

City of Bloomington Common Council

Legislative Packet

Containing legislation and materials related to:

Wednesday, 8 January 2025

Organizational Meeting at 6:30pm



CITY OF BLOOMINGTON COMMON COUNCIL

AGENDA AND NOTICE:
ORGANIZATIONAL MEETING
WEDNESDAY | 6:30 PM
08 JANUARY 2025

*Council Chambers (#115), Showers Building, 401 N. Morton Street
The meeting may also be accessed at the following link:*

<https://bloomington.zoom.us/j/85833928905?pwd=JYxaWuqbzyQ8obL3ZKJ2goazVFjHD.1>

- I. **ROLL CALL**
- II. **AGENDA SUMMATION**
- III. **REPORTS** *(A maximum of twenty minutes is set aside for each part of this section.)*
 - A. Councilmembers
 - B. The Mayor and City Offices
 - C. Council Committees
 - D. Public *
- IV. **ELECTION OF OFFICERS**
(Once the Council elects its officers, the newly-elected President will assign Councilmembers their seats at the dais.)
- V. **ASSIGNMENTS TO COUNCIL COMMITTEES**
(If prepared to do so, the President may, at this time, announce assignments of Councilmembers to Council committees.)
- VI. **APPOINTMENTS TO BOARDS AND COMMISSIONS**
(The Council may take this opportunity to appoint Councilmembers to serve on various boards and commissions. If any nominations are ready, the Council may also consider the appointment of members of the public to serve on boards and commissions, as well.)
- VII. **LEGISLATION FOR FIRST READINGS**
 - A. Ordinance 2025-01 – To Amend the District Ordinance and Preliminary Plan of A 3.2 Acre Planned Unit Development (PUD), The Curry PUD, In Order to Amend the Workforce Housing Contribution – Re: 105 S. Pete Ellis Drive (Bloomington SPCW JV, LLC, Petitioner)
 - B. Ordinance 2025-02 - An Ordinance Establishing the Outdoor Dining Program in the Downtown Corridor
- VIII. **ADDITIONAL PUBLIC COMMENT ***
(A maximum of twenty-five minutes is set aside for this section.)

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

Auxiliary aids are available upon request with adequate notice. To request an accommodation or for inquiries about accessibility, please call (812) 349-3409 or e-mail council@bloomington.in.gov.

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. Individuals may speak at one of these periods, but not both. Speakers are allowed three minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.

Auxiliary aids are available upon request with adequate notice. To request an accommodation or for inquiries about accessibility, please call (812) 349-3409 or e-mail council@bloomington.in.gov.



MEMO FROM COUNCIL OFFICE:

To: Members of the Common Council

From: Lisa Lehner, Council Administrator/Attorney

Date: January 3, 2025

Re: 2025 Council Organizational Meeting

ORGANIZATIONAL MEETING

Election of Officers and Assignment of Seating

State statute ([IC 36-4-6-8](#)) and local municipal code ([BMC 2.04.010](#)) require the Council to meet in January in order to elect a president, vice-president, and parliamentarian from its own membership.

Many duties of the president are set out in local code, while some aspects of the role have evolved as a matter of practice. [BMC 2.04.020](#) (Duties of President) provides:

The president shall have general direction of the council chambers and shall preserve order and decorum. The president shall rule on all points of order subject to an appeal to the council by any two members, shall state all questions properly proposed, shall put all questions which come to a vote, and shall declare the results of each vote. After any ordinance, resolution, address or order is adopted by the council, the president shall certify such action and certification shall be attested by the city clerk. In the absence of the president, the vice-president shall preside.

The president also approves the agendas for regular sessions, special sessions called by the president or voted upon by the council, and committees convened to consider legislation referred to them. The president also appoints councilmembers to any established standing committees of the Council, observing the preference of each member as closely as possible, and appoints a chairperson for each committee.

The election of officers has often unfolded with a motion by a councilmember to nominate a slate of candidates for the three positions. Unless there are further nominations, the Council then votes on the slate as a whole. If there are other nominations for a particular office, then a vote on the nominations for that office should proceed separately. The motion requires a majority vote to be adopted.

Once officers are elected, the new officers and other councilmembers typically rearrange their seating. Please note that the president has the duty of assigning seats, but any two councilmembers may change seats by joining in a written memorandum and submitting it to the president ([BMC 2.04.110](#)).



Council Committee Assignments

As noted above, the president is also given the duty of assigning councilmembers to committees, observing the preferences of the Councilmembers as closely as possible when doing so ([BMC 2.04.210](#)). If the president is ready, those assignments may also be announced at the Organizational Meeting. However, if additional time is needed for councilmembers to communicate their preferences to the president, these assignments may also be announced at a later date.

Appointments to Boards, Commissions, and Other Organizations

Appointments – Council

The Council may vote on the appointment of Councilmembers to serve on various boards, commissions, or organizations. This may also be done by nomination of a slate of candidates or individually. Such motions require a simple majority to be adopted.

Appointments – Citizens

Please note that the Council may also use this occasion to make citizen appointments to boards or commissions if any are ready to be made. Any such nominations require a simple majority to be adopted.

Group Photo

Typically, a group photo is taken at the first meeting of the year so that an updated photo can be added to the Council webpage. Please let the Clerk/Council Offices know whether you will not be able to attend this meeting in person and stay after for a photo of the Council for the webpage.

Council Member Seating 2019 – 2024

(Assigned by President)

Seating For the Year 2019

Ruff	Chopra	Piedmont-Smith	Granger	Rollo	Volan	Sims	Sturbaum	Sandberg
			Vice President	President	Parliamentarian			

Seating For the Year 2020

Rollo	Sgambelluri	Rosenbarger	Sims	Volan	Piedmont-Smith	Flaherty	Smith	Sandberg
			Vice	President	Parliamentarian			

Seating for the Year 2021

Rollo	Volan	Rosenbarger	Sgambelluri	Sims	Flaherty	Piedmont-Smith	Smith	Sandberg
			Vice President	President	Parliamentarian			

Seating For the Year 2022

Smith	Volan	Sims	Sgambelluri	Sandberg	Rollo	Flaherty	Rosenbarger	Piedmont-Smith
			Vice President	President	Parliamentarian			

Seating for the Year 2023

Flaherty	Rosenbarger	Sims	Piedmont-Smith	Sgambelluri	Rollo	Sandberg	Smith	Volan
			Vice President	President	Parliamentarian			

Seating for the Year 2024

Flaherty	Zulich	Rollo	Ruff	Piedmonth-Smith	Stosberg	Asare	Rosenbarger	Daily
			Vice President	President	Parliamentarian			

Seating for the Year 2025

			Vice President	President	Parliamentarian			

NOTE: Members shall occupy the seats assigned them by the presiding officer, but any two or more members may exchange seats by joining in a written memorandum to that effect. (BMC 2.04.110)

ORGANIZATION DAY WORKSHEET FOR 2024 - JANUARY 10, 2024

ELECTION OF OFFICERS (action by motions of Council)

	2024	2025
President	Piedmont-Smith	
Vice President	Ruff	
Parliamentarian	Stosberg	

APPOINTMENTS TO BOARDS AND COMMISSIONS (action by motions of Council)

(All appointments of Councilmembers are for voting members except where noted.)

ECONOMIC DEVELOPMENT

[Bloomington Economic Development Corp.](#)

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(1-year term; ex-officio)

Asare

The BEDC is a not-for-profit corporation dedicated to the retention, development, and attraction of quality jobs in Monroe County, Indiana. Its work is guided by 6 officers from the business sector as well as ex officio members from city government, county government, and the town of Ellettsville.

[Downtown Bloomington, Inc Board of Directors](#)

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(1-year term; ex-officio)

Zulich

Downtown Bloomington Inc. [DBI] is a non-profit membership organization focused on the continued revitalization of Downtown Bloomington, Indiana. Since 1984, the mission has been to educate the public about the benefits of a strong downtown, to facilitate public and private partnerships and to provide unified leadership in order to strengthen and support Downtown Bloomington as the heart of the city for all citizens. The Board of DBI includes representatives from city and county governments, the non-profit sector, downtown businesses, and Visit Bloomington.

[Economic Development Commission \(County\)](#)

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(Nomination by Council; 4-year term; removal limited by state code [IC 36-7-12];)

Asare

The Economic Development Commission of Monroe County is established under Indiana state code for the financing of economic development and pollution control facilities, to review issues related to tax abatements, and to hear economic development bond applicants.

[Economic Development Commission \(City\)](#)

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(Nomination by Council; 4 year term; removal limited by state code [IC 36-7-12; BMC 2.30.010]; current appointment ends in Jan. 2026.)

Asare

The Bloomington Economic Development Commission (EDC) was created to enhance economic growth within the City of Bloomington. The five commissioners employ a variety of tools to stimulate redevelopment and increased employment, including tax abatements and economic development revenue bonds.

APPOINTMENTS TO BOARDS AND COMMISSIONS (action by motions of Council)

(All appointments of Councilmembers are for voting members except where noted.)

PLANNING AND TRANSPORTATION

2024

2025

Plan Commission

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Stosberg

(Term of Council appointee is co-extensive with member's term of office on Council, unless the Council appoints another to serve as its representative [IC 36-7-4-217].)

The Plan Commission is the land use and development policy body for the City and is the decision-making body for site plan review, preliminary and final plats, and final Planned Unit Developments (PUDs). The Commission acts in an advisory capacity to the Common Council for rezoning requests, preliminary PUDs, and amendments to the Unified Development Ordinance (UDO). The Plan Commission also advises the Common Council on the adoption of, and amendments to, the Comprehensive Plan.

