

**WHITELAND TOWN COUNCIL  
ORDINANCE 2020-04**

**AN ORDINANCE AMENDING THE WHITELAND ZONING CODE TO AUTHORIZE  
THE PLAN COMMISSION STAFF TO REVIEW AND APPROVE DEVELOPMENT  
PLANS**

Whereas, the Whiteland Advisory Plan Commission (“Commission”) conducted a public hearing on the proposed Zoning Code Text Amendment contained herein;

Whereas, the Commission, after paying reasonable regard to 1) the Whiteland Comprehensive Plan, 2) the current conditions and the character of the current structures and uses in each district, 3) the most desirable use for which the land in each district is adapted, 4) the conservation of property values throughout the jurisdiction, and 5) responsible development and growth, has made a favorable recommendation by a vote of 5 for and 0 against, regarding the proposed change to the Zoning Code Text contained herein, and has certified the same to the Whiteland Town Council (“Council”);

Whereas, current Section 156.205 of the Whiteland Zoning Code provides for the Plan Commission and the Board of Zoning Appeals to jointly regulate residential development plans on tracts of land 10 acres or more in size, which is outdated and inconsistent with the rest of the Town’s Zoning and Subdivision Control Codes, and the Indiana Code;

Whereas, current Section 156.206 of the Whiteland Zoning Code generally requires development plans for non-residential building projects on individual tracts to be reviewed and approved by the Plan Commission after notice and a public hearing, which is a time consuming and technical process that the Plan Commission Staff is qualified to administer;

WHEREAS, the Council has considered the recommendation of the Commission and paid reasonable regard to items 1 thru 5 referred to above;

WHEREAS, the amendments herein are consistent with the following purposes, as required under I.C. 36-7-4-601(c):

- a. Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
- b. Lessening or avoiding congestion in public ways;
- c. Promoting the public health, safety, comfort, morals, convenience, and general welfare; and
- d. Otherwise accomplishing the purposes of I.C. 36-7-4;

Whereas, the Council finds it is in the best interest of the continued vitality, growth, and development of the Town to revise the provisions of the Zoning Code Text concerning Development Plan review and approval as provided in this ordinance; and

Whereas, the Council has given notice under I.C. 5-14-1.5-5 (the Open Door Law) of its intention to consider the amendment to the Whiteland Zoning Map.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WHITELAND, INDIANA, AS FOLLOWS:

Section 1. The text of the Whiteland Zoning Code is hereby amended to delete existing Section 156.205.

Section 2. The text of the Whiteland Zoning Code is hereby amended to revise existing Section 156.206, to read as follows:

**§ 156.206 DEVELOPMENT PLANS.**

(A) *Purpose.* Development plan review is a process in which certain types of proposed construction and development are reviewed to ensure their compliance with the Zoning Code, Comprehensive Plan, and other applicable codes and requirements. This section shall apply to all zoning districts.

(B) *Types of review.*

(1) The Plan Commission Staff, which for purposes of this Section 156.206 shall mean the Town Manager or its designee, shall have the duty to review the types of proposed construction and development specified in this Section 156.206 and to determine their compliance with the Zoning Code, Subdivision Control Code, Comprehensive Plan, and other applicable codes and requirements. The levels of review for the different types of development are outlined in the following table:

<i>Table A: Plan Review</i>	
<i>Minor Development Plan Review</i>	<i>Major Development Plan Review</i>
<ul style="list-style-type: none"> <li>• Construction of or additions to single- and two-family dwelling</li> <li>• Construction of or additions to agricultural buildings in the AG zoning district</li> <li>• Enlargements of non-residential or multi-family structures not to exceed 25% of the area of the existing structure*</li> <li>• Residential accessory structures</li> <li>• Non-residential accessory structures not exceeding 200 square feet in area</li> <li>• Temporary uses and structures</li> <li>• Reconstruction of conforming structures due to natural disaster or emergency, provided that the</li> </ul>	<ul style="list-style-type: none"> <li>• Construction of new non-residential and multi-family structures</li> <li>• Enlargements of non-residential or multi-family structures exceeding 25% of the area of the existing structure</li> <li>• Non-residential accessory structures exceeding 200 square feet</li> <li>• Site plans submitted as part of a rezoning petition</li> <li>• Site alterations exceeding 5 acres of disturbed soil</li> </ul>

