

ORDINANCE NO. 2013-01

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
WHITELAND, INDIANA, AMENDING THE MUNICIPAL CODE
BY ADDITION OF A CODE REGARDING PLANNED UNIT
DEVELOPMENTS**

WHEREAS, pursuant to the requirements of Indiana Code 36-7-4-600 et seq., the Town of Whiteland Plan Commission (the "Plan Commission") has prepared this ordinance (the "Proposal") to amend the Town of Whiteland Zoning Ordinance; and

WHEREAS, the Plan Commission held a duly noticed public hearing on the Proposal on December 4, 2012; and

WHEREAS, the Plan Commission has certified with a favorable recommendation the Proposal to the Town Council (the "Council") of the Town of Whiteland, Indiana (the "Town"); and

WHEREAS, the Council desires to encourage appropriate and compatible land development to enhance property values and to promote the health, safety, and general welfare of the Town; and

WHEREAS, the Council desires to incorporate the changes recommended by the Plan Commission into the Municipal Code.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Whiteland, Indiana that:

SECTION 1. The Municipal Code, Section 156.003, shall be amended to add the following definition:

"OPEN SPACE. An area of land not covered by structures or accessory uses except for those related to recreation. Open space may include nature areas; streams and flood plains; meadows or open fields containing baseball, football, and soccer fields, golf courses, swimming pools, bicycle paths, etc. Open space does not include street rights-of-way, platted lot area, private yards, patio areas, or land scheduled for future development."

SECTION 2. A new Section 156.300 shall be added to Chapter 156 of the Municipal Code, to state as follows:

"SECTION 156.300 Planned Unit Developments

(A) Purpose and Intent

As provided for by I.C. 36-7-4-1500 et seq., the purpose of these regulations is to allow greater design flexibility in development of land while remaining consistent with the goals of the Comprehensive Plan. The regulations are intended to encourage developments that are innovative and/or responsive to unique opportunities or constraints of a site. Planned Unit Developments should be used to address unique environmental aspects, provide a mix of land uses, or otherwise better implement the goals of the Comprehensive Plan than what could be accomplished with established zoning districts. Planned Unit Developments should be avoided where the proposed development could be achieved using a combination of established zoning districts.

(B) Uses Allowed

- (1) All uses are subject to the discretion and approval of the Plan Commission and Council during the adoption of a Planned Unit Development (PUD). Uses must be compatible with the intent of the Comprehensive Plan and surrounding existing and future land uses.
 - (2) Permitted and special exception uses shall be specified in the PUD proposal. Special exception uses should be minimized.
- (C) Development Standards
- (1) Development standards and requirements shall be stated as part of a Planned Unit Development proposal. All proposed development standards shall be subject to review and approval of the Plan Commission and Council during the approval process.
 - (2) Generally, PUD proposals may provide standards in place of lot or development standards stated in Chapter 156, the Zoning Code; sign development standards stated in Chapter 153, the Sign Code; and standards in Chapter 154, the Subdivision Control Ordinance.
 - (3) No PUD proposal shall reduce the restrictions of Chapter 151, Flood Damage Prevention.
 - (4) Minimum Land Area
In order to encourage innovative design in a variety of scales, there is no minimum land area required for a PUD.
 - (5) Minimum Open Space
 - (a) In recognition that innovative designs, particularly those proposing town center plans, may require flexibility in the amount of open space provided in the development, there is no minimum open space required.
 - (b) However, proposals with less than 20% of the gross area dedicated as open space must detail the design elements that justify lower amounts of open space.
 - (6) Development standards that are not specified in the PUD shall revert to the standards of the closest comparable established zoning district.
- (D) Origin of Proposals
- (1) An applicant may propose a Planned Unit Development district in accordance with the procedures established in this Section.
 - (2) The applicant must be the land owner(s) or intended developer of the development.
 - (3) The area proposed for a PUD may or may not be under single ownership. If under multiple ownership, the owners must have a contractual agreement to develop the property in accordance with the unified plan stipulated in the PUD and to assure the completion of the PUD as planned and to the satisfaction of the Plan Commission.
- (E) Limitation on Zoning Ordinance Amendments
- (1) Any amendment of the Zoning Ordinance that would affect an approved Planned Unit Development prior to its completion shall not be applied to the PUD.
 - (2) New amendments to the Zoning Ordinance shall only apply to PUDs that have expired or that have been completely developed.
- (F) Procedures for Approval
- Application shall be accompanied by all plans and documents required by this code and by the planning staff. A three-step application process shall be used: pre-design conference, concept plan approval, and PUD master plan approval.
- (G) Pre-design Conference
- Prior to filing a formal application for approval of a Planned Unit Development, the applicant shall schedule a pre-design conference with the planning staff. The purposes of this conference shall be:
- (1) To allow the applicant to present a general concept and to discuss characteristics of the proposed development; and
 - (2) To allow the planning staff to inform the applicant of applicable policies, standards, and procedures.

