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Amy Swain
Monroe County Recorder IN
Recorded as Presented


ZONING COMMITMENT

- WHEREAS, Indiana Code § 36-1-24.2-4 allows the owner of real property to make a written commitment as part of its request for incentives or grants from a municipality; and
- WHEREAS, Bloomington SPCW JV, LLC ("Owner"), is the owner of the 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"); and
- WHEREAS, Owner petitioned the City of Bloomington Plan Commission (the "Commission") to rezone 3.2 acres from Commercial Limited to a Planned Unit Development ("PUD") and to approve a preliminary plan; and
- WHEREAS, the Commission recommended approval of Owners' site plan petition PUD-34-19; and
- WHEREAS, the Common Council of the City of Bloomington approved the PUD through Ordinance 20-01 on February 7, 2020; and
- WHEREAS, Owner pledged its intent to record this Commitment, which was presented for consideration during the Council's consideration of its petition; and
- WHEREAS, Owner supports the City of Bloomington's efforts to create affordable housing which contributes to diversification and helps address the community's affordable housing needs;

NOW THEREFORE, in recognition of its ability to voluntarily provide a written commitment under Indiana Code§ 36-1-24.2-4, the Owner hereby voluntarily provides and records this Zoning Commitment for the Property.

1. Legal Description for the Property. The Property is located at 105 N. Pete Ellis Drive (Parcel No. 53-05-35-300-043.000-005), Bloomington, Indiana, with the following legal description:

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.

2. Binding. This written Commitment is binding on the owner of the Property. Upon the written Commitment being recorded in the office of the Monroe County Recorder, this written Commitment shall be binding on Owner's successors and assigns, including but not limited to any subsequent owner or any other person who acquires an interest in the Property, and shall run with the land.

3. Recording. This written Commitment shall be recorded in the office of the Monroe County Recorder within 30 days of the signing of this Commitment.

4. Modification. This written Commitment shall only be modified by the City of Bloomington Plan Commission after notice of the hearing in which the modification will be considered has been provided in accordance with the Rules and Procedures of said Commission.

5. Rental Commitment. Owner agrees to designate fifteen percent (15%) of its bedrooms for workforce housing; ten percent (10%) of the bedrooms shall be offered and rented to anyone earning up to 100% of the Area Median Income (AMI); five percent (5%) of the bedrooms shall be offered and rented to anyone earning up to 120% of AMI. The base rental rate for the workforce housing units shall be no more than twenty-five percent (25%) of the adjusted AMI at the time the lease is established.

6. Base Rental Rate. The base rental rate shall be inclusive of utilities with the exception of cable, internet, and/or electricity. In the event that the individual units within the Property are separately metered or sub-metered for water or sewer utility purposes, Owner shall have the right to pass through to its tenants the amount of the monthly billing that exceeds the average monthly billing for similar sized units at the Property, regardless of whether such tenant is a workforce housing tenant or not. Location premiums, unit finish premiums, furniture premiums, and washer/dryer premiums are not considered base rental rate amounts and shall not be included in base rental rates. Rather, said premiums will be in addition to any base rental rates for all units at the Property, including workforce housing.

7. Workforce Housing Qualifications. The workforce housing qualifications and rents shall be set in coordination with Bloomington's Housing and Neighborhood Development ("HAND") Department policies. HAND will annually provide income eligibility guidelines and rent structure guidelines to the Owner for use in this workforce housing project. The income eligibility and rent structure may be modified from time to time in accordance with guidelines provided by HAND, or its successor City department, in which case notice shall issue to Owner by HAND.

8. Unit Types. Owner shall make studio and one-bedroom units available as workforce housing.

9. Term of Commitment. The term of this Commitment shall be ninety-nine (99) years commencing from the date it is recorded with the office of the Monroe County Recorder.

10. Notice of Compliance. Owner shall provide HAND and the Commission an affidavit affirming that the Owner has complied with this Commitment on or before January 1 of each year until the end of the 99-year term of this Commitment. As part of this affidavit, the City may request information from Owner concerning (1) the number of Workforce Housing Units available; (2) the number of Workforce Housing Units occupied; (3) the rent of the Workforce Housing Units; (4) the wage rates and/or salaries of the persons living in the Workforce Housing Units; and (5) the Market rate rent for a unit comparable to the Workforce Housing Units.

11. Termination. This written Commitment shall only terminate with approval from the City of Bloomington Plan Commission after notice of the hearing in which the termination will be considered has been provided in accordance with the Rules and Procedures of said Commission.