structure is rebuilt using the pre-disaster footprint Site alterations of less than 5 acres of disturbed soil	
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(2) Minor Development Plans shall be reviewed to verify compliance with applicable codes and requirements but such review does not require a formal development plan, and such proposals are not otherwise subject to this section, except in cases of subsections (3) and (4) below.

(3) The sum of multiple enlargements to non-residential or multi-family structures cannot exceed 25% of the original structure area without Major Development Plan review.

(4) Staff may determine in writing that a proposed development has particularly significant, unique, or otherwise special features that require Major Development Plan review.

(C) *Application procedures.*

(1) *Pre-application conference.* In order to best review all applications, at least one pre-application conference between the applicant and staff is recommended to informally discuss application requirements, procedures, and details of the proposed development. Formal application or filing is not required, and any discussion is not binding on the Plan Commission Staff or the Town.

(2) *Development plan filing requirements.* Applications for review of Major Development Plans shall include at least the following materials:

- (a) List of interested parties names and addresses;
- (b) Two full-scale copies and ten smaller scale (no larger than 11" x 17") copies of the Development plan, containing at least the following information:
  - 1. Scale drawing of the parcel with dimensions and acreage;
  - 2. Locations and uses of proposed and existing structures;
  - 3. Locations of existing structures within 25 feet of the subject parcel;
  - 4. Proposed and existing rights-of-way, streets, and alleys, and street names;
  - 5. Existing adjacent rights-of-way, streets, and alleys, and street names;
  - 6. Easements on the parcel or adjacent to the parcel, including the easement holder and a description of the easement type;
  - 7. Location of any existing or proposed drainage tile;
  - 8. Elevation of existing and proposed structures;
  - 9. Proposed and existing elevations, shown by two-foot contour lines;
  - 10. Location of existing and proposed ponds, lakes, storm water detention basins, etc. with normal pool elevations;
  - 11. Location of any wetlands and floodplains/floodways;
  - 12. Location of areas of mature trees, greater than 9 inches in DBH;
  - 13. Proposed landscaping plan;
  - 14. Proposed lighting plan;
  - 15. Proposed locations of dumpsters, recycling bins, free-standing signs, and/or other accessory items;
  - 16. Location of existing and proposed utility lines, septic systems, wells, etc.; and
  - 17. Vicinity map showing the site within context of the surrounding area, including at least the zoning classification and existing use of surrounding parcels, nearby thoroughfares, and nearby water courses.

- (c) Storm water management plan, including water quality control and soil erosion control measures;
- (d) Calculations of existing and proposed lot coverage of structures and impervious areas (e.g. parking lots, driveways, sidewalks, etc.);
- (e) Traffic impact analysis that includes average daily and peak hour estimates and proposed public right-of-way improvements;
- (f) Drawings and elevations of proposed structures;
- (g) Drawings and elevations of any proposed signage;
- (h) For sectionalized developments, a proposed schedule of development phases;
- (i) Application form;
- (j) One digital copy of the above submitted materials in PDF format; and
- (k) Filing fee.

(3) Staff may waive or reduce the detail of any of the above required information if not relevant or necessary for adequate review. Staff may also require any additional information reasonably necessary for review of complex or unique projects.

(D) *Notification requirements.* To the extent applicable, the applicant shall be responsible for notifying all interested parties and publishing legal notice in accordance with the Plan Commission Rules of Procedure.

(E) *Review procedures.*

(1) Major Development Plan review.

(a) The Whiteland Technical Review Committee (TRC) will review and comment on the development plan. The committee's comments will be provided to the applicant at a scheduled TRC meeting.

