(passed 7-2)
Banach, Sabbagh

ORDINANCE 05-01

TO AMEND TITLE 20 "ZONING ORDINANCE" OF THE BLOOMINGTON MUNICIPAL CODE TO IMPLEMENT DEMOLITION DELAY FOR CERTAIN STRUCTURES; TO DELETE SURFACE PARKING LOTS AS A PERMITTED PRINCIPAL USE IN THE GENERAL COMMERCIAL (CG) AND ARTERIAL COMMERCIAL (CA) ZONING DISTRICTS; AND, TO PROHIBIT USE OF ANY LOT OF RECORD SOLELY AS A PARKING LOT IN THE GENERAL COMMERCIAL (CG), ARTERIAL COMMERCIAL (CA), AND DOWNTOWN COMMERCIAL (CD) ZONING DISTRICTS

WHEREAS, the City of Bloomington has a rich historic and architectural heritage, which has been catalogued in the 2001 City of Bloomington Survey of Historic Sites and Structures; and

WHEREAS, Ind. Code Section 36-7-4-601(d)(2)(E) authorizes a municipality, in its zoning ordinance, to enact requirements to protect the historic and architectural heritage of the community; and

WHEREAS, it is in the best interests of the community to impose a delay upon demolition of those buildings and structures that have been listed on the Survey but not yet protected by formal historic designation; and

WHEREAS, such a demolition delay will allow the Historic Preservation Commission and the Common Council, where applicable, to consider prior to demolition whether formal preservation action should be taken, and will also allow property owners and the community to discuss and identify alternatives to demolition that may result in preservation of such buildings or structures;

WHEREAS, in conjunction with demolition delay, Planning Staff and the Plan Commission have considered whether current zoning regulations create potential incentives for demolition of older structures, and have determined that one potential land use that is closely associated with demolition of older structures is the creation of surface parking lots in the CG and CA districts; and

WHEREAS, the utilization of platted lots solely for surface parking is contrary to planning policies outlined in the City's Growth Policies Plan, including but not limited to the policy of protecting the historic and architectural heritage of the community;

WHEREAS, restrictions on surface parking as a land use in the commercial districts promotes public policy and serves the public welfare;

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

SECTION I. Section 20.01.03.02 "General Applicability" shall be amended so that the first paragraph shall read as follows:

After the effective date of this Zoning Ordinance, no buildings, structures, or uses of land existing or hereafter established, shall be altered, erected, constructed, reconstructed, moved, divided, enlarged, demolished or maintained except in accordance with the provisions of this Zoning Ordinance except as otherwise hereinafter provided.

SECTION II. Section 20.03.05.01 "Planning Department – Authority", Paragraph (b), shall be amended to read as follows:

(b) To conduct zoning compliance reviews regarding any permit pertaining to the alteration, erection, construction, reconstruction, moving, division, enlargement, demolition, use or maintenance of lands, buildings, or structures, and to issue or refuse to issue Certificates of Zoning Compliance.

SECTION III. Section 20.03.05.03, "Building Permits and Certificates of Zoning Compliance," shall be re-named "Building and Demolition Permits and Certificates of Zoning Compliance," and subsection (a) shall be amended to read as follows:

(a) Alteration, erection, construction, reconstruction, division, enlargement, or moving of any building, structure, or mobile home; provided further, any such action that would result in partial demolition of any exterior portion of a building or structure that is listed as Outstanding, Notable or Contributing on the 2001 City of Bloomington Survey of Historic Sites and Structures adopted on October 17, 2002, by the Bloomington Historic Preservation Commission (hereinafter "HPC") as the same may be hereafter amended or replaced (hereinafter "Historic Survey"), shall also be subject to subsection (e) of this Section (20.03.05.03(e));

SECTION IV. Section 20.03.05.03 shall further be amended to add a new Paragraph (e), to read as follows:

(e) Demolition of any building or structure, which shall include any partial demolition of a building or structure described in 20.03.05.03(a) above, provided:

