and Chapter 8.20 - List of Designated Historic Districts)

WHEREAS, in an effort to ensure the City's Title 8 complies with I.C. 36-7-11, the City's Administration believes certain changes are needed to the current Title 8; and

WHEREAS, Title 8 has not been updated in approximately thirteen (13) years and the City's Administration believes certain updates are needed to better meet the needs of the Historic Preservation Commission and the Bloomington community at large;

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

SECTION 1. Section 8.02.020, entitled "Definitions", shall be amended by amending the definition of the word "Conservation District" so that it reads as follows:

> Conservation District. Pursuant to Indiana Code 36-7-11-19, the provision that a district may be created which is called a conservation district, the second phase of which is the conversion to historic district status upon the conclusion of three years, subject to written objection by a majority of property owners in the district. Regulation in a conservation district is less stringent than in an historic district. In a conservation district, a certificate of appropriateness must be granted for:
>
> (1) The demolition of any building;
> (2) The moving of any building (the moving of a building does not include raising a building for purposes of foundation repair or replacement, provided the building is replaced on its original footprint once the foundation has been repaired or replaced);
> (3) Any new construction of a principal building or accessory building or structure subject to view from a public way.

SECTION 2. Section 8.02.020, entitled "Definitions", shall be amended by amending the definition of the word "Interested Parties" to delete the number sequence "14-3-3.4-10" and replace it with "14-21-1-19".

SECTION 3. Section 8.02.020, entitled "Definitions", shall be amended to add a newly defined term, "Substantial Removal", which shall read as follows:

> "Substantial Removal" as used in the definition of "Demolition" means an alteration, pulling down, destruction or removal of a portion of a structure which jeopardizes a structure's individual eligibility for listing in the National Register of Historic Places, or its status as a contributing structure in a national, state or local register of historical places, which shall include, but not be limited to, the removal of a defining architectural feature or element which defines or contributes to the historic character of the structure or the removal of twenty-five percent (25%) of the structure, including its roof, if the part which is removed is on a façade which is subject to view from a public thoroughfare."

SECTION 4. Chapter 8.08, entitled "Historic Districts and Standards", shall be renamed "Historic Districts, Conservation Districts, and Standards" and said name shall appear in the chapter headings listed at the beginning of this Title.

SECTION 5. The Section headings under Chapter 8.08, newly entitled "Historic Districts, Conservation Districts and Standards", shall be amended to include on additional section: "8.08.070—Removing the designation of a historic district".

SECTION 6. Section 8.08.010(b)(1) shall be deleted in its entirety and replaced with the following: "The first phase shall last three (3) years."

SECTION 7. Section 8.08.010(b)(2) shall be deleted in its entirety and replaced with the following: "At the end of the first phase, upon the expiration of the three (3) year period, the conservation district shall become a historic district, subject to subsection three (3); and"

SECTION 8. Section 8.08.010(b) shall be amended to add a new subsection (3) to read as follows:

> "The conservation district may continue past the three (3) year term, thereby avoiding the designation of a historic district, if a majority of property owners in the district object to the Commission, in writing, to the elevation to a historic district. Said objections must be received by the Commission not earlier than one hundred and eighty (180) days or later than sixty (60) days before the third anniversary of the adoption of the conservation district."

SECTION 9. Section 8.08.015(a) shall be amended by deleting the phrase "buildings or structures" and replacing it with the phrase "buildings, structures, or sites" as that phrase appears in part (a).

SECTION 10. Section 8.08.015(c) shall be amended by deleting the phrase "building or structure" and replacing it with the phrase "building, structure, or site" as that phrase appears in part (c).

SECTION 11. Section 8.08.015(d)(2) shall be amended by changing the lower case lettering in parts (a), (b), and (c) to upper case, so that they read parts, (A), (B), and (C); and, to add the word "or" after the comma at the end of part (B), so that part (d)(2) reads as follows:

> (d)(2) The exterior appearance of the building, structure, or site may not be conspicuously changed by:
>
> (A) Addition,
> (B) Reconstruction, or
> (C) Alteration.

SECTION 12. Section 8.08.020(b) shall be amended to add the following phrase "as permitted by I.C. 36-7-11-11" at the end of the last sentence of this subsection.

SECTION 13. Section 8.08.020(c) shall be amended to add the following sentence at the end of this subsection: "In accordance with I.C. 36-7-11-12, the commission may advise and make recommendations to the applicant before acting on an application for a certificate of appropriateness."

SECTION 14. Section 8.08.030(a) shall be amended by deleting the phrase "Chapters 16.04 and 16.12 of the Bloomington Municipal Code (Property Maintenance Code and Housing Quality" and replacing it with the phrase "Title 16 (Residential Rental Unit and Lodging Establishment Inspection Program) of the Bloomington Municipal Code".

SECTION 15. Section 8.08.040(b) shall be amended to add the phrase "or conservation districts" after the phrase "historic primary areas"; and, shall be further amended to strike the words "Within the primary area of an historic district, new buildings and structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color," as they appear starting in the second line of part (b) and replace them with the words "Changes in the primary areas of historic and conservation districts, which are subject to review by staff or the Commission," so that the beginning of part (b), up to the words "must be visually compatible with" shall read as follows:

> Criteria for considering visual compatibility within historic primary areas or conservation districts: Changes in the primary areas of historic and conservation districts, which are subject to review by staff or the Commission,

SECTION 16. Section 8.08.040(b) shall be amended to add the following “, squares,” after the word “buildings” and before the phrase “and places” wherever those words appear together in this subsection.

SECTION 17. A new Section, Section 8.08.070, entitled “Removing the designation of a historic district”, shall be added to read as follows:

8.08.070 – Removing the Designation of a Historic District.

This Section provides the exclusive method for removing the designation of a historic district.

(a) The owner or owners of a building, structure, or site designated as a single sit historic district may sign and file a petition with the City Common Council requesting removal of the designation of the building, structure, or site as a historic district. In the case of a historic district containing two or more parcels, at least sixty percent of the owners of the real property of the historic district may sign and file a petition with the City Common Council requesting removal of the designation of a historic district.

(b) The City Common Council shall submit a petition filed under subsection (a) to the Commission. The Commission shall conduct a public hearing on the petition not later than sixty days after receiving the petition. The Commission shall provide notice of the hearing:

(1) By publication under Indiana Code 5-3-1-2(b);

(2) In the case of a historic district comprised of real property owned by fewer than fifty property owners, by certified mail, at least ten days before the hearing, to each owner of real estate within the historic district; and

(3) In the case of a single building, structure, or site designated as a historic district, by certified mail, at least ten days before the hearing, to each owner of the real estate abutting the building, structure, or site designated as a historic district that is the subject of the petition.

(c) The Commission shall make the following findings after the public hearing:

(1) Whether a building, structure, or site within the historic district continues to meet the criteria for inclusion in a historic district as set forth in this ordinance. The determination must state specifically the criteria that are applicable to the buildings, structures, or sites within the district.

(2) Whether failure to remove the designation of the historic district would deny an owner of a building, structure, or site within the historic district reasonable use of the owner’s property or prevent reasonable economic return. Evidence provided by the petitioner may include information on:

(A) Costs to comply with regulations;
(B) Income generation;
(C) Availability of contractors to perform work;
(D) Real estate values;
(E) Assessed values and taxes;
(F) Revenue projections;
(G) Current level of return;
(H) Operating expenses;
(I) Vacancy rates;
(J) Financing issues;

(K) Efforts to explore alternative uses of the property;
(L) Availability of economic incentives; and
(M) Recent efforts to sell or rent the property.