Metropolitan Planning Organization

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Daily

The Bloomington-Monroe County Metropolitan Planning Organization (BMCMPPO) is the Metropolitan Planning Organization (MPO) that serves the City of Bloomington, the Town of Ellettsville and parts of Monroe County, as originally designated by the Governor of Indiana in 1982. The BMCMPPO also includes Indiana University and Bloomington Transit as planning partners.

The Policy Committee of the Bloomington-Monroe County Metropolitan Planning Organization (BMCMPPO) discusses and approves MPO policies, plans, and programs.

Parking Commission

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Flaherty

(1-year term [BMC 2.12.110])

The purpose of the Parking Commission is, in coordination with decision-makers and other entities as is necessary or prudent: (1) to develop, implement, maintain, and promote a comprehensive policy on parking that takes into account the entirety of, and furthers the objectives of, the city's comprehensive plan; and (2) to coordinate parking activities, to carry on educational activities in parking matters, to supervise the preparation and publication of parking reports, to receive comments and concerns having to do with parking matters, and to recommend to the common council and to appropriate city officials ways and means for achieving the city's comprehensive plan objectives through the administration of parking policies and the enforcement of parking regulations.

SUSTAINABILITY AND ENVIRONMENT

Board of the Waste Reduction District of Monroe County

(formerly Solid Waste Management District)

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Piedmont-Smith

(Term of Council appointee is co-extensive with member's term of office on Council, but serves at the pleasure of the Council [IC 13- 21-3-8].)

The mission of the Waste Reduction District of Monroe County (formerly the Monroe County Solid Waste Management District) is to promote and contribute to long-term sustainability and a healthier environment by reducing the amount of waste going to final disposal. We recognize that waste reduction plays an important role in mitigating climate change and improving environmental quality, and we place our mission in this global and local context.

Bloomington Commission on Sustainability

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Rollo

The City of Bloomington Commission on Sustainability (BCOS) promotes economic development, environmental health, and social equity in our community for present and future generations. The commission gathers and disseminates information; promotes practical initiatives; and measures, monitors, and reports on our community's progress toward sustainability.

APPOINTMENTS TO BOARDS AND COMMISSIONS (action by motions of Council)

(All appointments of Councilmembers are for voting members except where noted.)

COMMUNITY DEVELOPMENT BLOCK GRANT

Citizens Advisory Committee - Community Development Block Grants (CDBG)

(1-year term)

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2024

2025

—Social Services

Zulich
Rosenbarger

—Physical Improvements

This is the public body that reviews and recommends CDBG funding for a variety of community projects.

TAX ADVISORY BOARDS

Food and Beverage Tax Advisory Commission

(County)

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Ruff

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(1-year term [IC 6-9-41-16])

In order to coordinate and assist efforts of the county and city fiscal bodies regarding the utilization of food and beverage tax receipts, an advisory commission was established. The county and city legislative bodies must request the advisory commission's recommendations concerning the expenditure of any food and beverage tax funds collected under state law.

Public Safety Local Income Tax Committee
(of the County Local Income Tax Council)

(1-year term | 4 council members, assuming the MC LIT Council members meet in the same manner as in 2023.)

Rosenbarger
Zulich
Ruff
Stosberg

The Monroe County Local Income Tax Council serves as the “adopting body” in regard to certain Local Income Tax Rates per IC 6-3.6 et al. It is composed of four members -- the Bloomington Common Council, Ellettsville Town Council, Monroe County Council, and Stinesville Town Council. Representatives of the members sit on the Public Safety Local Income Tax (PS-LIT) Committee, which meets every summer to review applications for funding under IC 6-3.6-6-8(c) and consider other PS-LIT needs in these jurisdictions and make recommendations on PS-LIT tax rates and allocations to the Tax Council.

UTILITIES

Utilities Service Board

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Flaherty

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(No designated term length, serves at the pleasure of the Council; ex-officio, non-voting [BMC 2.24.030].)

Oversees the Utilities Department and coordinates operations with City policies.

2025 BOARDS AND COMMISSIONS

INTERVIEW COMMITTEE – ASSIGNMENT GRID

Committee	A	B	C
Boards and Commissions			
Animal Control	x		
Bloomington Arts Commission			x
Bicycle & Pedestrian Safety Commission		x	
Bloomington Digital Underground Advisory Committee		x	
Board of Zoning Appeals	x		
Commission on Aging	x		
Commission on Hispanic and Latino Affairs			x
Commission on the Status of Black Males	x		
Commission on the Status of Women		x	
Commission on Sustainability			x
Commission on the Status of Children and Youth			x
Community Advisory on Public Safety (CAPS)		x	
Environmental Commission		x	
Historic Preservation Commission			x
Housing Quality Appeals Board	x		
Human Rights Commission	x		
MLK Commission		x	
Parking Commission			x
Public Transportation Corporation	x		
Redevelopment Commission			x
Traffic Commission		x	
Telecommunications Council		x	
Tree Commission			x
Urban Enterprise Association	x		
Utilities Service Board		x	

Note: the Council also makes appointments to the Capital Improvement Board (established by the Monroe County Commissioners to manage and direct the affairs of the Monroe County Convention Center and its expansion) and to the City of Bloomington Capital Improvement Board (CBCI). Appointment nominations for these two entities have not been assigned to an Interview Committee.



MEMO FROM COUNCIL OFFICE ON:

To: Members of Common Council

From: Lisa Lehner, Council Administrator/Attorney

Date: January 3, 2025

Re: Ordinance 25-01 – To Amend the District Ordinance and Preliminary Plan of A 3.2 Acre Planned Unit Development (PUD), The Curry PUD, In Order to Amend the Workforce Housing Contribution. – Re: 105 S. Pete Ellis Drive (SPCW Bloomington JV, LLC, Petitioner)

Synopsis

Ordinance 25-01 would amend the District Ordinance and Preliminary Plan for the Curry PUD to allow the workforce housing commitment to be met through a payment to the Housing Development Fund, instead of through the inclusion of workforce housing units on-site.

Relevant Materials

- Ordinance 2025-01, which incorporates Attachment A by reference
- Certification of Ordinance 2025-01 by Plan Commission
- Staff Memo from Jacqueline Scanlan

Background

This property was rezoned from Commercial Limited (CL) to Planned Unit Development (PUD) on February 5, 2020 by Ordinance 20-01 (background materials for this legislation can be found in the January 8, 2020 Legislative Packet), which ordinance codified the PUD under the Unified Development Ordinance in effect at that time (the “2019 UDO”). The Preliminary Plan documents included Workforce Housing to comprise 15% of the unit bedroom count, which was similar to the Affordable Housing Incentives percentage later added by Ordinance 20-06.

In June of 2022, the UDO was amended to make the payment-in-lieu option of Bloomington Municipal Code Title 20.04 more viable. The Petitioner is requesting to amend the existing PUD District Ordinance and Preliminary Plan in order to modify the Affordable Housing commitment within the PUD by allowing a payment-in-lieu of on-site workforce housing units. The Petitioner proposes to contribute \$20,000 per bedroom for 15 percent of the bedrooms in the development, for a total of \$1,040,000 to be paid to the City’s Housing Development Fund.

In accordance with Section 20.01.040 of the current UDO (Transition from Prior Regulations), this petition will be reviewed under the 2019 UDO, which was in place when the PUD was approved in 2020.¹

¹ A copy of the 2019 UDO can be found at <https://bloomington.in.gov/sites/default/files/2019-09/UDO%20%282019%29.pdf>



Council's Review and Consideration

The Council's review of a PUD proposal is guided by state statute and local code. The Council has wide discretion but must have a rational basis for its decision. Within ninety (90) days after such a proposal is certified to the Council by the Plan Commission, the Council may adopt or reject the proposal pursuant to [IC 36-7-4-607](#) and may also exercise powers set forth under Indiana Code [36-7-4-1500](#) et seq. Pursuant to [Section 36-7-4-1512](#), those powers include:

- imposing reasonable conditions;
- conditioning the issuance of a certificate of zoning compliance on the furnishing of a bond or certain guarantees; and
- allowing or requiring the owner of real property to make written commitments.

If the Council fails to act on the proposal within 90 days after certification, the ordinance would take effect as if it had been adopted as certified by the Plan Commission.²

In consideration of [Ordinance 2025-01](#), Indiana Code directs that Council shall pay reasonable regard to the following³:

- the [comprehensive plan](#);
- current conditions and the character of current structures and uses in each district;
- the most desirable use for which the land in each district is adapted;
- the conservation of property values throughout the jurisdiction; and
- responsible development and growth.

It is not necessary that Council find absolute conformity with each of the factors outlined above. Rather, the Council is to take into consideration the entire constellation of criteria, balancing the statutory factors.

Further, the Council will review [Ordinance 2025-01](#) under [the 2019 UDO](#)⁴ and will consider the following factors per [2019 BMC 20.04.080\(h\)](#):

- The extent to which the PUD meets the requirements, standards, and stated purpose of Chapter 20.04, *Planned Unit Development Districts*.
- The extent to which the proposed preliminary plan departs from the UDO provision otherwise applicable to the property (including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons why such departures are or are not deemed to be in the public interest).
- The extent to which the PUD meets the purpose of the UDO, the Comprehensive Plan and other adopted planning policy documents.

² [IC 36-7-4-607](#)

³ [IC 36-7-4-603](#)

⁴ [2019 BMC 20.04.080\(j\)\(1\)](#)



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 | email: council@bloomington.in.gov

- The physical design of the PUD and the extent to which it: makes adequate provision for public services; provides adequate control over vehicular traffic; provides for and protects designated common open space; and furthers the amenities of light and air, recreation and visual enjoyment.
- Relationship and compatibility of the PUD to adjacent properties and neighborhood, and whether the PUD would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.
- The desirability of the proposed preliminary plan to the city’s physical development, tax base and economic well-being.
- The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.
- The proposal preserves significant ecological, natural, historical and architectural resources.
- The proposal will not be injurious to the public health, safety, and general welfare.
- The proposal is an effective and unified treatment of the development possibilities on the PUD site.