12. Sale or Transfer. In the event that Owner or any subsequent owner of the Property sells or transfers title to the Property or otherwise alters any ownership interest in the Property, he/she shall provide HAND with thirty (30) days advance written notice of the transaction and shall provide HAND with contact information for the party with whom the transaction is being conducted.

13. Violation and Enforcement. Failure to honor this Commitment shall constitute a violation of the City of Bloomington's Unified Development Ordinance and, in particular, of the Plan Commission's preliminary plan and district ordinance approval. A violation shall be subject to the penalties and remedies provided by Bloomington Municipal Code § 20.10, and shall subject person(s) obligated hereby to revocation or denial of occupancy permits and any other appropriate legal action. An action to enforce any provision of this written Commitment may be brought in the Monroe County Circuit Court by the Plan Commission, any person who was entitled to enforce a Commitment under the Rules and Procedures of the Plan Commission in force at the time this written Commitment is made, or any other specially affected person that is so designated in this written Commitment.

14. Copy. A copy of this written Commitment shall be provided to the City of Bloomington's Planning and Transportation Department.

[Signatures on following page.]

DATED this 4th day of January, 2023.

BLOOMINGTON SPCW JV, LLC

By: [Signature]
Signature

Marc D. Pfleging, Manager
Print Name and Title

ATTEST:

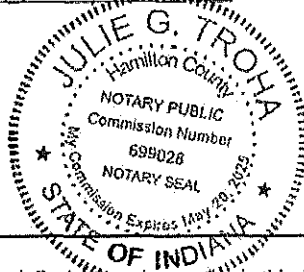
STATE OF INDIANA)
COUNTY OF MARION)

Personally appeared before me, a Notary Public in and for said County and State, Marc D. Pfleging, Manager of Bloomington SPCW JV, LLC, Owner, who acknowledged execution of the above and foregoing instrument to be his voluntary act and deed.

WITNESS my hand and Notarial Seal this 4th day of January, 2023.

Julie G. Troha
Julie G. Troha, Notary Public

My Commission Expires: 5/20/25
County of Residence: Hamilton
Commission Number: 699028



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/ Michael Rouker.

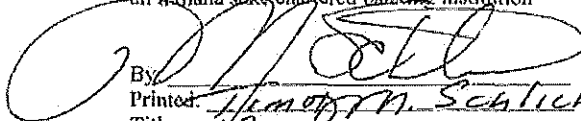
This instrument was prepared by Michael Rouker, Attorney at Law, City of Bloomington, P.O. Box 100, Bloomington, Indiana 47402.

CONSENT OF LENDER

The undersigned, LAKE CITY BANK, an Indiana state chartered banking institution, in its capacity as Lender ("Lender") under the Construction Loan Agreement (as defined in the Mortgage, defined below), being the holder of that certain Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing granted by BLOOMINGTON SPCW JV, LLC, an Indiana limited liability company, in favor of Lender, dated December 3, 2021, and recorded December 10, 2021, in the Office of the Recorder of Monroe County, Indiana, as Document Number 2021022806 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Mortgage") that currently encumbers the Property (as defined in the Mortgage), hereby consents to the execution and recording of the within and foregoing Zoning Commitment (the "Commitment"), and further agrees that the Mortgage and any interest of Lender in the Property encumbered by the Mortgage acquired pursuant to the enforcement of the Mortgage shall be subject to the terms and provisions of the Commitment; provided, however, that the Mortgage shall remain in full force and effect, and this Consent shall not waive, invalidate or discharge the lien of the Mortgage or waive, invalidate or modify any terms or provisions of the Commitment which benefit the Property encumbered by the Mortgage.

Executed this 3rd day of January, 2023.

LAKE CITY BANK,
an Indiana state chartered banking institution

BY: 
Printed: Timothy M. Schlichte
Title: VP

ATTEST:



RENEE AADSON, Notary Public
Hamilton County, State of Indiana
Commission Number HP0714964
My Commission Expires: July 20, 2026

STATE OF INDIANA)
COUNTY OF Hamilton)

Personally appeared before me, a Notary Public in and for said County and State, Timothy M. Schlichte, the Vice President of Lake City Bank, an Indiana state chartered banking institution, who acknowledged execution of the above and foregoing instrument to be his or her voluntary act and deed.

WITNESS my hand and Notarial Seal this 3rd day of January, 2023.


Renee Aadson, Notary Public

My Commission Expires: July 20, 2026
County of Residence: Hamilton
Commission Number: HP0714964