(3) Whether removal of the designation of a historic district would have an adverse economic impact on the owners of real estate abutting the historic district, based on testimony and evidence provided by the owners of the real estate and licensed real estate appraisers or brokers.

(4) Whether failure to remove the designation of the historic district would have an adverse impact on the unit's historic resources, and specifically whether it would result in the loss of a building, structure, or site classified as historic by the Commission's survey.

(d) Not later than ten days after the Commission's public hearing, the Commission shall submit to the City Common Council the following:

(1) It's findings on the petition; and
(2) A recommendation to grant or deny the petition.

(e) Not later than forty-five days after receiving the Commission's findings the City Common Council shall do one of the following:

(1) Deny the petition;

(2) Grant the petition by adopting an ordinance that removes the designation of the historic district by:

(A) A majority vote, if the recommendation of the Commission is to grant the petition; or
(B) A two-thirds vote, if the recommendation of the Commission is to deny the petition.

The City Common Council shall record an ordinance adopted under subdivision (2) with the County Recorder not later than ten days after the City Common Council adopts the ordinance. The historic district designation is considered removed on the date the ordinance is recorded with the County Recorder.

(f) If the City Common Council does not grant or deny the petition within forty-five days after receiving the Commission's findings:

(1) The petition is considered granted or denied in accordance with the recommendation of the Commission; and

(2) If the petition is considered granted, the City Common Council shall, not later than fifty-five days after receiving the Commission findings:
(A) Adopt an ordinance that removes the designation of the historic district; and
(B) Record the ordinance with the County Recorder.

The historic district designation is considered removed on the date the ordinance is recorded with the County Recorder.

SECTION 18. Section 8.12.010(d)(2) shall be deleted in its entirety and replaced with the following:

(2) The property owner shall file with the administrator documented evidence that an appraisal of the property's fair market value by a licensed real estate appraiser has occurred.

SECTION 19. Section 8.12.010(d)(3)(A) shall be amended by deleting the phrase "a building is placed upon the open market shall be linked with its classification in the survey" and replacing with the following "notice of the proposed demolition must be given is herein fixed by the commission and subsequently codified as follows"; and further amended by deleting the number "9" and replacing it with the number "12"; and further amended by deleting the number "6" and replacing it with the number "12"; and further amended by deleting the number "4" and replacing it with the number "6".

SECTION 20. Section 8.16.020(b)(1) shall be amended to add the phrase "for purposes of the penalties and remedies specified in this chapter" at the end of the second sentence in this subsection, and be further amended to add the phrase "and/or" at the end of subsection (C).

SECTION 21. Section 8.16.020(b) shall be amended to create a new subsection (2) and all remaining subsections shall be renumbered accordingly. The newly created subsection (2) shall read as follows:

> (2) Any person, whether as principal agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise, who demolishes or removes a structure subject to regulation under this Title shall pay a fine of two thousand five hundred dollars for the first offense, five thousand dollars for the second offense and seven thousand five hundred dollars for the third offense, in addition to any and all other remedies provide for by law. Correction of the demolition or removal of a structure subjected to regulation under this Title shall not occur until an acceptable application for a certificate of appropriateness has been filed with the Historic Preservation Commission.

SECTION 22. The newly renumbered Section 8.16.020(b) (3) shall be amended to add the phrase ", except for the violation described in Section 8.16.020(b) (2)," after the word "chapter" and before the word "shall".

SECTION 23. Section 8.16.020(b) shall be amended to create a new subsection (6) to read as follows:

> (6) If a property which is subject to regulation under Section 20.09.30 of City's Municipal Code is demolished in violation of said Section, the penalties provided for in Section 20.10.020(f) of the City's Municipal Code may also apply.

SECTION 24. Section 8.16.020(c) shall be amended to add the words "or conservation" after the word "historic" and before the word "district".

SECTION 25. Section 8.16.020(c) shall be amended to create a new subsection (3) and all remaining subsections shall be renumbered accordingly. The newly created subsection (3) shall read as follows:

> (3) The interested party does not have to post a bond unless the court, after a hearing, determines that a bond should be required in the interest of justice.

SECTION 26. Section 8.16.020(d) shall be deleted in its entirety and replaced with the following: "In accordance with I.C. 36-7-11-4(h), a final decision of the commission is subject to judicial review under Indiana Code 36-7-4 as if it were a final decision of a Board of Zoning Appeals."

SECTION 27. Chapter 8.20, entitled "List of Designated Historic Districts", shall be deleted in its entirety and replaced with the following:

Chapter 8.20 – List of Designated Historic and Conservation Districts

The Old Library	202 East Sixth Street
Elias Abel House	317 North Fairview Street
Seminary Park	West Second Street between College Avenue and Walnut Street
Paris Dunning House	608 West Third Street

Cochran House	405 North Rogers Street
Morgan House	532 North Walnut Street
The Depot	7th Street and Morton Street
Wylie House	307 East Second Street
Princess Theater	204 North Walnut Street
J.L. Nichols House and Studio	820 North College Avenue
Showers Bridwell House	409 North Washington Street
Farmer House	529 North Washington Street
Second Baptist Church	321 North Rogers Street
Lamp Posts	Hawthorne Street
Fieldstone Sidewalk	East side of Dunn Street between 3rd Street and 4th Street
Showers-Teter-Barrett House	508 North Washington Street
Showers-Smith Matthews-House	514 North Washington Street
Showers-Freese House	522 North Washington Street
George Henley House	512 East Eighth Street
George Wylie House	321 North Indiana Avenue
Hicks-Sperry House	625 North Walnut Street
Henley House	322 West Second Street
Elisha Ballentine House	315 East Seventh Street
Washington Street Apartments	316 North Washington Street
	503 East Smith
Tri-Delta House	812 East Third Street
Hudgins-Fagan House	323 East Sixth Street
Hudgins House	303 East Sixth Street
Parker Hawkins House	514 West Kirkwood Avenue
Prospect Hill Historic District	(28 Properties)
Smallwood Pike Buildings	414-424 North Morton Street
The property at 209 South Dunn Street	209 South Dunn Street
The building at 514 North Fess Avenue	514 North Fess Avenue
The building located at 324 East Second Street	324 East Second Street
Buskirk-Chumley Theater	112-114 East Kirkwood Avenue
Breaking Away House	756 South Lincoln Street
Parks Home	821 West Sixth Street
Fairview Historic District	(10 properties)
	221 East Kirkwood Avenue
	517 East Kirkwood Avenue
Victoria Towers	312 South Euclid Avenue
The Von Lee Theater Building	315-317 North Fess Avenue
Brummett House	(271 properties)
The duplex located at 315-317 North Fess Avenue	416 East Fourth Street and
McDoel Conservation District	615 West Sixth Street
Limestone Hitching Posts	2820—2920 East 10th Street
	112 East 3rd Street
The Garton Farmstead	The brick streets located in the public right-of-way bounded by 10th Street on the north, 7th Street on the south, Indiana Avenue on the west, and Woodlawn Avenue on the east, including Fess Avenue, Park Avenue, 8th Street and 9th Street
The Fleener Building	300 East 3rd Street
The brick streets in University Courts	314—316, 318—320 and 322—324 North College Avenue
The Home Laundry Building	1115 North College Avenue
Apartment Row	2102 West Vernal Pike
1115 North College Avenue	A part of Out Lot Number 31
2102 West Vernal Pike	-(355 properties)
430 North Washington, 209-211 East 8th Street	400 North Walnut Street
Prospect Hill Conservation District	(97 properties)

The Elks Lodge #446	700 North Walnut Street
Garden Hill Conservation District	(263 properties)
700 North Walnut Street	
Elm Heights Historic District	

SECTION 28. If any section, sentence, chapter or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any other section, sentence, chapter, provision or application 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 29. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, with approval of the Mayor, and after any required waiting and/or notice periods under Indiana law.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day _____, 2013.