Finally, the 2019 BMC provides that permitted uses in a PUD are subject to the discretion and approval of the Plan Commission and the Council.⁵ Permitted uses are determined in consideration of the Growth Policies Plan (now Comprehensive Plan), existing zoning, land uses contiguous to the area being rezoned, and the development standards outlined in the UDO.⁶

Certified by Plan Commission

Ordinance 2025-01 was certified to the Council by the Plan Commission on December 9, 2024 with a favorable recommendation (6-1). The findings of the Plan Commission are outlined in the staff memo, concluding that the project still includes multiple characteristics that support the goals of the Comprehensive Plan. The petition is forwarded to the Council by the Plan Commission with a favorable recommendation and various conditions, which are listed in the staff memo.

Contact

Jacqueline Scanlan, Development Services Manager, scanlanj@bloomington.in.gov, (812) 349-3524

⁵ [2019 BMC 20.04.020\(a\)\(1\)](#)

⁶ [2019 BMC 20.04.020\(a\)\(2\)](#)

ORDINANCE 2025-01

TO AMEND THE DISTRICT ORDINANCE AND PRELIMINARY PLAN OF A 3.2 ACRE PLANNED UNIT DEVELOPMENT (PUD), THE CURRY PUD, IN ORDER TO AMEND THE WORKFORCE HOUSING CONTRIBUTION.

**- Re: 105 S. Pete Ellis Drive
(SPCW Bloomington JV, LLC, Petitioner)**

WHEREAS, Ordinance 20-06, which repealed and replaced Title 20 of the Bloomington Municipal Code entitled, “Unified Development Ordinance”, went into effect on April 18, 2020; and

WHEREAS, Ordinance 20-01, which established the Curry PUD, went into effect on February 10, 2020; and

WHEREAS, the Plan Commission has considered this case, PUD-44-24, and recommended that the petitioner, Curry Urban Properties, be granted an approval to amend the District Ordinance and Preliminary Plan for a Planned Unit Development (PUD) to allow a payment-in-lieu of on-site workforce housing units; and

WHEREAS, the Plan Commission therefore requests that the Common Council consider this petition;

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

SECTION I. Through the authority of IC 36-7-4 and pursuant to Chapter 20.04 of the Bloomington Municipal Code, the zoning of the property located at 105 N. Pete Ellis Drive shall be changed from Commercial Limited (CL) to Planned Unit Development (PUD). The property is further described as follows:

A part of the Southwest Quarter of Section Thirty five (35), Township nine (9) North, Range one (1) West, in Monroe County, Indiana, more particularly described as follows: Lot 8 in the Deckard East Third Street Subdivision as shown on the final plat thereof, recorded in Plat Cabinet C, Envelope 334 in the Office of the Recorder of Monroe County, Indiana. AND ALSO EXCEPTING that part platted as Arlington Park, Phase 1 as per plat thereof, recorded in Plat Cabinet C Envelope 196, in the Office of the Recorder of Monroe County, Indiana.

SECTION II. This District Ordinance and the Preliminary Plan shall be amended with the information attached hereto in the report labeled Attachment A and made a part thereof.

SECTION III. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstance 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 IV. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2025.

President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk

City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2025.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2025.

KERRY THOMSON, Mayor
City of Bloomington

SYNOPSIS

Ordinance 2025-01 would amend the District Ordinance and Preliminary Plan for the Curry PUD to allow the workforce housing commitment to be met through a payment to the Housing Development Fund, instead of through the inclusion of workforce housing units on-site.

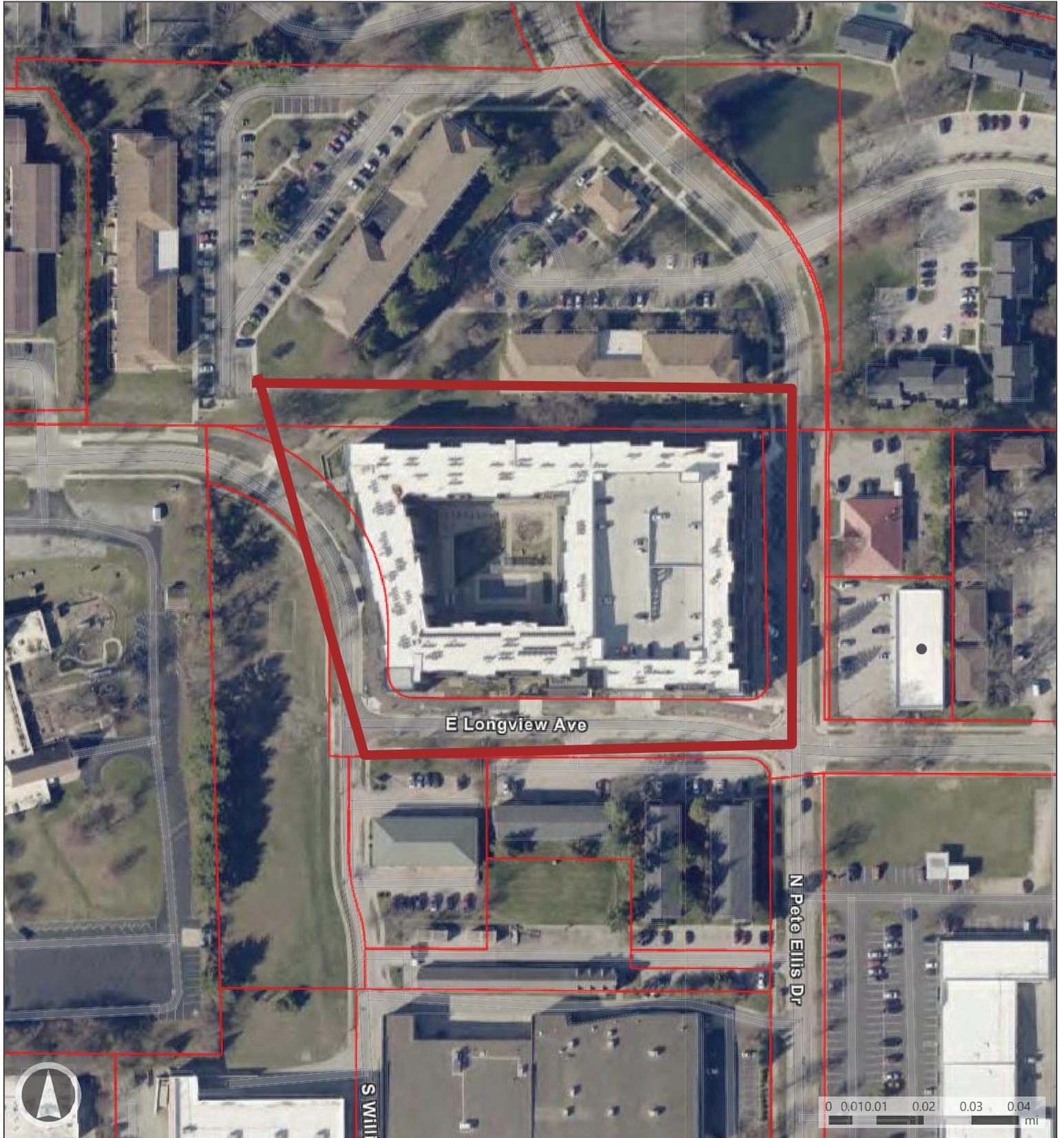
Attachment A



Map Legend

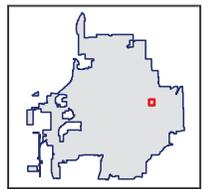
-  Parcels
-  Bloomington Municipal Boundary





Map Legend

-  Parcels
-  Bloomington Municipal Boundary



8801 River Crossing Blvd, Suite 300
Indianapolis, Indiana 46240
T 317.843.5959
F 317.843.5957

To: City of Bloomington
From: SPCW Bloomington JV, LLC (“SPCW”)
Date: November 4, 2024
RE: Petitioner’s Statement: 121 N Pete Ellise Drive - WFH - Zoning Commitment

Petition: Amend the recorded Zoning Commitment (Instrument Number 2023004318) and relevant and applicable text and obligations in District Ordinance 21-31 and Curry PUD Preliminary Plan.

Petitioner is also requesting a waiver of second hearing.

The Petitioner’s Statement dated 06.04.2021 identified offering 15% of its unit bedrooms to be set aside for workforce housing with the proposed Zoning Commitment attached with the submittal. The Zoning Commitment was recorded on April 27, 2023.

Since opening, and despite its best efforts, SPCW has had difficulty in securing qualifying tenants for the designated units and sees a payment in lieu as an effective way to assist the City’s efforts concerning workforce housing. Further, SPCW and the City of Bloomington Housing and Neighborhood Development and Planning and Transportation Department entered into a Memorandum of Understanding (the “MOU”) on October 2, 2024. In the MOU, SPCW and HAND agreed to work together in good faith to pursue a modification to the Zoning Commitment with mutually agreeable terms.