- (3) This pre-design conference is for informational purposes only, and no decision made during the conference is binding upon either party or upon the Plan Commission.
- (4) There is no limit to the number of pre-design meetings requested by the applicant, if the meetings serve to advance the design and planning of the proposal.

(H) Concept Plan Approval

- (1) An application for Planned Unit Development, the PUD concept plan, written development standards, other documentation, and filing fee shall be submitted to the planning staff by the application deadline indicated on the Plan Commission calendar. Written development standards shall include, at a minimum, standards for the following:
 - (a) Lot size(s);
 - (b) Height;
 - (c) Density or intensity;
 - (d) Setbacks;
 - (e) Floor area;
 - (f) Open space;
 - (g) Permitted uses;
 - (h) Any other relevant development standard, as determined by the planning staff.

The planning staff shall confirm the application to be complete and ready for review by the Technical Review Committee.

- (2) The planning staff and the Technical Review Committee shall review the proposal and prepare comments and recommendations.
- (3) The application, TRC comments, planning staff report, and other pertinent documents shall be forwarded to the Plan Commission for its consideration, public hearing, and recommendation.
- (4) The Plan Commission shall hold a public hearing on the application in accordance with its Rules of Procedure.
- (5) After the public hearing and review of the application, the Plan Commission shall certify the application to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation.
- (6) The Town Council shall act upon the certified proposal as in the case of any rezoning petition.
- (7) Upon Council approval of the PUD concept plan, the PUD zoning shall become effective and shown on the Zoning Map designated as a Planned Unit Development. After approval, the use and development of the site shall be governed by the Planned Unit Development concept plan, subject to the approval of a PUD master plan. No permit of any kind shall be issued in the PUD district until a PUD master plan has been approved.

(I) Planned Unit Development Master Plan Approval

The purpose of the PUD master plan is to set the specific regulations for development of the Planned Unit Development. The PUD master plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use(s) within each building. The PUD master plan shall conform to the approved PUD concept plan.

- (1) The PUD master plan and supporting data shall be submitted to the planning staff.
- (2) The planning staff and the Technical Review Committee shall review the proposed master plan in accordance with Section 156.206 (Development Plans).
- (3) The master plan shall be reviewed by the Plan Commission at a public hearing in accordance with its Rules of Procedure. The Commission may approve, deny, or approve with conditions the application.
- (4) No permit of any kind shall be issued within a Planned Unit Development unless in accordance with the approved PUD master plan.

(J) PUD Plan Content Requirements

Planned Unit Development PUD plans shall include all documentation listed in this section of the zoning ordinance, unless certain documentation is deemed superfluous or irrelevant by the planning staff due to specific circumstances of the particular request.

(1) Pre-design conference plans

- (a) A letter of intent from the applicant setting forth the applicant's intention for developing the site, including at least the proposed uses and a draft of development standards.
- (b) A scale sketch drawing of the site showing the proposed location and extent of land uses, major streets, and other significant proposed improvements, and the approximate location of all existing natural features, topographic or geologic constraints, and easements and rights-of-way.

(2) PUD concept plans

- (a) A drawing of the Planned Unit Development shall be submitted at a scale appropriate to the size of the proposed development. The drawing shall show in concept the major circulation pattern, general location and dimension of buildings, structures, parking areas and other improvements, recreation facilities, stormwater facilities, and other details to indicate the character of the proposed development. The submission shall include at least:
 - 1. Site location map
 - 2. The proposed name of the development and "Concept Plan" title
 - 3. Boundary lines and acreage of each component land use
 - 4. Projected phasing of the PUD
 - 5. Existing easements, including location, width, and purpose
 - 6. Existing land use(s) on abutting properties
 - 7. Other conditions on adjoining property: topography, use and location of major buildings, railroads, power lines, name of any subdivision plats, etc.
 - 8. Existing streets on and adjacent to the site, including street name, right-of-way width, walks, curbs, gutters, and culverts
 - 9. Proposed major streets and other major public improvements
 - 10. Streets and other major improvements planned by the public for future construction on or adjacent to the site
 - 11. Existing utilities on the site
 - 12. Other conditions on the site, including water courses, wetlands, wooded areas, isolated trees six inches or greater in diameter, existing structures, and other significant features
 - 13. Existing vegetation to be preserved and location and general nature and purpose of proposed landscaping
 - 14. Map data, such as north arrow, scale, date of preparation, and contact information.
- (b) Written statement of the Planned Unit Development character. This statement shall include an explanation of the character of the proposed PUD and the reasons why it has been designed to take advantage of the flexibility of these regulations. The written statement shall be the proposed draft PUD ordinance, and shall include:
 - 1. A statement of purpose of the PUD.
 - 2. A specific explanation of how the proposed PUD meets the objectives of all adopted land use policies that affect the site, and how the PUD better meets these objectives than established zoning districts.