_____
DARRYL NEHER, President
Bloomington Common Council

ATTEST:

_____
REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2013.

_____
MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance seeks to do two things: (1) amend Title 8 to ensure compliance with I.C. 36-7-11; and (2) amend Title 8 to alleviate problems the Historic Preservation Commission has recently experienced in terms of noncompliance and enforcement. The ordinance suggests three major changes to ensure Title 8 complies with the Indiana Code. First, it changes the manner in which conservation districts are established and maintained. Second, it changes the manner in which a property owner continues his/her quest to demolish a protected building if the Commission fails to issue a certificate of appropriateness. Third, it establishes the exclusive method by which a property or district designated as historic may remove said designation. Additionally, the ordinance suggests three major changes to alleviate problems the Commission has recently experienced. First, the word “moving” is defined so as to exclude from review those instances where a designated property is only lifted from its foundation to make repairs to said foundation. Second, a new definition is created to define the phrase “substantial removal” to better advise property owners of how much of a structure can be removed without having to first obtain Commission approval. Third, the penalty provisions of the Title have been enhanced in the following manner: (1) demolition of a protected structure shall result in an initial fine of $2,500 and increase up to $7,500.00 per day until the violation is corrected—which does not occur until an acceptable application is submitted to the Commission; and (2) a reference is made to Title 20 putting property owners on notice that a demo delay violation may result in the City’s refusal to issue occupancy permits for no more than two years.

MEMO:

To: **City of Bloomington Common Council**
CC: **Mark Kruzan, Mayor**
Lisa Abbott, Director of HAND
From: **Patty Mulvihill, Assistant City Attorney**
Date: **September 24, 2013**
Re: **Revisions to Title 8, Historic Preservation & Protection**

Attached are two documents pertaining to the Administration's proposed revisions to Title 8, entitled Historic Preservation and Protection. The first document is the proposed ordinance. The second document shows exactly where each of the proposed changes will occur in the current Title.

The proposed revisions have been suggested for two key reasons. The first reason is to amend Title 8 so that is in complete compliance with Indiana Code 36-7-11. It is important to note that Indiana Code 36-7-11-2(b) specifically states that this Chapter of the Indiana Code is the *exclusive* method by which cities and towns may adopt historic preservation ordinances. The second reason to amend Title 8 is to try and alleviate some of the problems the Historic Preservation Commission ("Commission") has recently experienced in terms of noncompliance and enforcement.

There are three key changes to Title 8 as a result of Indiana law.

First, state law requires a conservation district to automatically become a historic district three years from the date the conservation district is established. The only way to prevent the automatic elevation from a conservation district to a historic district is if a majority of the property owners in the district object to the elevation in writing and submit said objection to the Commission. This objection must be received by the Commission no earlier than 180 days and no later than 60 days before the three year anniversary date occurs. The current language in Title 8 does not appear to be properly worded and the City Legal Department is suggesting changes.

Second, when a property owner does not obtain a demolition approval, State law allows an owner to establish certain facts in an attempt to override the denial of demolition. The State requires an appraisal of the property and allows the Commission to set specific time frames for how long particularly designated properties must be in a "delay" period before demolition occurs. The current Title 8 goes beyond this and requires significantly more of a property owner.

City Legal suggests substantive changes to ensure a better alignment between the State Code and Title 8.

Third, the General Assembly passed Indiana Senate Bill 4 this past legislative session. This Senate Bill provides cities and towns with the exclusive method in which the designation of a historic district may be removed. Essentially the owner of a historic structure, or at least 60% of the property owners in a historic district, are now permitted to sign and file petition with the City Council requesting removal of the historic designation. If the City Council receives such a petition the Council must submit the request to the Commission wherein the Commission is required to hold a public hearing on the request. The Commission is required to make certain findings after its hearing and submit those findings to the City Council. The City Council must either then deny or grant the petition within 45 days. If the City Council does not grant or deny the petition within the 45 day period the action of the Commission stands.

Three key changes are being suggested to deal with problems the Commission or its staff have encountered in the last year or so. Two changes deal with definitions and one change deals with penalties for violations of Title 8.

Two definitions are being proposed. The first definition deals with what qualifies as moving a building. Recently the City was asked if a Certificate of Appropriateness ("Certificate") was needed to simply jack up a house to fix its foundation, under current Title 8 language, that is technically "moving" a structure so the answer was yes. Staff suggests clarifying what it means to "move" a building so that when a structure is simply being raised to fix a foundation, a Certificate is not needed.

The second definition is an attempt to define the phrase "substantial removal" found within the definition of "demolition". A recent enforcement action revolved squarely around what does and does not constitute "substantial removal". In an effort to avoid any confusion about this issue in the future, staff has prepared a definition that is consistent with definitions found in other similar ordinances around the country. The definition defines "substantial removal" as an alteration which will jeopardize the structure's listing on a national or local register or involves the removal of at least 25% of an architecturally defining feature or 25% of the entire structure.

A final change is being proposed to better solidify the penalty provisions of Title 8 in case a violation occurs. First, the new provisions specifically note that the demolition of a

structure with a Certificate shall result in a fine of $2,500 for a first offense, $5,000 for a second offense and $7,500 for a third offense. Each day of the violation is a separate offense and the violation is defined to continue until such time as an acceptable application is submitted to the Commission. Second, an additional clarification has been made which specifically notes that violations of the demolition delay provisions found within Title 20 may subject a person to the City's authority to refuse to issue a certificate of occupancy for said property for a period of two years.

Comment [IA1]: (1) Strike through is deleted language.
(2) Gray highlight is newly added language.

Title 8 - HISTORIC PRESERVATION AND PROTECTION

Chapters:

Chapter 8.02 - PURPOSE AND DEFINITIONS
Chapter 8.08 - HISTORIC DISTRICTS, CONSERVATION DISTRICTS, AND STANDARDS
Chapter 8.12 - DEMOLITION AND PUBLIC SAFETY
Chapter 8.16 - ADMINISTRATION AND ENFORCEMENT
Chapter 8.20 - LIST OF DESIGNATED HISTORIC DISTRICTS

Chapter 8.02 – Purpose and Definitions
(As Amended by Ord 13-21 – Sections 1 – 3)

Sections:

8.02.010 – Purpose of historic preservation and protection
8.02.020 – Definitions

8.02.010 – Purpose of historic preservation and protection.

In order to promote the educational, cultural and general welfare of the citizens of Bloomington and to insure the harmonious and orderly growth and development of the municipality; to maintain established residential neighborhoods in danger of having their distinctiveness destroyed; to enhance property values and attract new residents; to ensure the viability of the traditional downtown area and to enhance tourism within the city; it is deemed essential by the city that qualities relating to its history and a harmonious outward appearance of its structures be preserved. This purpose is advanced through the restoration and preservation of historic areas and buildings, the construction of compatible new buildings where appropriate, and the maintenance and insurance of compatibility in regards to style, form, proportion, texture, and material between historic buildings and those of contemporary design. It is the intention of the city through this title to preserve and protect historic and architecturally worthy buildings, structures, sites, monuments, streetscapes, and neighborhoods which impart a distinct aesthetic quality to the city and serve as visible reminders of its historic heritage.

8.02.020 – Definitions.