SPCW proposes modifications to District Ordinance 21-31 and Curry PUD Preliminary Plan, by way of the attached PAYMENT IN LIEU AGREEMENT AND TERMINATION OF ZONING COMMITMENT AND WORKFORCE (AFFORDABLE) HOUSING REQUIREMENTS document attached hereto, to terminate and replace the Zoning Commitment, as summarized below:

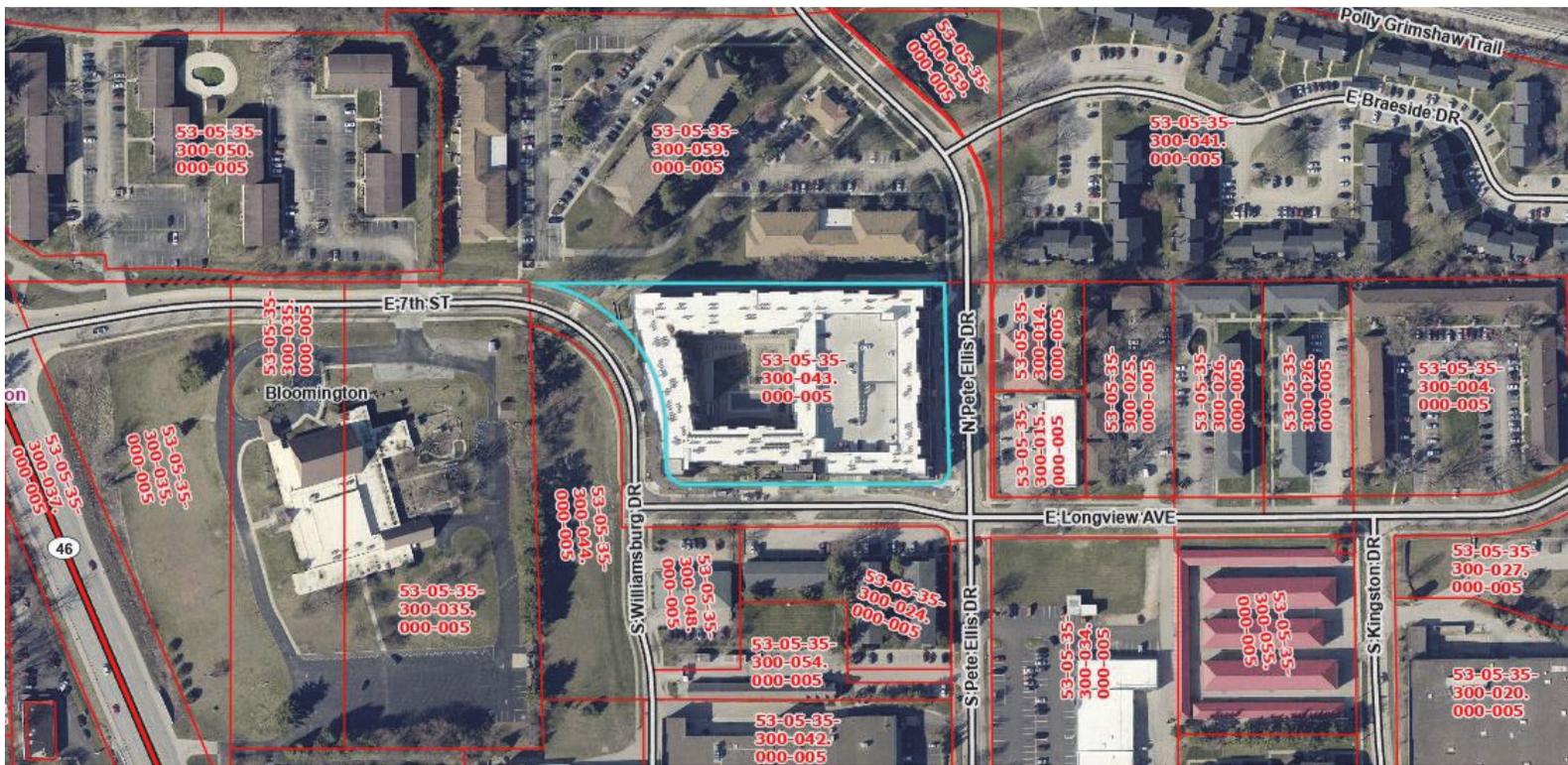
Owner to make a payment to the City in an amount equal to One Million Forty Thousand and No/100 Dollars (\$1,040,000.00) (based on the current UDO fee schedule of \$20,000 per bed applied to the 52 bedrooms currently enrolled in the workforce housing program) to fully satisfy all obligations under the Zoning Commitment and the Workforce Housing Commitment (the “Payment in Lieu”) as allowed for new developments under 20.04.110(c)(7)(A) of the UDO.

We appreciate the City considering our petition to modify to the subject property’s zoning commitment and the opportunity to be a partner in the City’s housing initiatives.

Sincerely,

SPCW Bloomington JV, LLC

Subject Property Aerial



**PAYMENT IN LIEU AGREEMENT AND TERMINATION OF ZONING
COMMITMENT AND WORKFORCE (AFFORDABLE) HOUSING
REQUIREMENTS**

This Payment in Lieu Agreement and Termination of Zoning Commitment and Workforce (Affordable) Housing Requirements (this “**Agreement**”) is made and entered into this ____ of _____, 2024, by Bloomington SPCW JV, LLC, LLC, an Indiana limited liability company (“**Owner**”), having an office at 8801 River Crossing Boulevard, Suite 300, Indianapolis, IN 46240, The City of Bloomington, Indiana (the “**City**”) and The City of Bloomington, Indiana Plan Commission (the “**Commission**”).

RECITALS

A. Owner is the owner of certain real property located at 105 N. Pete Ellis Drive, Bloomington, Indiana, the property is identified by the following Monroe County Parcel Number 53-05-35-300-043.000-005 (“the **Property**”), which is more particularly described as Lot 8 located in Deckard East Third Street Subdivision, Monroe County, Indiana, as recorded in Plat Cabinet C, Envelope 334, in the Office of the Recorder of Monroe County, Indiana.

B. The Property is subject to that certain Zoning Commitment executed by Owner on January 4, 2023, and recorded on April 27, 2023, in the Office of the Recorder of Monroe County, Indiana, as Instrument Number 2023004318 MIS (the “**Zoning Commitment**”).

C. Under the Zoning Commitment, the Owner committed to providing workforce housing at the Property in exchange for receiving additional zoning benefits from the City of Bloomington’s Plan Commission, as permitted under Indiana Code Section 36-1-24.2-4 (the “**Workforce Housing Commitment**”).

D. Questions and concerns have arisen regarding the Zoning Commitment, and the interpretation of the Owner’s ability to qualify certain tenants under the Commitment for Workforce Housing.

E. In furtherance of the City’s efforts to create affordable housing, Owner, the City and the Commission desire for Owner to make a payment to the City in an amount equal to One Million Forty Thousand and No/100 Dollars (\$1,040,000.00) (based on the current UDO fee schedule of \$20,000 per bed applied to the 52 bedrooms currently enrolled in the workforce housing program) to fully satisfy all obligations under the Zoning Commitment and the Workforce Housing Commitment (the “**Payment in Lieu**”).

F. Pursuant to Section 11 of the Zoning Commitment, the Zoning Commitment shall only terminate with the approval from the Commission after notice of hearing has been provided in accordance with the Rules and Procedures of the Commission.

G. Such obligation under Section 11 of the Zoning Commitment was satisfied at the public hearing held by the Commission on _____, 2024, at which time the Commission approved (i) this Agreement, and (ii) accepting the Payment in Lieu in consideration for terminating the Zoning Commitment, the Workforce Housing Commitment and, if applicable,

any and all other workforce/affordable housing requirements pertaining to the Property that were imposed by the City and/or the Commission, as the case may be.

H. Owner, the City and the Commission now desire to terminate the Zoning Commitment and fully release and terminate the Property from Workforce Housing Commitment.

AGREEMENTS

1. **Incorporation of Recitals.** The Recitals set forth above are hereby incorporated into this Agreement and are hereby made a part hereof, as if fully set forth herein.

2. **Payment in Lieu.** On or before five (5) days after approval of the City, approval of the Commission and execution and delivery of this Agreement by all parties, Owner shall make the Payment in Lieu to the City.

3. **Termination of Zoning Commitment and Workforce Housing Commitment.** Upon receipt of the Payment in Lieu, the City, the Commission and Owner hereby agree that the Zoning Commitment, the Workforce Housing Commitment and, if applicable, any and all other workforce/affordable housing requirements pertaining to the Property that were imposed by the City and/or the Commission, as the case may be, shall automatically terminate and be of no further force and effect. In furtherance of the foregoing, upon receipt of the Payment in Lieu by the City, the Property shall be released from the Zoning Commitment in its entirety.

4. **Waiver.** Subject to Owner making the Payment in Lieu as required herein, Owner, the City and the Commission hereby release and waive any and all actual or alleged claims, actions, causes of action and/or violations in connection with the Zoning Commitment and the Workforce Housing Commitment whether arising prior to or after the date hereof.

5. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Indiana.

6. **Counterparts.** This Agreement may be executed in any number of identical counterparts any or all of which may contain the signatures of fewer than all of the parties but all of which shall be taken together as a single instrument.

IN WITNESS WHEREOF, Owner, the City and the Commission have caused this Agreement to be executed this ____ day of _____, 2024.

OWNER:

BLOMINGTON SPCW JV, LLC,
An Indiana limited liability company

By: _____
Marc D. Pflaging, Manager

STATE OF INDIANA)
) SS
COUNTY OF MARION)

BEFORE ME, the undersigned, a Notary Public in and for said County and State, this ____ day of _____, 204, personally appeared Marc D. Pflaging, Manager of Bloomington SPCW JV, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing Payment in Lieu Agreement and Termination of Zoning Commitment and Workforce (Affordable) Housing Requirements to be his voluntary act and deed.

WITNESS my hand and Notarial Seal this this ____ day of _____, 2024.

My commission expires:

Notary Public _____

Resident of _____ County, Indiana

[Signatures continue on following page(s).]