(1) No certificate of zoning compliance authorizing release of a permit allowing the demolition of a building or structure, or any part of any exterior portion of a building or structure, that is listed as Outstanding, Notable or Contributing on the Historic Survey, shall be issued earlier than ninety (90) or one hundred (120) calendar days after notice has been given as provided in Subparagraph (A) (20.03.05.03(e)(1)(A)), below. The ninety (90) day period shall apply in all cases unless the Director of the Housing and Neighborhood Development Department finds that an additional thirty (30) day delay period is needed in order for the HPC to responsibly consider and determine whether to recommend designation of the property. The Director shall make such finding only where there are multiple demolition permits and/or historic designation proposals pending or expected to come before the HPC during the 90 day period; or, where the demolition request presents unusually complex public policy issues due to the location or survey classification of the structure. Location within an area that contains multiple surveyed properties and/or location within an area designated on the National Register of Historic Places and/or survey classification of the structure or building proposed for demolition as notable or outstanding shall be sufficient, but not necessary, to justify a determination that the 120 day period will apply. The HAND Director will give notice of his/her determination to apply the 120 day period to a demolition request in accordance with Subparagraph (A) ((20.03.05.03(e)(1)(A)), below.

(A) Planning Staff shall give notice, by hand delivery, interdepartmental mail, or U.S. Mail, to the Director of the City Housing and Neighborhood Development Department, or his/her designee, and to the Chairman of the HPC, or his/her designee, within three (3) business days after receipt of a complete application for a demolition permit, or within three (3) business days after a pre-application conference for any petition involving a demolition covered by this Section, whichever occurs first. Such notice shall include the name, address and telephone number of the owner of the structure. Not later than thirty (30) days after such notice is given by Planning staff, the HAND Director shall give notice by hand delivery, interdepartmental mail, or U.S. mail, to the Planning Staff, the Chairman of the HPC or his/her designee, and to the owner, if the one hundred twenty (120) day waiting period is to be imposed. All such notices shall be deemed effective on the date of mailing, deposit in interdepartmental mail, or hand-delivery of the notice; and,

(B) The owner, within three (3) business days after the pre-application conference or the application for demolition permit, whichever occurs first, shall place upon the property where the building or structure is located, in plain public view, a notice to the public of the proposed demolition of the building or structure. Such notice shall be in such form as approved by the Planning Staff and

shall include the titles and telephone numbers of the persons to whom notice was given under subsection (e)(1)(A). Such notice shall remain in place until termination of the waiting period and the owner shall have the affirmative duty to replace such notice as needed in order to comply with this requirement.

(2) Exceptions. Exceptions to this section shall be as follows:

(A) Early Termination of Waiting Period. If within the ninety (90) or one hundred twenty (120) day period the Historic Preservation Commission votes affirmatively not to recommend local historic designation to the Common Council, or votes on a motion to recommend local designation and the motion fails, and in either case, the vote is not reversed by proper action taken at the same meeting on the same calendar day; or if within such ninety (90) or one hundred twenty (120) day period the Common Council disapproves a recommended local historic designation of the subject property; then the remainder of the waiting period shall be considered waived and the certificate of zoning compliance shall be issued forthwith if all other requirements are met.

(B) Locally Designated Buildings or Structures are Subject to Title 8 Provisions Regarding Demolition. This section shall not apply to any building or structure that is within a property or district locally designated historic pursuant to Title 8, Historic Preservation and Protection, of the Bloomington Municipal Code. Such buildings and structures shall be governed by the provisions of that Title.

(C) Emergency Waiver of Waiting Period. The waiting period may be waived upon a written determination by the City Manager of Engineering Services that there is an emergency condition dangerous to life, health or property that requires demolition prior to the expiration of the waiting period.