The following terms shall have the following meaning unless a contrary meaning is required by the context or is specifically prescribed. Words in the present tense include the future tense. The singular number includes the plural, and the plural, the singular. The word “shall” is always mandatory. The word “person” includes a firm, a partnership, or a corporation, as well as an individual. Terms not defined in this section shall have the meanings customarily assigned to them.

“Alteration” means a material or color change in the external architectural features of any structure within a historic district.

Conservation District. Pursuant to Indiana Code 36-7-11-19, the provision that a district may be created which is called a conservation district, the second phase of which is the conversion to historic district status~~, if the common council decides, after the conservation district has been in effect for~~ upon the conclusion of three years, subject to written objection by a majority of property owners in the district ~~to enact an ordinance to elevate the district to historic district status~~. Regulation in a conservation district is less stringent than in an historic district. In a conservation district, a certificate of appropriateness must be granted for:

(1) The demolition of any building;
(2) The moving of any building (the moving of a building does not include raising a building for purposes of foundation repair or replacement, provided the building is replaced on its original footprint once the foundation has been repaired or replaced);
(3) Any new construction of a principal building or accessory building or structure subject to view from a public way.

"Demolition" means the complete or substantial removal of any structure. The term "demolition," except where it appears in Section 8.08.020(a)(3)(B), 8.08.010(b), and 8.02.02 "Conservation District," shall also include partial demolition as herein defined.

"Design guidelines" means criteria, locally developed, which identify local design concerns in an effort to assist property owners in maintaining the character of the designated district or buildings during the process of rehabilitation or new construction.

Economic Hardship. For the purposes of this title, "economic hardship" shall be established when a preponderance of evidence establishes that the property in question cannot obtain a reasonable economic return or be put to any economically beneficial use.

"Fair market value" means the most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeable, and for self-interest, and assuming that neither is under duress.

"Historic district" means a single building, structure, object, or site or a concentration of buildings, structures, objects, spaces, or sites designated by ordinance adopted under this title. Property not so designated will not be considered an historic district within the terms of this title.

"Historic preservation and protection district ordinance," hereinafter to be referred to as "this title".

"Interested party" means one of the following:

(1) The mayor;
(2) The common council;
(3) The city plan commission;
(4) A neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of an historic district designated by an ordinance adopted under this title;

(5) An owner or occupant of a property located in an historic district established by an ordinance adopted under this title;
(6) Historic Landmarks Foundation of Indiana, Inc., or any of its successors;
(7) The state historic preservation officer designated under Indiana Code ~~14-3-3.4-10~~ 14-21-1-19.

"Partial demolition" shall have the meaning assigned to it in Chapter 20.11 of the Bloomington Municipal Code.

"Primary area" means the principal area of historic and/or architectural significance within an historic district.

"Ratings"
(1) Outstanding: The "O" rating means that the property has sufficient historic or architectural significance that it is already listed, or is eligible for individual listing, in the National Register of Historic Places. Outstanding resources can be of local, state, or national importance.
(2) Notable: A rating of "N" means that the property does not merit the outstanding rating, but it is still above average in its importance. A notable structure may be eligible for the National Register.
(3) Contributing: A "C" rating means the property is at least forty years old, but does not meet the criteria for an "O" or "N" rating. Such resources are important to the density or continuity of the area's historic fabric. Contributing structures can be listed on the National Register only as part of an historic district.
(4) Non-contributing: Property rated "NC" is not included in an inventory unless it is located within the boundaries of an historic district. Such properties may be less than fifty years old, or they may be older structures that have been altered in such a way that they have lost their historic character, or they may be otherwise incompatible with their historic surroundings. These properties are not eligible for the National Register.

"Reasonable return" means a measure of the economic return that is, or can be, earned on the fair market value of a property, and that demonstrates that the owner has not been deprived of all economically beneficial or productive use of the property.

"Routine maintenance" means work which would not require a building permit, and any change that is not construction, removal or alteration and for which no certificate of appropriateness is required.

"Secondary area" means an area in an historic district that is adjacent to a primary area and which has a visual relationship to the primary area and could affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with an adjacent primary area.

"Streetscape" means appearance from a public way, the distinguishing characteristics of which are created by the width of the street and sidewalks, their paving materials and color, the

design of the street furniture (e.g., street lamps, trash receptacles, benches, etc.), use of plant materials such as trees and shrubs, and the setback, mass, and proportion of those buildings which enclose the street.

"Substantial removal" as used in the definition of "Demolition" means an alteration, pulling down, destruction or removal of a portion of a structure which jeopardizes a structure's individual eligibility for listing in the National Register of Historic Places, or its status as a contributing structure in a national, state or local register of historical places, which shall include, but not be limited to, the removal of a defining architectural feature or element which defines or contributes to the historic character of the structure or the removal of twenty-five percent (25%) of the structure, including its roof, if the part which is removed is on a façade which is subject to view from a public thoroughfare.

"Visual compatibility" means those elements of design that meet the standards set out in Section 8.08.040 of this title.

Chapter 8.08 – Historic Districts, Conservation Districts, and Standards *(As amended by Ord 13-21 – Sections 4 – 17)*

Sections:

8.08.010 – Establishment of historic districts and conservation districts.
8.08.015 – Interim protection.
8.08.016 – Limited effect of interim protection or historic designation in certain Situations.
8.08.020 – Certificates of appropriateness.
8.08.025 – Staff approvals.
8.08.030 – Maintenance standards.
8.08.040 – Development standards.
8.08.050 – Preservation of historical and architectural character upon alteration or relocation mandated.
8.08.060 – Survey adopted.
8.08.070 – Removing the designation of a historic district.

8.08.010 – Establishment of historic districts and conservation districts.

(a) Initiating an Historic District Recommendation. All recommendations for establishment of an historic district shall be in the form of a written report and must be based on the criteria outlined in this title. A recommendation for establishing an historic district may be initiated from either of the following two sources:

(1) Based on its survey, the commission may draw and submit historic district maps for common council approval.

(2) Owners of property in fee simple wishing to establish an historic district which includes their property may petition the commission to consider drawing and submitting a map of such a district to the common council for its approval. The commission may establish in its rules criteria to be met before it considers a petition. The commission shall determine its recommendation within ninety days of receipt of a petition.

(b) The commission may recommend, and the council may provide that the establishment of an historic district shall occur in two phases. Under the first phase, to be called a conservation district, a certificate of appropriateness is required for the following activities: the demolition of any building; the moving of any building; and any new construction of a principal building or accessory building, or structure subject to view from public way.

(1) ~~After a conservation district has been in effect for three years, the common council shall decide whether or not to pass an ordinance to elevate the district to historic district status~~. The first phase shall last three (3) years;

~~(2) Once established a conservation district shall continue, unless removed by ordinance.~~ At the end of the first phase, upon the expiration of the three (3) year period, the conservation district shall become a historic district, subject to subsection three (3); and

(3) The conservation district may continue past the three (3) year term, thereby avoiding the designation of a historic district, if a majority of property owners in the district object to the Commission, in writing, to the elevation to a historic district. Said objections must be received by the Commission not earlier than one hundred and eighty (180) days or later than sixty (60) days before the third anniversary of the adoption of the conservation district.

(c) Commission Preparation of Historic District Maps. In order to establish an historic district, the commission shall first prepare a map describing the district in accordance with the following:

(1) The map shall be based on a survey conducted or adopted by the commission which identifies historic buildings, structures, and places located within the city.

(2) A district may be limited to the boundaries of a property containing a single building, structure, or site.

(3) The map may divide the district into primary and secondary areas as follows:

(A) Primary area: The principal area of historic and architectural significance;

(B) Secondary area: An area adjacent to a primary area which has a visual relationship to the primary area and could affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with an adjacent primary area.