CITY:

THE CITY OF BLOMINGTON, INDIANA

By: _____

Printed: _____

Title: _____

STATE OF INDIANA)
) SS
COUNTY OF MONROE)

BEFORE ME, the undersigned, a Notary Public in and for said County and State, this ____ day of _____, 204, personally appeared _____, the _____ of The City of Bloomington, Indiana, who acknowledged the execution of the foregoing Payment in Lieu Agreement and Termination of Zoning Commitment and Workforce (Affordable) Housing Requirements to be his voluntary act and deed.

WITNESS my hand and Notarial Seal this this ____ day of _____, 2024.

My commission expires:

Notary Public _____

Resident of _____ County, Indiana

[Signatures continue on following page(s).]

COMMISSION:

THE CITY OF BLOOMINGTON, INDIANA PLAN
COMMISSION

By: _____

Printed: _____

Title: _____

STATE OF INDIANA)
) SS
COUNTY OF MONROE)

BEFORE ME, the undersigned, a Notary Public in and for said County and State, this ____ day of _____, 204, personally appeared _____, the _____ of The City of Bloomington, Indiana Plan Commission, who acknowledged the execution of the foregoing Payment in Lieu Agreement and Termination of Zoning Commitment and Workforce (Affordable) Housing Requirements to be his voluntary act and deed.

WITNESS my hand and Notarial Seal this this ____ day of _____, 2024.

My commission expires:

Notary Public _____

Resident of _____ County, Indiana

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

Marc D. Pfleging, General Counsel
Scannell Properties
8801 River Crossing Boulevard, Suite 300
Indianapolis, IN 46240

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. /s/ Marc Pfleging

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 2025-01 is a true and complete copy of Plan Commission Case Number PUD-44-24 which was given a positive recommendation by a vote of 6 Ayes, 1 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on December 9, 2024

Date: December 18, 2024



DAVID HITTLE, Secretary
Plan Commission

Received by the Common Council Office this _____ day of _____, 2024.

NICOLE BOLDEN, City Clerk

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

Type of Legislation:

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

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

Cause of Request:

Planned Expenditure	_____	Emergency	_____
Unforeseen Need	_____	Other	_____

Funds Affected by Request:

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

Signature of Controller

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

Yes _____ No _____ X _____

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion. This is an amendment to a PUD that allows for a financial contribution from the petitioner to the Housing Development Fund. No commitment is made by the City of Bloomington.

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

Interdepartmental Memo

To: Members of the Common Council
From: Jacqueline Scanlan, AICP Development Services Manager
Subject: PUD-44-22 Amendment to Curry PUD
Date: December 18, 2024

Attached are the staff report, maps, petitioner’s statement, and petitioner’s exhibits which pertain to Plan Commission case PUD-44-24. The Plan Commission heard this petition at the December 9, 2024 hearing and voted 6-1 to send this petition to the Common Council with a positive recommendation.

The amended Plan Commission report for that hearing is below. Recommended Conditions were amended at the hearing.

REQUEST: The petitioner is requesting to amend the Planned Unit Development (PUD) District Ordinance and Preliminary Plan in order to modify the Affordable Housing commitment. And requesting a waiver of second hearing.

BACKGROUND:

Area:	3.2 acres
Current Zoning:	Planned Unit Development
GPP Designation:	Regional Activity Center / edge of Focus Area
Existing Land Use:	Dwelling, Multi-Family / Commercial / Business/Professional Office
Surrounding Uses:	North – Dwelling, Multi-Family West – Vacant / Place of Worship East – Commercial South – Dwelling, Multi-Family

REPORT: The property is located at the northwest corner of E. Longview Avenue and S. Pete Ellis Drive and is zoned Planned Unit Development (PUD). The property was rezoned to PUD in 2020 in case PUD-34-19. The 3.2 acre property is currently operating as Relato, a multi-family residential development with public spaces for commercial and office use on the first floor facing Pete Ellis Drive. Surrounding zoning includes Residential High-Density Multifamily (RH) to the north, Mixed-Use Corridor (MC) and Mixed-Use Neighborhood Scale (MN) to the south, and Mixed-Use Neighborhood Scale (MN) to the east and west. The surrounding properties have been developed with a mix of high density multi-family residences and commercial tenant spaces with the St. Mark United Methodist Church just to the west of the site.

The petitioner is requesting to amend the existing PUD in order to alter the codified affordable housing commitment within the PUD and a related Zoning Commitment.

The petitioner contends that they have had difficulty marketing and filling the workforce housing units in the development. The original petition for rezoning to a PUD was filed in 2019, before the large overhaul of the Unified Development Ordinance (UDO). At that time, the petitioner worked with the Housing and Neighborhood Development (HAND) Department to craft an agreement for Workforce Housing that would be similar to the anticipated UDO updates that were subsequently adopted in April 2020. Ordinance 20-01 was signed by the Mayor on February 10, 2020, which

codified the creation of the PUD. In the approved PUD District Ordinance and Preliminary Plan documents, the petitioner proposed “Workforce housing to comprise 15% of unit bedroom count” in a commitment created with HAND, which was similar to the Affordable Housing Incentives percentage expected in the April 2020 UDO. The petitioner subsequently amended the PUD with Ordinance 21-31, but did not alter the Workforce Housing agreement. In June 2022, the UDO was amended to make the payment-in-lieu option of the Incentives section in Chapter 20.04 more viable.

The petitioner is proposing to contribute \$20,000 per bedroom for 15 percent of the bedrooms in the development, which amounts to 52 bedrooms, for a total of \$1,040,000 to be paid to the City’s Housing Development Fund. This figure is in line with the current calculation in the Administrative Manual that is used with the Affordable Housing incentives in Chapter 20.04 of the UDO. The petitioner has discussed this request extensively with HAND and has that Department’s full support for this request.

The PUD still contains a 4-story, mixed-use building. The building includes 14,000 square feet of commercial space, a total of 233 units and 341 beds in the multifamily portion. The building contains a structured parking garage accessed from Longview Drive with 254 parking spaces.

COMPREHENSIVE PLAN: This property is designated as *Regional Activity Center* in the southeast corner of the *Regional Academic Health Center Focus Area*. The Comprehensive Plan notes the following about the intent of the *Regional Activity Center* area:

- ...district is a large commercial area that provides high intensity retail activity
- Regional Activity Centers contain higher intensity uses such as national retailers, offices, food services, lodging, and entertainment.
- The district may also incorporate medium- to high-density multifamily residential uses.
- The main purpose of the district is to provide semi-urban activity centers that complement, rather than compete with, the Downtown district.
- The district is expected to change with increasing activity through infill and redevelopment.
- Incorporating multifamily residential within the district is supported.
- Changing the context of the district towards mixed use is a significant change.
- Less intense commercial uses should be developed adjacent to residential areas to buffer the impacts of such development. Multifamily residential and office uses could likewise serve as transitional elements.
- Redevelopment within the district should be encouraged to grow vertically, with the possibility of two- or three-story buildings to accommodate denser office development, residential multifamily, structures parking, and improved multimodal connectivity.

The Comprehensive Plan notes the following about the *Regional Academic Health Center Focus Area*:

- The relocation of the hospital onto the Indiana University campus will allow for the hospital to grow and meet the needs of the region. However, there are many ancillary support services, businesses, and medical offices that also may relocate near the hospital.

The proposed amendment does not change the aspects of the project that support the Comprehensive Plan, including adding mixed use with office and multifamily residential to a

portion of the Regional Activity Center that is not on the main commercial thoroughfare.

PRELIMINARY PLAN:

Housing Diversity: The petitioner has an existing Housing Zoning Commitment with the Housing and Neighborhood Development Department, but is proposing to change that Commitment in the manner described at the beginning of this report. The change would remove the requirement for units on-site and replace it with a payment-in-lieu equivalent to \$20,000 a bedroom for 15 percent of the bedrooms in the development. The petitioner has had extensive conversations with the Housing and Neighborhood Development Department and that Department is supportive of this change.

20.04.080(h) Planned Unit Development Considerations

The UDO outlines that in their consideration of a PUD District Ordinance and Preliminary Plan, the Plan Commission and Common Council shall consider as many of the following as may be relevant to the specific proposal. The following list shall not be construed as providing a prioritization of the items on the list. Each item shall be considered individually as it applies to the specific Planning Unit Development proposal.

- (1) The extent to which the proposed Preliminary Plan meets the requirements, standards, and stated purpose of Chapter 20.04: Planned Unit Development Districts.

Section 20.04.010 of the UDO, states that the purpose of the planned unit development (PUD) is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to encourage a harmonious and appropriate mixture of uses; to facilitate the adequate and economic provision of streets, utilities, and city services; to preserve the natural, environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements on sites so as to preserve desirable features; and to mitigate the problems which may be presented by specific site conditions. It is anticipated that planned unit developments will offer one or more of the following advantages:

- (a) Implement the guiding principles and land use policies of the Comprehensive Plan; specifically reflect the policies of the Comprehensive Plan specific to the neighborhood in which the planned unit development is to be located;
- (b) Buffer land uses proposed for the PUD so as to minimize any adverse impact which new development may have on surrounding properties; additionally provide buffers and transitions of density within the PUD itself to distinguish between different land use areas;
- (c) Enhance the appearance of neighborhoods by conserving areas of natural beauty, and natural green spaces;
- (d) Counteract urban monotony and congestion on streets;
- (e) Promote architecture that is compatible with the surroundings;
- (f) Promote and protect the environmental integrity of the site and its surroundings and provide suitable design responses to the specific environmental constraints of the site and surrounding area; and
- (g) Provide a public benefit that would not occur without deviation from the standards of the Unified Development Ordinance.

PROPOSED FINDINGS: The requested amendment does not alter those aspects of the PUD that address the items listed above. The project provides housing and commercial space in the area near the Regional Health Campus.