(b) The Plan Commission Staff shall conduct at least one (1) neighborhood meeting after providing reasonable notice, as determined by the Plan Commission Staff, to the interested parties determined in accordance with the Plan Commission Rules of Procedure.

(c) The Plan Commission Staff shall consider:

1. The development plan application and supporting information;
2. Any information presented by the Planning Director, Building Commissioner, TRC, and/or other department or agency;
3. Testimony of the applicant;
4. Input from members of the public during the neighborhood meeting(s);
5. Any applicable provisions of the Whiteland Zoning Code, Subdivision Control Code, Sign Code, Building Code, or other applicable code; and
6. Any other information as may be required by the Plan Commission Staff to evaluate the application.

(d) Each development plan must satisfy the following criteria:

1. The development plan is consistent with the Town of Whiteland Comprehensive Plan.
2. The development plan does not cause a hazard or unsafe conditions on existing or proposed streets, or at points of access.
3. The development plan does not cause existing or proposed streets to exceed their capacity or cause excessive traffic congestion.
4. The development plan dedicates the necessary right-of-way for future expansion of perimeter roads as indicated in the Thoroughfare Plan.
5. The development plan creates a safe environment for pedestrians and non-

motorized vehicles to safely move about the development and to connect to perimeter pedestrian facilities.

6. The development plan arranges buildings and structures appropriately for function and aesthetic appeal.

7. The development plan is compatible with surrounding uses, buildings, and zoning districts; or is designed to effectively and appropriately buffer or transition to surrounding uses, buildings, or zoning districts.

8. The development plan satisfies the applicable design and development standards of this zoning code.

9. The development plan satisfies the applicable design and development standards of Chapter 154, Subdivision Control.

10. The development plan satisfies the applicable design and development standards of Section 156.400, Sign Code. And,

11. The development plan satisfies the applicable design and development standards of Chapter 150, Building Code.

(e) Upon completion of its review of the application, the Plan Commission Staff shall approve, approve with conditions, or deny the application.

(f) *Appeals of Determinations by Plan Commission Staff.* Any determination of the Plan Commission Staff made under the authority of this Section 156.206 may be appealed in writing to the Plan Commission by any interested party. Such appeal shall request the Plan Commission to hold a hearing on the matter at the Plan Commission's next regularly scheduled meeting for which published notice of the appeal pursuant to I.C. 5-3-1 can be provided. Further, appeals of the Plan Commission's determination may be made in accordance with I.C. 36-7-4-1600 *et. seq.* In the event of an appeal to the Plan Commission, upon determination of the appeal by the Plan Commission, the Plan Commission shall make written findings of fact, and in the event of a disapproval of an Application, the findings of fact shall specify the code provision(s) with which there is noncompliance.

(F) *Waivers.* In the event an application for development plan approval seeks a waiver, such waiver, or full application at the option of the applicant, shall be heard by the Plan Commission at a public hearing following notice in accordance with the Plan Commission Rules of Procedure. The Plan Commission may waive or modify sections of the zoning and sign codes concerning the height, intensity of use, size of buildings, yard specifications, parking specifications, exterior materials, and/or the number, size, and location of permitted signs. Such waivers shall be supported by findings of fact. A waiver may be granted at the discretion of the Plan Commission if the Plan Commission determines that the following conditions (the "Waiver Conditions") are satisfied: (i) granting of the waiver will not be detrimental to the public safety, health, or welfare, or injurious to nearby property; (ii) the waiver will be consistent with the intent and purposes of the Zoning Code and the vision, goals, and recommendations of the Comprehensive Plan; (iii) the waiver will be compatible with the character of the general vicinity; and (iv) the waiver will not have a negative effect on adjoining property values. Notwithstanding the foregoing, the Plan Commission Staff is authorized to approve a development plan waiver request related to sections of the sign code concerning the number, size, and location of permitted signs, including in the context of a development plan amendment, if the Plan Commission Staff, in the exercise of its reasonable discretion, determines that the above stated Waiver

Conditions are satisfied, and provided that the Plan Commission Staff has held at least one (1) neighborhood meeting after providing reasonable notice, as determined by the Plan Commission Staff, to the interested parties determined in accordance with the Plan Commission Rules of Procedure.