(4) The commission shall classify and designate all buildings and structures within each proposed district as historic or non-historic. Historic buildings or sites may include those buildings or sites that meet the architecturally worthy criteria set out in subsection (e)(2) of this section The commission shall further classify and designate all buildings and structures within a proposed historic district as follows:

(A) Historic buildings and structures shall be further classified as Outstanding, Notable, or Contributing, as established by the Indiana State Division of Historic Preservation and Archaeology and the local survey.

(B) All non-historic buildings shall be classified as non-contributing.

(5) A written report shall accompany all recommendations for designation before the common council, in accordance with the criteria for designation, stating the case for accepting the district.

(d) Common Council Approval of Maps of Historic Districts. Before an historic district or conservation district is established and the building classification takes effect, the map setting forth the district's boundaries and building classifications must be submitted to, and approved in an ordinance by the common council. The procedure for doing so shall be as follows:

(1) The commission must take official action deciding whether or not to submit a map to the common council for approval.
(2) Prior to taking action at a meeting, the commission shall hold a public hearing to allow public comment. A public hearing may be held separately or in conjunction with the meeting where action on the district is to occur.
(3) A public hearing held by the commission for the purpose of allowing comment on a proposed historic district designation shall be preceded by public notice as set forth in Indiana Code 5-3-1-1 et seq. In addition, the commission shall adopt rules that ensure that owners of all property within the proposed historic district, and all adjacent property owners, as determined by the most recent estate tax lists, shall receive written notice of the hearing on the proposed historic district.
(4) A written report shall accompany the map submitted to the common council validating the proposed district by addressing the criteria listed in this section.

(e) Historic District Criteria. An historic district shall include a building, groups of buildings, structure(s), site(s), monument(s), streetscape(s), or neighborhood(s) which meet at least once of the following criteria:
(1) Historic:
(A) Has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the city, state, or nation; or is associated with a person who played a significant role in local, state, or national history; or
(B) Is the site of an historic event; or
(C) Exemplifies the cultural, political, economic, social, or historic heritage of the community.
(2) Architecturally worthy:
(A) Embodies distinguishing characteristics of an architectural or engineering type; or
(B) Is the work of a designer whose individual work has significantly influenced the development of the community; or
(C) Is the work of a designer of such prominence that such work gains its value from the designee's reputation; or
(D) Contains elements of design, detail, materials, or craftsmanship which represent a significant innovation; or
(E) Contains any architectural style, detail, or other element in danger of being lost; or
(F) Owing to its unique location or physical characteristics, represents an established and familiar visual feature of a neighborhood or the city; or
(G) Exemplifies the built environment in an era of history characterized by a distinctive architectural style.

(f) An ordinance approving the establishment of an historic district, may exclude changes in paint colors from the activities requiring the issuance of a certificate of appropriateness under Section 8.08.020 before a permit may be issued or work begun.

8.08.015 – Interim protection.

(a) When submitting a map to the city council under Section 8.08.010 of this title, the commission may declare one or more buildings or structures or sites that are classified and designated as historic on the map to be under interim protection.

(b) Not more than two working days after declaring a building, structure, or site under interim protection under this section, the commission shall, by personal delivery or first class mail, provide the owner or occupant of the building structure or site with a written notice of the declaration. The written notice must:
(1) Cite the authority of the commission to put the building, structure or site under interim protection under this section;
(2) Explain the effect of putting the building, structure, or site under interim protection; and
(3) Indicate that interim protection is temporary.

(c) A building ~~or~~ , structure or site put under interim protection under subsection (a) remains under interim protection until the map is:
(1) Submitted to; and
(2) Approved in an ordinance or rejected by the common council of the city.

(d) While a building, structure, or site is under interim protection under this section:
(1) The building, structure, or site may not be demolished or moved; and
(2) The exterior appearance of the building, structure, or site may not be conspicuously changed by:
~~(a)~~ (A) Addition;
~~(b)~~ (B) Reconstruction; or
~~(c)~~ (C) Alteration.

(e) The commission may approve a certificate of appropriateness at any time during the interim protection, provided the proposed change meets the criteria for considering effect of actions on historic sites in Section 8.08.020 and any proposed preservation guidelines prepared for the building, structure, or site, but the certificate of appropriateness shall have no effect, and no action may be taken pursuant thereto, unless the map including the building, structure or site is approved by the common council of the city.

8.08.016 – Limited effect of interim protection of historic designation in certain situations.

Placing a property under interim protection pursuant to Section 8.08.015, or historic designation of a property pursuant to this chapter, which includes designation as a conservation

district, shall not result in revocation of, or prevent issuance of, any permit or certificate of zoning compliance authorizing demolition of a property in the following situations; provided, however, when the waiting period was triggered by an application for partial, rather than complete, demolition, the limitations on this provision that are set forth in Title 20 of the Bloomington Municipal code, including but not limited to Sections 20.09.040(b); 20.09.120(d)(6)(B) and 20.09.230(b)(4), shall obtain:

(a) During any one-year period after the termination of a demolition waiting period pursuant to Section 20.09.230 of the Bloomington Municipal Code; or

(b) During any one-year period following a final vote of the common council not to adopt an ordinance designating a property as historic, where the council was acting during a demolition waiting period pursuant to Section 20.09.230 of the Bloomington Municipal Code or was acting after the expiration of such a waiting period but as a result of an HPC recommendation that included interim protection and was made during a demolition waiting period under that section.

8.08.020 – Certificates of appropriateness.

(a) Certificates of appropriateness required. A certificate of appropriateness must be issued by the commission before a permit is issued for, or work is begun on, any of the following:

(1) Within all areas of an historic district:

(A) The demolition of any building;

(B) The moving of any building;

(C) A conspicuous change in the exterior appearance of any historic building or any part of or appurtenance to such a building, including walls, fences, light fixtures, steps, paving, and signs by additions, reconstruction, alteration, or maintenance involving exterior color change if cited by individual ordinance; or

(D) Any new construction of a principal building or accessory building or structure subject to view from a public way.

(2) Within a primary area of an historic district:

(A) A change in walls and fences, or the construction of walls and fences along public ways;

(B) A conspicuous change in the exterior appearance of nonhistoric buildings subject to view from a public way by additions, reconstruction, alteration and/or maintenance involving exterior color change.

(3) Within a conservation district:

(A) The moving of any building;

(B) The demolition of any building; or

(C) Any new construction of a principal building or accessory building or structure subject to view from a public way.

(b) Application for Certificates of Appropriateness. An application for certificate of appropriateness shall be made in the office of the commission or its designee on forms provided by that office. All applications shall be subject to the rules and requirements established by the commission as permitted by I.C. 36-7-11-11.

(c) Approval or Denial of Certificate of Appropriateness. The commission may approve or deny certificates of appropriateness for any actions covered by this title. If an application for a certificate of appropriateness is approved by the commission, or is not acted on by the commission within thirty days after it is filed, a certificate of appropriateness shall be issued. The commission may grant an extension of the thirty-day limit if the applicant agrees to it. The commission must report its findings and the reasons for its decisions in written form, and supply the applicant with a copy of its report. A copy of the certificate of appropriateness must be submitted with the application for a building or demolition permit; no building or demolition permit shall be issued unless a copy of the certificate of appropriateness is provided by the applicant with the application. In accordance with I.C. 36-7-11-12, the commission may advise and make recommendations to the applicant before acting on an application for a certificate of appropriateness.

(d) Right to Commission Review. In any case where an applicant does not receive a certificate of appropriateness or otherwise feels aggrieved by an action of the commission, the applicant shall have the right to a rehearing by the commission upon submission of additional evidence or new information.