- (2) The extent to which the proposed Preliminary Plan departs from the Unified Development Ordinance provisions otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons why such departures are or are not deemed to be in the public interest.

PROPOSED FINDINGS: The proposed amendment is compliant with the UDO's current allowance of utilization of the Affordable Housing incentives, and proposes no changes to any departures that were previously approved in this PUD.

- (3) The extent to which the Planned Unit Development meets the purposes of this Unified Development Ordinance, the Comprehensive Plan, and any other adopted planning objectives of the City. Any specific benefits shall be specifically cited.

PROPOSED FINDINGS: The petition does further some of the goals of the UDO and the Comprehensive Plan, including contributing to a need for housing across multiple areas of the economic spectrum, from a financial contribution and agreement to address workforce housing to small-unit market rate. Altering the contribution from on-site units to a payment to the City's Housing Development Fund may allow for units to be provided in the City at a lower income level than the current agreement allows.

- (4) The physical design of the Planned Unit Development and the extent to which it:
 - a. Makes adequate provision for public services;
 - b. Provides adequate control over vehicular traffic;
 - c. Provides for and protects designated common open space; and
 - d. Furthers the amenities of light and air, recreation and visual enjoyment.

PROPOSED FINDINGS: The proposed amendment does not change anything about the physical design of the building in the PUD.

- (5) The relationship and compatibility of the proposed Preliminary Plan to the adjacent properties and neighborhood, and whether the proposed Preliminary Plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.

PROPOSED FINDINGS: The proposed amendment does not change anything about the physical design of the building in the PUD.

- (6) The desirability of the proposed Preliminary Plan to the City's physical development, tax base and economic well-being.

PROPOSED FINDINGS: The proposed amendment does not alter the benefits that the petition provides including residential units as well as 14,000 square feet of supportive office space near the new hospital location, both benefits to the tax base.

- (7) The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.

PROPOSED FINDINGS: The proposed amendment does not change anything about the physical design of the building or traffic impacts of the PUD.

- (8) The proposal preserves significant ecological, natural, historical and architectural resources.

PROPOSED FINDINGS: There are no known significant ecological, natural, historical or architectural resources on this site.

- (9) The proposal will not be injurious to the public health, safety, and general welfare.

PROPOSED FINDINGS: The proposed amendment will not be injurious to the public health, safety, and general welfare of the community, and in fact, may create opportunity for more successful and impactful workforce an affordable housing in the community.

- (10) The proposal is an effective and unified treatment of the development possibilities on the PUD site.

PROPOSED FINDINGS: The proposed amendment does not affect the development possibilities of the existing built PUD, only allows for 52 bedrooms to be leased at market rate on the site.

CONCLUSION: The proposed PUD amendment allows for the petitioner to contribute an amount established by the Administrative Manual to the Housing Development Fund, in lieu of providing 52 units on-site. The contribution to the Housing Development Fund can be targeted at specific housing needs. The project still includes multiple characteristics that support the goals of the Comprehensive Plan. The Comprehensive Plan clearly encourages incorporating diverse housing types within the City and this site provides small units near the Regional Health Campus, along with sustainable building practices.

RECOMMENDATION: The Plan Commission waived the second hearing and forwarded this petition, PUD-44-24, to the Common Council with a positive recommendation with the following conditions:

1. PUD Final Plan approval is delegated to the Planning and Transportation Department staff, if needed.
2. The petitioner will record the proposed payment-in-lieu Zoning Commitment approved by the Housing and Neighborhood Development Department within four weeks of approval of the PUD Amendment.
3. The petitioner will honor the existing leases of the 25 units that currently exist from the workforce housing commitment, and the petitioner will renew those leases upon request by those specific tenants, as long as they continue to qualify.

MEMO FROM COUNCIL OFFICE:

To: Members of the Common Council

From: Ash Kulak, Deputy Council Administrator/Attorney

Date: January 3, 2025

Re: Ordinance 2025-02 – An Ordinance Establishing the Outdoor Dining Program in the Downtown Corridor

Synopsis

Ordinance 2025-02 establishes the Outdoor Dining Program for the use of parklets (also known as streateries) as additional seating space and suspends certain portion of the Bloomington Municipal Code in order to facilitate the Program. The Program is authorized to continue through December 31, 2028.

Relevant Materials

- Ordinance 2025-02
- Staff Memo
 - Exhibit A: 2025 Outdoor Dining Program Guidelines
 - Exhibit B: ADA/Accessibility Requirements
 - Exhibit C: Beautification Guidelines
- Board of Public Works Resolution 2025-01 - forthcoming

Summary

Ordinance 2025-02 establishes the Outdoor Dining Program (Program), specifically the use of parking spaces by restaurants as additional outdoor seating space. This ordinance would temporarily suspend portions of the Bloomington Municipal Code to implement the Program, including standards for encroachment ([BMC 12.06](#)), use of right-of-way ([BMC 12.08](#)), intoxicating beverages ([BMC 14.36.090](#)), parking meter changes ([BMC 15.40.010](#) Schedule U), and signs ([BMC 20.04.100](#)).

In June 2020, the Council approved [Ordinance 20-11](#), which suspended portions of the municipal code in order to support the operation of businesses in downtown Bloomington and assist in economic recovery from the COVID-19 public health emergency. Background materials for [Ordinance 20-11](#) can be found in the [June 10, 2020 legislative packet](#). The Council extended provisions of [Ordinance 20-11](#) multiple times, with [Resolution 20-15](#), [Resolution 20-19](#), and [Resolution 21-18](#) (which extended the ordinance through October 31, 2021).

Due to the success of the Program, the Council approved and established an expanded Program by passage of [Ordinance 22-01](#), which set the dates of the Program from March 1, 2022 through October 31, 2022, adopted the program guidelines, and allowed additional one-year extensions by authorizing resolutions of the Council. Like [Ordinance 20-11](#), the ordinance temporarily suspended several sections of Bloomington Municipal Code to implement the Program for the 2022 season. The Program was extended twice by [Resolution 23-04](#) (setting the dates of the Program from April 3, 2023 through October 1, 2023) and [Resolution 2024-05](#) (setting the dates of the Program from April 29, 2024 through November 1, 2024).

City staff recommends that the Program be implemented for the next three years, from 2025 through 2028. This recommendation is based in part on the continued economic benefits of the Program. This three-year revitalized Program comes with some modifications as outlined in the staff memo.

In years past, the Program both relaxed regulations making it possible to extend outdoor seating areas into parklets as well as closed portions of Kirkwood Avenue to enhance social distancing for outdoor seating. Only parklets were included in the 2024 Program due to construction and lane and alley closures on Indiana Avenue, Dunn Street, and Kirkwood Avenue that required continued vehicular traffic access to Kirkwood Avenue during the Program dates. As noted in the staff memo, the Kirkwood conversion program will again not be considered in this year's Program due to staff's need to conduct further study of the Kirkwood corridor due to the changing downtown dynamic (ie, Safe Streets for All Initiative, new Convention Center).

In brief, this Ordinance:

- Sections 1 & 2: Approves the Program for a duration of three years, from 2025 through 2028, with exact dates for each year of operation to be determined by City staff from the Economic and Sustainable Development (ESD) Department, with the possibility for additional further terms through an authorizing resolution;
- Section 3: Requires the Board of Public Works to approve the Program Guidelines, which must comply with the terms and restrictions of the Ordinance, for each year of the Program, and for City staff to publish and distribute the Program Guidelines each year;
 - Note that this year's proposed Program Guidelines, seen in Exhibit A of the staff memo, are going to be presented to the Board of Public Works in its Resolution 2025-01 at its next meeting on January 14, 2025;
- Section 4: Approves the fee schedule for the operation of the Program, and authorizes City staff to set the specific fees for the Program for each year;
- Section 5: Temporarily suspends the portions of the Bloomington Municipal Code for the sole purpose of extending the Program;
- Section 6: Authorizes the ESD Director to issue Provisional Use Permits to approved applicants, creating a 21-day period in which parklets will be set up, utilized, and inspected by city staff, and giving City staff discretion to request modifications or temporarily cease operation of non-conforming parklets until they come into compliance. This section also requires City staff to issue Program Permits for parklets in compliance with the Ordinance and Program Guidelines at or before the end of the 21-day period;
- Section 7: Authorizes the suspension of the Program by City Staff in the event of emergency, lack of participation, or any other reason that may render the Program impractical; and
- Sections 8 & 9: Authorizes the ESD Director to issue a notice of violation (NOV) to Program participants that violate the Ordinance or Program Guidelines, and lists the penalties and remedies available to the City to bring usage of the right-of-way into compliance.

Contact

Jane Kupersmith, Director of ESD, jane.kupersmith@bloomington.in.gov, 812-349-3418

Chaz Mottinger, Special Projects Manager, chaz.mottinger@bloomington.in.gov, 812-349-3418

ORDINANCE 2025-02

AN ORDINANCE ESTABLISHING THE OUTDOOR DINING PROGRAM IN THE DOWNTOWN CORRIDOR

WHEREAS, on June 17, 2020, the Common Council passed Ordinance 20-11, which suspended portions of the Bloomington Municipal Code during the public health emergency caused by the COVID-19 virus; and

WHEREAS, Ordinance 20-11 relaxed certain City regulations, including sign and seating encroachment regulations, which made it possible to assist local restaurants by extending the outdoor seating area into parklets, which are also known around the country as streateries; and

WHEREAS, the City also temporarily closed portions of Kirkwood Avenue to make it available for enhanced social distancing and outdoor seating; and

WHEREAS, due to the success of the program, the Common Council expanded and extended the Outdoor Dining Program (“Program”) in Ordinance 22-01 and Resolution 23-04 and Resolution 2024-05; and

WHEREAS, in 2024, the Program only included parklets/streateries to account for ongoing construction in and around Kirkwood Avenue; and

WHEREAS, the Program continues to add vibrancy to our downtown and add to the health and use of our downtown business community; and

WHEREAS, the City desires to continue the Outdoor Dining Program in the downtown through 2028; and

WHEREAS, to continue the Program, it is necessary for the Common Council to suspend certain elements of the Municipal Code during those portions of the year that the Program is active; and

WHEREAS, the Board of Public Works will consider its Resolution 2025-01 on January 14, 2025, which, if approved, will authorize alternative seating and encroachment policies, approve the Program Guidelines, and express support for the Program; and

WHEREAS, the Common Council therefore wishes to extend the Program and continue its support for Bloomington’s business community;

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

SECTION 1. The Common Council hereby approves the Program.