(G) *Duration.*

(1) An approved development plan shall be valid for two years from the date of approval, unless the Plan Commission grants a different time period. It shall expire if development of the approved site improvements have not been completed within the two-year period, and it has not been granted an extension.

(2) The Plan Commission may grant two-year extensions of an approved development plan for cause, the applicant may submit a request for an extension along with any supporting documentation prior to the expiration of the development plan. The Plan Commission shall review the request and take action to approve the extension, approve an extension shorter than two years, or deny the extension. No further notification or hearing is required for an extension request.

(3) An approved development plan that has not expired shall be effective for as long as the project for which it was approved exists, or until superseded by a new or modified development plan.

(4) A denied development plan shall not be resubmitted for at least one year from the date of denial. A new, redesigned, development plan application may be submitted prior to one year, if the plan addresses the reasons for the denial.

(H) *Modifications.*

(1) Minor amendments to approved development plans may be authorized by the Plan Commission Staff without an additional neighborhood meeting, if the proposed amendments do not:

- (a) Increase height, area, or intensity of land uses, or structures;
- (b) Designate additional land uses;
- (c) Reduce setbacks, yards, or buffers;
- (d) Reduce the amount of landscaping;
- (e) Add driveways or vehicular access points;
- (f) Adversely impact the purpose or intent of the overall approved development; or
- (g) Adversely impact surrounding properties or the general public.

(2) Requests for amendments that involve changes to the above list, or that the Plan Commission Staff determines are not minor amendments, are major amendments and shall require a new development plan application, review, and approval. The Plan Commission Staff may consider amendments for signs as minor amendments; provided, however, any amendment requiring a waiver must be approved in accordance with Section 156.206(F).

Section 3. The provisions of all other ordinances or resolutions in conflict with the provisions of this ordinance are of no further force or effect.

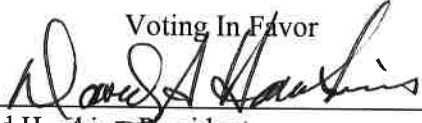
Section 4. If any part of this ordinance is held to be invalid, such part will be deemed severable and its validity shall have no effect upon the remaining provisions of this ordinance.

Section 5. The provisions set forth in this ordinance shall become and remain in full force and effect (until their repeal by ordinance) on the date of adoption of this ordinance as evidenced by the signature of the executive as prescribed by Indiana Code 36-5-2-10.

DULY PASSED AND FINALLY ADOPTED on the 12<sup>th</sup> day of May, 2020, by a vote of 4 in favor and 0 against.

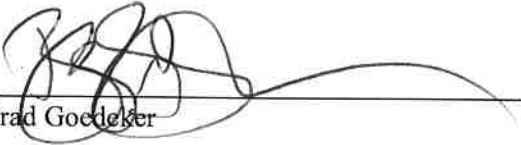
TOWN OF WHITELAND, INDIANA, TOWN COUNCIL

Voting In Favor



David Hawkins, President

Scot Ford, Vice President

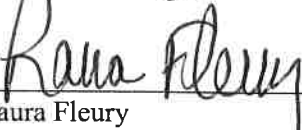


Brad Goedeker

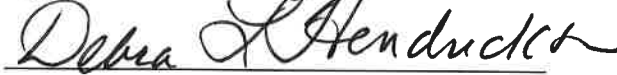
Joseph Sayler



Laura Fleury



Attest:



Debra L. Hendrickson, Clerk-Treasurer

Voting Opposed

David Hawkins, President

Scot Ford, Vice President

Brad Goedeker

Joseph Sayler

Laura Fleury