(e) Criteria for Considering Effect of Actions on Historic Buildings. The commission, in considering the appropriateness of any reconstruction, alteration, maintenance, or moving of an historic building or structure, or any part of or appurtenance to such building or structure, including walls, fences, light fixtures, steps, paving, and signs shall require that such work be done in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance. In considering historic and architectural character, the commission shall consider, among other things, the following:

(1) Purpose of this title;
(2) Historical and architectural value and significance of the building, structure, or appurtenance;
(3) Compatibility and significance of additions, alterations, details, materials, or other non-original elements which may be of a different style and construction date than the original;
(4) The texture, material, color, style, and detailing of the building, structure or appurtenance;
(5) The continued preservation and protection of original or otherwise significant structure, material, and ornamentation;

(6) The relationship of buildings, structures, appurtenances, or architectural features similar to ones within the same historic district, including for primary areas, visual compatibility as defined in Section 8.08.040(b); and
(7) The position of the building or structure in relation to the street, public right-of-way and to other buildings and structures.

8.08.025 – Staff approvals.

(a) The commission may authorize the staff of the commission, on behalf of the commission, to grant or deny an application for a certificate of appropriateness.

(b) The commission must specify the types of applications for minor classifications of work that the staff of the commission is authorized to grant or deny. The staff shall not be authorized to grant or deny an application for a certificate of appropriateness for the following:
(1) The demolition of any building, structure, or site.
(2) The moving of any building or site.
(3) The construction of an addition to a building or structure.
(4) The construction of a new building or structure.

8.08.030 – Maintenance standards.

(a) Conformance to Statutory Requirements of Buildings. Historic buildings, structures, and sites shall be maintained to meet the applicable requirements established under state statute for buildings generally so as to prevent the loss of historic material and the deterioration of important character defining details and features. Historic buildings shall be maintained to meet all applicable requirements established under statute and ordinance for buildings generally, including but not limited to ~~Chapters 16.04 and 16.12~~ Title 16 (Residential Rental Unit and Lodging Establishment Inspection Program) of the Bloomington Municipal Code ~~(Property Maintenance Code and Housing Quality)~~ where applicable.

(b) Ordinary Repairs and Maintenance. Nothing in this section shall be construed so as to prevent the ordinary repairs and maintenance of any building, structure, or site, provided that such repairs or maintenance do not result in a conspicuous change in the design, form, proportion, mass, configuration, building material, texture, color, location, or external visual appearance of any structure, or part thereof.

(c) A certificate of appropriateness is not required for the following:
(1) Ordinary repairs and maintenance as defined in subsection (b) of this section;
(2) Repairs and maintenance designated by the commission under its rules;
(3) Special exceptions granted by the commission.

8.08.040 – Development standards.

(a) For new construction, contemporary design, and nonhistoric buildings: The purpose of this section is to preserve and encourage the integrity of historic buildings, structures, sites, monuments, streetscapes, and neighborhoods and to ensure their compatibility with any new work. The construction of a new building or structure, and the moving, reconstruction, alteration, color change, major maintenance, or repair conspicuously affecting the external appearance of any nonhistoric building, structure, or appurtenance within the primary area must be generally of a design, form, proportion, mass configuration, building material, texture, color, and location on a lot compatible with other buildings in the historic district and with places to which it is visually related.

(b) Criteria for considering visual compatibility within historic primary areas or conservation districts: ~~Within the primary area of an historic district, new buildings and structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color,~~ Changes in the primary areas of historic and conservation districts, which are subject to review by staff or the Commission, must be visually compatible with buildings, squares and places to which they are visually related generally in terms of the following visual compatibility factors:

(1) Height: The height of proposed buildings must be visually compatible with adjacent buildings.

(2) Proportion of building's front façade: The relationship of the width of a building to the height of the front elevation must be visually compatible with buildings, squares and places to which it is visually related.

(3) Proportion of openings within the facility: The relationship of width of the windows to the height of windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.

(4) Relationship of solids to voids in front facades: The relationship of solids to voids in the front façade of a building must be visually compatible with buildings, squares and places to which it is visually related.

(5) Rhythm of spacing of buildings on streets: The relationship of a building to the open space between it and adjoining buildings must be visually compatible to the buildings, squares, and places to which it is visually related.

(6) Rhythm of entrances of an porch projections: The relationship of entrances and porch projections of a building to sidewalks must be visually compatible with the buildings, squares and places to which it is visually related.

(7) Relationship of materials, texture, and color: The relationship of the materials, texture, and color of the façade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.

(8) Roof shapes: The roof shape of a building must be visually compatible with the buildings to which it is visually related.

(9) Walls of continuity: Appurtenances of a building, such as walls, wrought iron fences, evergreen landscape masses, and building facades, must form cohesive walls of enclosure along the street, if necessary to ensure visual compatibility of the building to the buildings, squares and places to which it is visually related.

(10) Scale of the building: The size of a building, and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings, squares and places to which it is visually related.

(11) Directional expression of front elevation: A building must be visually compatible with the buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or nondirectional character.

8.08.050 – Preservation of historical and architectural character upon alteration or relocation mandated.

(a) An historical building or structure or any part of or appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving, and signs may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance.

(b) An historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with subsection (a) of this section.

8.08.060 – Survey adopted.

The commission's official survey, entitled Indiana Historic Sites and Structures Survey: 2001 City of Bloomington Interim Report, adopted by the commission on October 17, 2002, as the same may be hereafter amended or replaced, is hereby adopted and made a part of this title. The survey identifies properties that may be proposed for historic designation under this chapter, and further serves as the basis for mandatory delay of proposed demolition as set forth in Title 20 "Unified Development Ordinance" of the Bloomington Municipal Code. Two copies of said survey are available for inspection and copying in the office of the city clerk and in the office of the housing and neighborhood development department, city of Bloomington.

8.08.070 – Removing the designation of a historic district.

This Section provides the exclusive method for removing the designation of a historic district.

(a) The owner or owners of a building, structure, or site designated as a single sit historic district may sign and file a petition with the City Common Council requesting removal of the designation of the building, structure, or site as a historic district. In the case of a historic district containing two or more parcels, at least sixty percent of the owners of the real property of the historic district may sign and file a petition with the City Common Council requesting removal of the designation of a historic district.

(b) The City Common Council shall submit a petition filed under subsection (a) to the Commission. The Commission shall conduct a public hearing on the petition not later than sixty days after receiving the petition. The Commission shall provide notice of the hearing:
- (1) By publication under Indiana Code 5-3-1-2(b);
- (2) In the case of a historic district comprised of real property owned by fewer than fifty property owners, by certified mail, at least ten days before the hearing, to each owner of real estate within the historic district; and
- (3) In the case of a single building, structure, or site designated as a historic district, by certified mail, at least ten days before the hearing, to each owner of the real estate abutting the building, structure, or site designated as a historic district that is the subject of the petition.

(c) The Commission shall make the following findings after the public hearing:
- (1) Whether a building, structure, or site within the historic district continues to meet the criteria for inclusion in a historic district as set forth in this ordinance. The determination must state specifically the criteria that are applicable to the buildings, structures, or sites within the district.
- (2) Whether failure to remove the designation of the historic district would deny an owner of a building, structure, or site within the historic district reasonable use of the owner's property or prevent reasonable economic return. Evidence provided by the petitioner may include information on:
  - (A) Costs to comply with regulations;
  - (B) Income generation;
  - (C) Availability of contractors to perform work;
  - (D) Real estate values;
  - (E) Assessed values and taxes;
  - (F) Revenue projections;
  - (G) Current level of return;
  - (H) Operating expenses;
  - (I) Vacancy rates;
  - (J) Financing issues;

(K) Efforts to explore alternative uses of the property;
(L) Availability of economic incentives; and
(M) Recent efforts to sell or rent the property.