SECTION 2. The Program shall operate from 2025 through 2028. For each year of operation, City staff from the Economic and Sustainable Development Department shall establish the dates of the Program duration. The Program shall operate unless earlier terminated under SECTION 7 of this Ordinance. The Common Council reserves the right to further extend the term of this Ordinance for additional terms through an authorizing resolutions.

SECTION 3. City staff shall also publish Program Guidelines for each year the Program operates on the City’s website and distribute the guidelines to all eligible businesses. The Program Guidelines must comply with the terms and restrictions of this Ordinance. The Program Guidelines shall be presented and approved by the Board of Public Works for each year of the Program.

SECTION 4. The Common Council approves fees for the operation of the Program. City staff shall set the specific fees for the Program for each year the Program is in operation, subject to the following limitations:

Program	Minimum Fee	Maximum Fee
Parklet	\$250 per space	\$1,000 per space

SECTION 5. Through December 31, 2028, the City of Bloomington Common Council hereby temporarily suspends the following sections of the Bloomington Municipal Code only to the extent necessary to operate and for the sole purpose of implementing the Program:

Standard	B.M.C. Section	Temporary Waiver and Guidelines
Standards for Encroachment	12.06	The businesses participating in the Program and their seating areas shall be subject to the Program Guidelines in <u>Exhibit A</u> and B.M.C. 12.06 as modified by the Board of Public Works Resolution 2024-77. Existing encroachments shall continue to be subject to the full rules, requirements, and conditions of B.M.C. 12.06.
Use of Right-of-Way	12.08	Program participants shall not be required to obtain an additional permit for the use of right-of-way under B.M.C. 12.08, provided that the right of way is not blocked or used for anything other than those uses explicitly authorized by the Program. All other uses, closures, or access to right-of-way as indicated in B.M.C. 12.08, even in areas being used for the Program or by Program participants, shall continue to be subject to the full rules, requirements, and conditions of B.M.C. 12.08.
Intoxicating beverages	14.36.090	Designated parklets participating in the Program shall be excepted from the prohibition of consuming alcoholic beverages in or on any public street or right of way as long as the beverage is procured at a participating business that is operating in accordance with a license from the Indiana Alcohol and Tobacco Commission.
Parking Meter Charges	15.40.010 Schedule U	Meter fees for on-street parking spaces that are to be used as parklets shall be suspended.
Signs	20.04.100	For the avoidance of doubt, any signs that may be required under the Program, shall be considered public signs under B.M.C. 20.04.100(c)(2)(A).

SECTION 6. The Director of the City's Economic and Sustainable Development Department (ESD) shall issue a Provisional Use Permit to any applicants approved by ESD staff, provided that the applicants and their applications are found to be in compliance with this Ordinance, Program Guidelines, and any other reasonable conditions and restrictions set forth. The Provisional Use permit shall be valid for 21 days after the implementation date of the Program as set forth in the guidelines. The purpose of the Provisional Use permit will be to allow for the parklet to be set up, utilized, and inspected by city staff. If, during this period, any non-conformities with this Ordinance or the program guidelines are found, city staff, at their sole discretion may:

- Request modifications to the parklet to come into compliance with this Ordinance or the Program Guidelines; and
- Temporarily cease operation of the affected parklet under the Program until such time city staff has found the parklet to be in compliance with this Ordinance and the program guidelines.

If, at or prior to, the end of the 21-day period it is found by city staff that the parklet is within compliance with this Ordinance and the program guidelines, city staff shall issue the Program Permit. Failure to obtain a Program Permit will result in the immediate termination of the affected parklet.

SECTION 7. In cases of emergency, lack of participation, or any other reason that may render the Program impractical, the Common Council authorizes the City Engineer to permanently or temporarily suspend the Program, in part or in whole. If the City Engineer suspends operation of the Program or any part of the Program, except in cases of emergency, the City shall provide notice to participating businesses no later than 14 days prior to suspension and report back to the Common Council the reasons for the suspension within 45 days of the action taken. In cases of emergency, any part or participating area of the Program may be immediately terminated. City staff shall notify businesses and City Council of the emergency termination within 72-hours of the action.

SECTION 8. Businesses participating within this Program shall remain in compliance with the Program Guidelines adopted under this Ordinance and by the Board of Public Works. If a Program participant violates any provision of this Ordinance, violates the Program Guidelines, or if any condition of approval has not been met, the ESD Director may issue a notice of violation (NOV) to the responsible party. Any Program participant charged with violating any provision of this Ordinance or the program guidelines may, in the sole discretion of the ESD Director, be issued an official warning or be subject to the penalties and remedies described in SECTION 9 of this Ordinance. If an official warning is issued, it shall be considered as affording the violator one opportunity to comply with this Ordinance or Program Guidelines. If a NOV is issued, it shall be served to the responsible party by first class mail, email, or in person in accordance with the contact information provided in the Program application. A participant that receives an NOV from the City shall have 14 days to appeal the NOV to the Board of Public Works.

SECTION 9. The City may use any remedy available at law to bring usage of the right-of-way under this Program into compliance in the event a NOV, in accordance with SECTION 8 of this ordinance, is issued, including those penalties and remedies found in Bloomington Municipal Code 1.01.130 and the following:

- Order a temporary cessation of the operation of the affected parklet under the Program until such time city staff has found the parklet to be in compliance with this Ordinance and the program guidelines;
- Order the removal of the Parklet under the terms set forth in SECTION 7 of this Ordinance; and
- Issue a civil penalty of not more than \$2,500.00 for each violation.

SECTION 10. If any section, sentence, or provision of this ordinance, or the application thereof to any person or circumstance, 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 section, sentence, provision or application, and to this end the provisions of this ordinance are declared to be severable.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2025.

President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2025.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2025.

KERRY THOMSON, Mayor
City of Bloomington

SYNOPSIS

Ordinance 2025-02 establishes the Outdoor Dining Program for the use of parklets (also known as streateries) as additional seating space and suspends certain portion of the Bloomington Municipal Code in order to facilitate the Program. The Program is authorized to continue through December 31, 2028.



To: Members of the Common Council

Cc: Kerry Thomson, Mayor; Gretchen Knapp, Deputy Mayor; Adam Wason, Director, Public Works; Jane Kupersmith, Director, Economic & Sustainable Development; Michelle Wahl, Parking Services Director, Public Works; Andrew Cibor, Director, Engineering; David Hittle, Director, Planning and Transportation; Tim Clapp, Fire Marshal; Larry Allen, City Attorney; Mike Stewart, Transportation Technician, Engineering; Michael Shermis, Special Projects Coordinator, Community and Family Resources; Ash Kulak, Deputy Attorney for Common Council; Lisa Lehner, Council Attorney; De de la Rosa, Assistant Director for Small Business Development, Economic and Sustainable Development

From: Chaz Mottinger, Special Projects Manager, Economic and Sustainable Development

Date: December 30, 2024

Re: **ORDINANCE 2025-02: AN ORDINANCE ESTABLISHING THE OUTDOOR DINING PROGRAM IN THE DOWNTOWN CORRIDOR**

Executive Summary

In response to the COVID-19 pandemic, the City of Bloomington Common Council approved Ordinance 20-11, An Ordinance Recommending that Portions of the Bloomington Municipal Code be Temporarily Suspended Due to the Ongoing Public Health Emergency, which suspended portions of the municipal code to support the operation of businesses in downtown Bloomington. The Common Council extended this ordinance and approved the expansion of outdoor seating through the end of 2021. In Ordinance 22-01: An Ordinance Establishing and Approving the Expanded Outdoor Dining Program in the Downtown Corridor, the Common Council approved the Expanded Outdoor Dining Program (“the Program”), which extended the ability for local restaurants to utilize parklets and enhanced pedestrian seating space on Kirkwood Avenue. Council reserved the right to extend the Program and the terms of Ordinance 22-01 by authorizing resolution. In 2024, a resolution was approved that allowed only parklets as the Kirkwood Avenue conversion was suspended due to Clear Creek Reconstruction.

Due to the continued economic benefits of the Program, City Staff recommends that the City Council pass a new Ordinance 2025-02 to revitalize the Program. The overview below outlines how the City can continue to support this seasonal program with modifications.

Overview

Ordinance 2025-02 establishes a three-year Outdoor Dining Parklet/Streatery Program, running from 2025 through 2028. Each year during this period, the program's guidelines will be reviewed and approved by the Board of Public Works. Based on stakeholder input, staff recommends reimplementing the 2025 parklet program from April 4, 2025, to November 10, 2025.

The Kirkwood conversion program from 2023 will not be considered in this Ordinance. This decision is due to the need for additional study of the Kirkwood corridor, particularly in light of the Safe Streets for All initiative, the new Convention Center, and possible construction projects in the area. City staff are excited to explore the future possibilities for Kirkwood Avenue, and this three-year parklet program will serve as an important tool for gathering data and insights to inform the long-term vision for the corridor.