(D) Building or Structure Not Subject to Demolition Waiting Period More than Once in any One-Year Period. No building or structure that has been subjected to the waiting period under this Section shall be subject to a second waiting period until the passage of one year from the date of expiration of the first waiting period or, where interim protection is placed upon the property pursuant to BMC 8.08.015 during the demolition waiting period but Council final action to reject local designation occurs after the waiting period, for a one-year period after such final Council action. During this one year period, no action of the HPC or the Common Council may prevent issuance or effect revocation of a certificate of zoning compliance or permit allowing demolition that is otherwise properly issued or application for which meets all requirements of the Bloomington Municipal Code.

(3) Issuance of Certificate of Zoning Compliance authorizing Demolition.

(A) If within the ninety (90) or one hundred twenty (120) day waiting period the property is placed under interim protection or is locally designated historic pursuant to Chapter 8.08 of the Bloomington Municipal Code, then no certificate of zoning compliance authorizing demolition may be issued except: upon termination of interim protection without local designation being placed upon the property; or, where local designation is placed upon the property, in accordance with and after all approvals required by Chapter 8.08.

(B) This paragraph shall apply where no interim protection or local historic designation is placed upon the property within the waiting period, or where interim protection expires prior to the end of the waiting period without local designation being placed upon the property. After expiration of the waiting period provided for herein, which shall include early termination of the waiting period pursuant to 20.03.05.03(e)(2)(A), a certificate of zoning compliance authorizing demolition shall be issued if owner has submitted a complete application and all other requirements of the Bloomington Municipal Code are met. No action of the HPC may prevent issuance or effect revocation of such certificate of zoning compliance, or a demolition permit issued in reliance upon such certificate of zoning compliance, for a period of one (1) year from the end of the waiting period.

(C) For any building or structure that is exempt from the waiting period of this Section pursuant to subsections 20.03.05.03(e)(2)(A), (C), or (D) a certificate of zoning compliance authorizing release of a demolition permit shall be issued within a reasonable time following receipt by the Planning Department of a complete application, provided all other requirements of the Bloomington Municipal Code are met. For buildings or structures covered by Subsection 20.03.05.03(e)(2)(A) or (D), during the one year period provided by those subsections, a certificate of zoning compliance shall be issued where all other requirements are met, and if properly issued may not be revoked by any action of the HPC or Common Council involving interim protection or local designation.

SECTION V. Section 20.02.01.00 "Definitions" shall be amended to change the definition of "Lot, zoning" to read as follows:

Lot, zoning A single tract of land which (at the time of filing for a building permit or other approval) is designated by its owner or developer for purposes of compliance with this Zoning Ordinance as a tract to be used, developed, or built upon. A "zoning lot or lots" may coincide with one or more lots of record. Provided, however, in the Downtown Commercial (CD), General Commercial (CG), and Arterial Commercial (CA) districts, notwithstanding the foregoing definition or any other provision of this Zoning Ordinance, no lot of record shall be used or developed solely as a parking lot, even where such lot is included with one or more other lot(s) in a Zoning Lot. For purposes of this definition, in any situation where two or more lots of record are aggregated into a single zoning lot, a lot of record used for parking is considered to be used "solely as a parking lot" unless the parking use is accessory to a principal use that is located on at least fifty percent (50%) of the lot area of the lot of record on which the parking is located.

SECTION VI. Section 20.06.02.02, "Required Number of Off-Street Parking Spaces," Paragraph (a), shall be amended to read as follows:

(a) Off-street parking is not required in the Downtown Commercial (CD) district, and any off-street parking provided therein shall be subject to the provisions of Section 20.06.02.05, Paragraph (d), of this Zoning Ordinance.

SECTION VII. Section 20.06.02.05, "Location of Parking Spaces," shall be amended to add a new Paragraph (d), to read as follows:

(d) Commercial Districts. In the Downtown Commercial (CD), General Commercial (CG), and Arterial Commercial (CA) districts, notwithstanding any other provision of this Zoning Ordinance, no lot of record shall be used or developed solely as a parking lot, even where such lot of record is otherwise included with one or more other lot(s) in a Zoning Lot. Parking lots in these Districts may be provided only as an accessory use that is located on the same lot of record as the principal use. In any situation where two or more lots of record are aggregated into a single zoning lot, this requirement is satisfied only if the principal use occupies at least fifty percent (50%) of the lot area of the lot of record on which the accessory parking lot is located.