(3) Whether removal of the designation of a historic district would have an adverse economic impact on the owners of real estate abutting the historic district, based on testimony and evidence provided by the owners of the real estate and licensed real estate appraisers or brokers.

(4) Whether failure to remove the designation of the historic district would have an adverse impact on the unit's historic resources, and specifically whether it would result in the loss of a building, structure, or site classified as historic by the Commission's survey.

(d) Not later than ten days after the Commission's public hearing, the Commission shall submit to the City Common Council the following:
(1) It's findings on the petition; and
(2) A recommendation to grant or deny the petition.

(e) Not later than forty-five days after receiving the Commission's findings the City Common Council shall do one of the following:
(1) Deny the petition;
(2) Grant the petition by adopting an ordinance that removes the designation of the historic district by:
(A) A majority vote, if the recommendation of the Commission is to grant the petition; or
(B) A two-thirds vote, if the recommendation of the Commission is to deny the petition.

The City Common Council shall record an ordinance adopted under subdivision (2) with the County Recorder not later than ten days after the City Common Council adopts the ordinance. The historic district designation is considered removed on the date the ordinance is recorded with the County Recorder.

(f) If the City Common Council does not grant or deny the petition within forty-five days after receiving the Commission's findings:
(1) The petition is considered granted or denied in accordance with the recommendation of the Commission; and
(2) If the petition is considered granted, the City Common Council shall, not later than fifty-five days after receiving the Commission findings:
(A) Adopt an ordinance that removes the designation of the historic district; and
(B) Record the ordinance with the County Recorder.

The historic district designation is considered removed on the date the ordinance is recorded with the County Recorder.

Chapter 8.12 – Demolition and Public Safety
(As Amended by Ord 13-21 – Sections 18 & 19)

Section:

8.12.010 – Generally.
8.12.020 – Public safety.

8.12.010 – Generally.

(a) Purpose. The purpose of this section is to preserve historic buildings and structures that are important to the education, culture, traditions, and economic value of the community by affording the city, preservation organizations, and interested persons the opportunity to acquire or arrange for the preservation of these buildings.

(b) Certificate of Appropriateness Required. A certificate of appropriateness must be issued by the commission before a demolition permit is issued by other agencies of the city and work is begun on the demolition of any building or structure in any area of an historic district or conservation district. Pursuant to Section 8.02.020 of this title, demolition of a building or structure in a conservation district excludes partial demolition as defined herein.

(c) Criteria for the commission to consider in the case of a proposed demolition includes the following:
- (1) Effect of the demolition on the character of the historic district;
- (2) State of deterioration, disrepair, and structural stability of the structure. The condition of the building resulting from neglect shall not be considered grounds for demolition;
- (3) Balance of the public interest in preserving the structure or the integrity of the district with the interest of the owner of the building or structure in the use and utilization of the property; and
- (4) Possible alternatives to demolition.

(d) Factors for Allowing Demolition without Certificate of Appropriateness. If the commission denies the issuance of a certificate of appropriateness for the demolition of a building or structure, a demolition permit may be issued by other agencies and a building may be demolished, but only after the property owner has established all of the following:
- (1) The property owner must demonstrate to the commission that an historic building or structure is incapable of earning a reasonable return on its value.
- (2) The property owner shall file with the administrator documented evidence that ~~a good faith effort is being made to sell or otherwise dispose of such property to any public or private person or agency which gives a reasonable assurance of its willingness to preserve and restore such~~

~~property. Such documented evidence shall be provided at the property owner's expense and shall include:~~

(A) ~~Offering price;~~

(B) ~~Date the offer of sale began;~~

(C) ~~Name and address of listing real estate agent, if any;~~

(D) ~~A copy of an advertisement to run in the same manner as the notice in Section 8.08.010(d)(3) which offers the property for sale; and~~

(E) ~~A~~an appraisal of the property's fair market value by a licensed real estate appraiser has occurred.

(3) Notice of the proposed demolition must be given for a period fixed by the commission, based on the commission classification on the approved map, but not less than sixty days nor more than one year. Notice must be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice must be published in a newspaper of general local circulation at least three times before demolition, with the first publication not more than fifteen days after the application for a permit to demolish is filed, and the final publication at least fifteen days before the date of the permit issuance.

(A) The period of time that ~~a building is placed upon the open market shall be linked with its classification in the survey~~ notice of the proposed demolition must be given is herein fixed by the Commission and subsequently codified as follows:

Outstanding	~~9~~12 months
Notable	~~6~~12 months
Contributing	~~4~~ 6 months
Non-Contributing	3 months

(B) The commission may approve a certificate of appropriateness at any time during the notice period described in the preceding paragraph. If the certificate is approved, a demolition permit shall be issued without further delay, and demolition may proceed.

8.12.020 – Public Safety.

Nothing in this section shall be construed to prevent the construction, reconstruction, alteration, or demolition of a structure, building, or any part thereof within an historic district when so ordered by an agency of government having jurisdiction thereof provided that the following actions occur firs:

(a) The agency having jurisdiction shall determine that a structure or building or any part thereof is immediately hazardous or dangerous to the health and safety of persons or to property;

(b) The agency issuing such an order shall notify the commission administrator of intent to issue a demolition permit order; the commission administrator in turn shall notify the commission;

(c) If demolition is ordered, the agency issuing such an order shall make every reasonable effort to secure the property or otherwise delay demolition until the commission can act as designated in this section. Demolition so ordered may occur prior to commission action only when an immediate hazard or danger to the health and safety of persons or property exists and no reasonable steps can be taken to afford protection to persons or properly affected;

(d) The commission, on its own initiative, may file a petition with the public safety and housing ordinance to require correction of defects or repairs to any structure covered by this section so that such structure be preserved and protected in consonance with this chapter and the public safety and housing ordinance. This section requires that the owner make necessary structural repairs to remain in compliance with minimum building standards and the intent of this chapter. If the owner is unwilling to repair then the city may repair the building and place a lien for said repairs upon the property;

(e) The city has determined it will not undertake such repairs that will remove the threat to health and safety of persons or property and place a lien for said repairs on the property.

Chapter 8.16 ADMINISTRATION AND ENFORCEMENT

Sections:

8.16.010 - Conflicts with zoning districts.
8.16.020 - Enforcement, penalties, and judicial review.
8.16.030 - Recording the fact of historic district designation.
8.16.040 - Listing of designated historic districts.

8.16.010 – Conflicts with zoning districts.

Zoning districts lying within the boundaries of the historic district are subject to regulations for both the zoning district and the historic district. If there is a conflict between the requirements of the zoning district and the requirements of the historic district, the more restrictive requirements apply.

8.16.020 – Enforcement, penalties, and judicial review.

(a) Enforcement. This section shall be enforced using personnel and policies designated by the director of housing and neighborhood development.

(b) Penalties and Remedies.

(1) Any person, whether as principal, agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise, who violates any provision of this title shall pay a fine, as follows, for each offense. Each day any violation of this title continues without correction shall be a separate offense for purposes of the penalties and remedies specified in this Chapter. Correction shall include but not be limited to:

(A) Cessation of an unlawful practice;

(B) Removal of a building, structure, or other improvement;

(C) Faithful or otherwise-approved restoration or replacement of a building, structure, site or other feature; and/or

(D) Other remedy acceptable to the city.