Ordinance 2025-02 allows the continuation of the expanded outdoor dining program to generate increased economic vibrancy and cultural connectivity in our pedestrian-friendly community. The 2025 expanded outdoor dining program requires participating businesses to pay fees of \$200 for each parklet as outlined in Exhibit A: Program Guidelines — see exhibit for logistical details of the outdoor dining programs.

To promote vibrancy along Kirkwood Avenue, the City staff will collaborate with Kirkwood businesses and local partners to organize strategic street events throughout the seasonal parklet program. These events will occur over extended weekends and aim to engage the community in expanded outdoor dining and shopping experiences, as well as other activities designed to activate the street through art, games, and more. These events will foster a sense of equity by ensuring that all downtown businesses have the opportunity to participate in a community event.

Conclusion

The Program and accompanying recommendations promote cultural vibrancy and economic benefits while balancing the need to retain parking downtown. Recalling that the program was initiated as a temporary measure, Ordinance 2025-02 creates predictability for the future while continuing to gather feedback and improve implementation through this seasonal program.

Exhibit A: 2025 Outdoor Dining Program Guidelines

Timeline:

- Materials due to Council: December 30, 2024
- Council - first reading: January 8, 2025

- Board of Public Works approval of guidelines January 14, 2025
- Council vote on new ordinance: January 20, 2025
- Applications available to businesses: Early February 2025
- Deadline for submitting applications: March 3, 2025
- Final staff determination of the number and location of parklets: March 10, 2025
- Implementation of program (*weather permitting*): March 31-April 3, 2025
- Season officially begins: April 4, 2025
- End of seasonal outdoor dining program: November 10, 2025

Costs

- All fees are due in full by March 28, 2025.
- Businesses are responsible for any direct costs associated with utilizing a parklet.
- Each participating business must submit a certificate of insurance to the Economic and Sustainable Development Department establishing proof of a comprehensive general liability policy naming the City of Bloomington as additional insured to the extent of at least \$500,000 bodily injury and \$100,000 property damage, which shall be in effect during the term of this authorization.
- Cost to businesses will be \$250 per parking space. A two-space parklet will cost \$500, 3 spaces will cost \$750.
- Businesses that share a parklet may split the cost.

Parklet Logistics

- Eligibility:
 - Eligibility is limited to food service establishments adjacent to metered parking in downtown Bloomington.
 - City staff will review the proposed parklets' street locations to ensure they are suitable for the program.
 - All participating businesses must agree to cease alcohol sales in parklets by midnight.
 - Eligible businesses must complete the application and payment process as outlined in this memo.
 - As the City incorporates feedback and best practices, previously approved parklet plans and implementations do not guarantee approval for the 2025 season.
- Application process:
 - Application form will go live on the City's webpage in February 2025.
 - Applications are due by March 3, 2025. Businesses may submit applications in advance of the deadline.

- A detailed site plan drawn to scale shall be submitted with the application. This site shall indicate the location of any ramps and seating installed in the parklet as well as any street furniture/trees. Measurements should be included to show conformance with Exhibit B.
- Fees are payable via grant application site by March 28, 2025.
- Implementation:
 - The participating businesses will work with City staff to install and remove parklets at the beginning and end of the 2025 season. Implementation will be coordinated by City staff.
 - If used, City staff will fill jersey barriers with water on the installation day. Participating businesses will be required to top off the barriers with water as needed, and the barriers must remain sufficiently full for safety purposes.
 - If the weather in March/April 2025, is not conducive to outdoor dining, City staff may exercise discretion on the exact dates the parklets are installed.
 - If a parklet is removed, either by request of the business or by determination of City staff, it may not be reinstalled in the same calendar year. Any fees paid by the business will not be refunded.
- Requirements for participating businesses:
 - Participating businesses are required to provide their own furniture, decorations, etc.
 - Participating businesses are required to invest in the beautification of parklet spaces through decor that meets safety standards (see Exhibit C).
 - Participating businesses must meet all requirements for their extended outdoor seating, including the Americans with Disabilities Act (ADA), Indiana Alcohol Tobacco Commission (ATC), Monroe County Health Department, safety, and insurance requirements.
 - Participating businesses must meet ADA/Accessibility requirements as stated in Exhibit B.
 - Participating businesses must meet all Monroe County Building Department requirements and permits for their extended outdoor spaces.
 - Decks or platforms can be up to and under 30 inches in height.
 - If any portion of the decks/platforms exceed the maximum height requirement of 30 inches, construction design must be approved by the appropriate State and County building departments and a permit must be issued.
 - Decks/platforms, furniture, or anything else in spaces cannot block any building exits and must be designed to keep buildings in compliance with codes.
 - Any decks or platforms constructed shall allow for adequate drainage through the gutter and not block any drainage inlets.
 - Any decks or platforms constructed shall be easily removable in the event of an emergency.

- Parklet structures cannot block access to Fire Department Connections (FDCs) or Post Indicator Valves (PIVs).
- Tents and heaters are not allowed for use in the Outdoor Dining Program.
- Participating businesses must comply with Indiana Fire Code regulations.
- Businesses must remove all seating, furniture, decorations, and any other property from the parklet before the end of the program on November 10, 2025, when the parklet setups are set to come down or face fines in accordance with Title 12 of the Bloomington Municipal Code.

Exhibit B: ADA/Accessibility Requirements

Parklets must conform to the Americans with Disabilities Act (ADA) guidelines and Public Right-of-Way Accessibility Guidelines (PROWAG), or have adjacent outdoor seating options which conform to the ADA and PROWAG (if applicable). It is the responsibility of the applicant to design and implement their parklet seating to be compliant. Below are guidelines that will help design your space to be compliant with the ADA, PROWAG, and the City of Bloomington's standards. The guidelines below are not expected to cover all contingencies, but rather to provide basic information that participants must adhere to.

Ramps for Curb Access

- A platform flush with the curb can be constructed. This allows easy access for all users without having to worry about slope or tripping hazards.
- If a flush platform cannot be constructed, a ramp may be installed. Any ramp shall adhere to the following minimum requirements:
 - Slope: The maximum slope allowed is **1:12 (8.3%)**. This means that for every 12 inches in length there will be a 1 inch of rise (or less).
 - Width: The width of a ramp shall be no less than **48 inches wide**.
 - Landings: The landing clear width shall be at least as wide as the ramp. The landing clear length shall be a minimum of **48 inches long**. Ramps that change direction at the landing shall have a clear space a minimum of **48 x 48 inches**.
- Further information can be found in the PROWAG:
 - Section R304 *Curb Ramps and Blended Transitions*
 - Section R407 *Ramps*

Accessible Seating

- While it is encouraged that all seating be wheelchair accessible, it shall be required that a minimum of at least **1 seat for every 25** to remain accessible. Seating can be made accessible by following the guidelines below:
 - If only one accessible table is provided, it shall be placed closest to the accessible route into the parklet.
 - Table Height: The table shall be **28-34 inches** from the ground to the underside of the table.

- Knee Space: There shall be at least **27 inches** of vertical knee space from the underside of the table, and at least **30 inches** wide.
- Clearance: There shall be a clear floor space of at least **30 by 48 inches** around the accessible seating.
- Availability: Accessible seating shall be available without necessitating the moving/removal of furniture.
- Further information can be found in the 2010 ADA Standards for Accessible Design:
 - Section 221 *Assembly Areas*
 - Section 306 *Knee and Toe Clearance*
 - Section 902 *Dining Surfaces and Work Surfaces*
- Further information can be found in the PROWAG:
 - Section R405 *Knee and Toe Clearance*

Decks and Raised Platforms

- Deck Surface:
 - Decks shall have a smooth, non-slip surface.
 - Deck gaps shall be no greater than **½ inch wide**.
- Ramps to Deck Surface:
 - Width: The width of a ramp shall be no less than **48 inches wide**.
 - Rise: The rise for any run shall be 30 inches maximum
 - Handrails: Ramps with a rise greater than 6 inches shall have handrails between **34 to 38 inches vertically** above the walking surface. The handrails shall extend 12 inches beyond both the top and bottom of the ramp.
 - Edge Protection: Ramps shall have edge protection a minimum of **4 inches above** the ramp surface.
 - Landings: The landing clear width shall be at least as wide as the ramp. The landing clear length shall be a minimum of **60 inches long**. Ramps that change direction at the landing shall have a clear space a minimum of **60 x 60 inches**.
- Further information can be found in the 2010 ADA Standards for Accessible Design:
 - Section 302 *Floor or Ground Surfaces*
 - Section 405 *Ramps*
 - Section 505 *Handrails*

Exhibit C: Beautification Guidelines

Several options are available to outdoor dining program participants for beautification. Examples of parklet + block beautification may include, but are not limited to, the adornment of art, accessibility alterations, or cosmetic improvements, all per guidelines listed in this “Exhibit C: Beautification Guidelines.” Given the potential costs for professional parklet beautification, employing cost-friendly and easy-to-implement solutions is crucial, as businesses will bear the costs.

Beautification Options:

- Additional seating platforms
 - Outside of their uses associated with outdoor dining, spaces installations may include wooden or metal benches, platforms, ramps, or additional forms of seating to compensate for increased customer capacity and general community interactions.
- Adornment of art
 - Program participants are encouraged to use a variety of art sources to beautify spaces.
 - E.g., collaboration with local artists and the utilization of murals
- Space greenery
- Additional lighting
 - Please review the Bloomington Municipal Code section 20.04.090 for compliance.
- Further cosmetic and logistical improvements
 - More options for cosmetic improvements include the use of budget-friendly space dividers, outdoor rugs/flooring, temporary installations of menu/special boards, spaces dedicated for bike parking, and the inclusion of interactive features.
- Businesses should work with City staff to determine appropriate beautification options for the spaces. **No permanent physical changes can be made to the streetscape.**