SECTION VIII. Section 20.07.08.02 "Permitted Uses [in the General Commercial District]" shall be amended to delete the the words "lots and" from the item that currently reads "Parking lots and garages (15)" so that the item reads "Parking garages (15)." *Note: The Plan Commission proposal included the entire Section 20.07.08.02 with this change in one line. The Council Office has provided annotated excerpts from Title 20 that includes this section in its entirety and has removed this text from the ordinance as redundant and in order to avoid inadvertent changes in the code.*

SECTION IX. Section 20.07.09.02 "Permitted Uses [in the Arterial Commercial District]" shall be amended to delete the words "lots and" from the item that currently reads "Parking lots and garages (15)" so that the item reads "Parking garages (15)." *Note: The Plan Commission proposal included the entire Section 20.07.09.02 with this change in one line. The Council Office has provided annotated excerpts from Title 20 that includes this section in its entirety and has removed this text from the ordinance as redundant and in order to avoid inadvertent changes in the code.*

SECTION X. Section 20.07.16.00 "Summary of District Uses and Regulations" shall be amended to modify Table 7-1 by deleting the line referring to "Parking lots" from the table. The deleted line (with strike-throughs) reads as follows:

Type of Use	RE2.5	RE1	RS	RT7	RM	CL	CG	CA	CD	IL	IG	BP	I	M	AP	Q
~~Parking Lots~~							~~15~~	~~15~~						~~C~~		

Note: The Plan Commission proposal included the entire Table 7-1 with this change in one line. The Council Office has provided annotated excerpts from Title 20 that includes this table in its entirety and has removed this text from the ordinance as redundant and in order to avoid inadvertent changes in the code.

SECTION XI. Section 20.07.16.03, "Bulk, Density, Height, Area, and Aesthetic Requirements," Table 7-4, shall be amended to add a new paragraph (f) and re-designate current paragraph (f) as (g). The new paragraph (f) shall read as follows:

> (f) In the Downtown Commercial (CD), General Commercial (CG), and Arterial Commercial (CA) districts, notwithstanding any other provision of this Zoning Ordinance, no lot of record shall be used or developed solely as a parking lot, even where such lot of record is otherwise included with one or more other lot(s) in a Zoning Lot. Parking lots in these Districts may be provided only as an accessory use that is located on the same lot of record as the principal use. In any situation where two or more lots of record are aggregated into a single zoning lot, this requirement is satisfied only if the principal use occupies at least fifty percent (50%) of the lot area of the lot of record on which the accessory parking lot is located.

Note: The Plan Commission proposal included the entire Table 7-4 with this addition of one paragraph. The Council Office has provided annotated excerpts from Title 20 that include this table in its entirety and has removed this text from the ordinance as redundant and in order to avoid inadvertent changes in the code.

SECTION XII. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

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

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 19th day of JANUARY, 2005.

ANDY RUFF, 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 20th day of JANUARY, 2005.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 20th day of JANUARY, 2005.

MARK KRUZAN, Mayor
City of Bloomington

Signed copies to:

controller
legal (5)
Engineering
HAND
Planning
Monroe Co. Planning
HPC

File
Clerk
BMC code File
CA/CA (2)

SYNOPSIS

This ordinance amends Title 20, the Zoning Ordinance, to impose a delay upon the demolition of structures that are designated as Outstanding, Notable or Contributing on the Historic Survey. In general, the delay is 90 to 120 days from the time a property owner seeks permission to demolish such a structure, with certain exceptions. The ordinance also deletes surface parking lots as a permitted principal use in the CG and CA Zoning Districts, and prohibits any lot of record in those districts and in the Downtown Commercial (CD) District from being used solely for surface parking.