(2) Any person, whether as principal agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise, who demolishes or removes a structure subject to regulation under this Title shall pay a fine of two thousand five hundred dollars for the first offense, five thousand dollars for the second offense and seven thousand five hundred dollars for the third offense, in addition to any and all other remedies provide for by law.

Correction of the demolition or removal of a structure subjected to regulation under this Title shall not occur until an acceptable application for a certificate of appropriateness has been filed with the Historic Preservation Commission.

~~(2)~~ (3) Each violation of this chapter, except for the violation described in Section 8.16.020(b)(2), shall be subject to a fine of not more than two thousand five hundred dollars for the first offense, and not more than seven thousand five hundred dollars for the second and subsequent offenses, in addition to any and all other remedies provided for by law.

~~(3)~~ (4) A second or subsequent offense means a violation of any provision of this title within three years of the first violation of any provision of this title.

~~(4)~~(5) The erection, construction, enlargement, alteration, repair, demolition, color change, moving, or maintenance of any building, structure, or appurtenance which is begun, continued, or maintained contrary to any provision of this title is declared to be in violation of this title and unlawful. The city may institute a suit for injunction in circuit court to restrain any person or governmental unit from violating a provision of this title or an ordinance adopted under this title and to cause such violation to be prevented, abated, corrected and/or removed or any other remedy available in law or equity. Such action may also be instituted by any interested party who is adversely affected by the violation of any provision of this title.

(6) If a property which is subject to regulation under Section 20.09.30 of City's Municipal Code is demolished in violation of said Section, the penalties provided for in Section 20.10.020(f) of the City's Municipal Code may also apply.

(c) Every interested party has a private right of action to enforce and prevent violation of a provision of this title or an ordinance adopted under this title, and with respect to any building, structure, or site within a historic or conservation district, has the right to restrain, enjoin, or enforce by restraining order or injunction, temporarily or permanently, any person from violating a provision of this title or an ordinance adopted under this title.

(1) The interested party does not have to allege or prove irreparable harm or injury to any person or property to obtain relief under this title;

(2) The interested party brining an action under this title is not liable to any person for damages resulting from bringing or prosecuting the action unless the action was brought without good faith or without a reasonable belief that a provision of this title, or an ordinance adopted under this title, had been, or was about to be violated or breached.

(3) The interested party does not have to post a bond unless the court, after a hearing, determines that a bond should be required in the interest of justice.

~~(3)~~ (4) An interested party who obtains a favorable judgment in an action under this title may recover reasonable attorney fees and court costs from the person against whom judgment was rendered;

~~(4)~~ (5) An action arising under this title must be brought in the circuit court of Monroe County. No change of venue from the county shall be allowed in this action;

~~(5)~~ (6) The remedies provided in this title are in addition to other remedies that may be available at law or in equity.

(d) ~~Judicial review. Any person or party aggrieved by a decision or action taken by the commission shall be entitled to a judicial review thereof in accordance with Indiana Code 4-21.5, Administrative Orders and Procedures.~~ In accordance with Indiana Code 36-7-11-4(h), a final decision of the commission is subject to judicial review under I.C. 36-7-4 as if it were a final decision of a Board of Zoning Appeals.

8.16.030 – Recording the fact of historic district designation.

The boundaries of any historic district or conservation district shall be available in the office of the city of Bloomington planning department.

8.16.040 – Listing of designated historic districts.

Preexisting historic districts: The following historic districts established under previous ordinances shall be subject to this title but in all other respects remain unchanged. All areas within existing districts shall be considered primary areas as defined in this title.

Chapter 8.20 – List of Designated Historic and Conservation Districts

The Old Library	**202 East Sixth Street**
Elias Abel House	**317 North Fairview Street**
Seminary Park	**West Second Street between ~~and~~ College Avenue and Walnut Street**
Paris Dunning House	**608 West Third Street**
Cochran House	**~~504 West Eight~~ 405 North Rogers Street**
Morgan House	**532 North Walnut Street**
The Depot	**~~Morton at Seventh~~ 7th Street and Morton Street**
Wylie House	**307 East Second Street**
Princess Theater	**~~206 Block of~~ 204 North Walnut Street**
J.L. Nichols House and Studio	**820 North College Avenue**
Showers Bridwell House	**419 N~~.~~orth Washington Street**
Farmer House	**529 N~~.~~orth Washington Street**
Second Baptist Church	**321 N~~.~~orth Rogers Street**
Lamp Posts	**Hawthorne Street**
Fieldstone Sidewalk	**East side of Dunn St~~.~~reet between 3rd Street and 4th Street**
Showers-Teter-Barrett House	**508 N~~.~~orth Washington Street**
Showers-Smith Matthews-House	**514 North Washington Street**
Showers-Freese House	**522 North Washington Street**
George Henley House	**512 E~~.~~ast Eighth Street**
George Wylie House	**321 North Indiana Avenue**
Hicks-Sperry House	**625 North Walnut Street**
Henley House	**322 West Second Street**
Elisha Ballentine House	**315 E~~.~~ast Seventh Street**
Washington Street Apartments	**316 N~~.~~orth Washington Street**
	503 East Smith
Tri-Delta House	**812 East Third Street**
Hudgins-Fagan House	**323 E~~.~~ast Sixth Street**
Hudgins House	**303 E~~.~~ast Sixth Street**
Parker Hawkins House	**514 West Kirkwood Avenue**
Prospect Hill Historic District	**(28 Properties)**
~~The building located at 414-424 North Morton Street~~ Smallwood Pike Buildings	**414-424 North Morton Street**
The property at 209 South Dunn Street	**209 South Dunn Street**
The building at 514 North Fess Avenue	**514 North Fess Avenue**
The building located at 324 East Second Street	**324 East Second Street**
Buskirk-Chumley Theater	**112-114 East Kirkwood Avenue**
Breaking Away House	**756 South Lincoln Street**

Parks Home	**821 West Sixth Street**
Fairview Historic District	**~~208 and 319 North Fairview;~~**
	~~621, 625, 627, 702, 708, 714 and 719 West~~
	~~Seventh Street; and 702 West Eighth Street~~ (10 properties)
Victoria Towers	**221 East Kirkwood Avenue**
The Von Lee Theater Building	**517 East Kirkwood Avenue**
Brummett House	**312 South Euclid Avenue**
The duplex located at 315-317 North Fess Avenue	**315-317 North Fess Avenue**
McDoel Conservation District	**(271 properties)**
Limestone Hitching Posts	**416 East Fourth Street and**
	615 West Sixth Street
The Garton Farmstead	**2820—2920 East 10th Street**
The Fleener Building	**112 East 3rd Street**
The brick streets in University Courts	**The brick streets located in the public right-of-way bounded by 10th Street on the north, 7th Street on the south, Indiana Avenue on the west, and Woodlawn Avenue on the east, including Fess Avenue, Park Avenue, 8th Street and 9th Street**
The Home Laundry Building	**300 East 3rd Street**
Apartment Row	**314—316, 318—320 and 322—324 North College Avenue**
1115 North College Avenue	**~~The southeast quarter of Lot Number 84 in Kenwood Addition of the city of Bloomington~~ 1115 North College Avenue**
2102 West Vernal Pike	**~~A part of the northwest quarter of Section 32, Township 9 North, Range 1 West~~ 2102 West Vernal Pike**
430 North Washington, 209-211 East 8th Street	**A part of Out Lot Number 31**
Prospect Hill Conservation District	**~~521 West Fourth~~ (355 properties)**
The Elks Lodge #446	**400 North Walnut Street**
Garden Hill Conservation District	**(97 properties)**
700 North Walnut Street	**700 North Walnut Street**
Elm Heights Historic District	**(263 properties)**