3. A statement of present and proposed ownership of the land within the project.
 4. Proposed development schedule, including detailed phasing and projected dates of completion of each phase. Projected phase details shall include land area, use, density/intensity, and public facilities to be developed with each proposed stage.
 5. Proposed permitted land uses and development standards for each use.
 6. Architectural concepts for each proposed use, described by narrative, sketch/rendering, or representative photo.
 7. Facilities reports. Concepts and feasibility plans for roads, sidewalks, sanitary sewers, stormwater management, water supply, street lighting, and other utilities.
- (c) Traffic impact analysis, if requested by planning staff or the Plan Commission.
 - (d) Notification of public hearing, as required by the Plan Commission Rules of Procedure. Additionally, notices shall include a reduced copy of the proposed concept plan and a copy of the proposed uses/development standards section of the proposal.
 - (e) Miscellaneous materials that the planning staff deems necessary to adequately review the proposal. Staff shall notify the applicant of such requirements after the pre-design meeting.
- (3) PUD master plans
- (a) Any additional materials or information as may have been required by or during the concept plan approval.
 - (b) An accurate plan of the entire phase for which PUD master plan approval is being requested that complies with the requirements of §156.206 (Development Plans). Single family residential development on individual lots need not show precise locations of buildings on each lot, but shall show setbacks and other bulk constraints.
 - (c) If land is to be subdivided concurrently with PUD master plan approval, a subdivision preliminary plat meeting the requirements of the concept plan and Chapter 154 of the Town Code.
 - (d) Projected construction schedule
 - (e) Agreements and covenants that govern the use, maintenance, and continued protection of the Planned Unit Development and its common spaces, shared facilities, and private roads (if any).

(K) PUD Review Considerations

When considering a Planned Unit Development concept plan, the planning staff in its report to the Plan Commission, the Plan Commission in its recommendation to Town Council, and the Town Council in its decision shall consider as many of the following as may be relevant to the specific proposal:

- (1) The extent to which the proposed PUD meets the purposes of the Zoning Ordinance, the Comprehensive Plan, and any other adopted planning objectives of the Town.
- (2) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Unit Development regulations.
- (3) The extent to which the proposed plan departs from the established zoning and subdivision regulations otherwise applicable to the subject property, and the reasons why such departures are or are not deemed to be in the public interest.
- (4) The proposal will not be injurious to the public health, safety, and general welfare.
- (5) 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 permanent open space, and furthers the amenities of light and air, recreation, and visual enjoyment.

- (6) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or adversely affect the value of adjacent properties and neighborhoods.
- (7) The desirability of the proposed plan to the Town's physical development, tax base, and economic well-being.
- (8) The proposal will not cause undue traffic congestion nor place excessive burdens on public infrastructure, and can be adequately served by existing or planned public facilities and services.
- (9) The proposal preserves significant ecological, natural, historical, and architectural resources to the best extent possible.

(L) Modifications

- (1) Changes requiring new concept plan approval by the Town Council.
Modifications that alter the concept or intent of the Planned Unit Development, including, but not limited to:
 - (a) Significant changes in the proportion or allocation of land uses;
 - (b) Changes in the list of uses;
 - (c) Changes in the location of uses;
 - (d) Changes in functional uses of open spaces, where such change significantly alters the intensity of the open space use; and/or
 - (e) Changes in the final governing agreements where such changes conflict with the approved concept plan.
- (2) Changes requiring new PUD master plan approval by the Plan Commission.
Modifications that constitute major changes from the approved PUD master plan, including, but not limited to:
 - (a) Changes in site design requirements, such as location of required landscaping, signage, building height, bulk, or footprint, or other such requirements;
 - (b) Increases in the number and/or size of signs;
 - (c) Reduction in landscaping;
 - (d) Alteration of the number of parking spaces or setbacks by 5% or more;
 - (e) Increase in building square footage or height of 10% or more;
 - (f) Changes in density by 10% or more;
 - (g) Changes to the internal street system or off-street parking areas that the planning staff considers significant;
 - (h) Significant changes in drainage management structures, as determined by the MS4 Coordinator;
 - (i) Changes in access to the site, where such change results in an increase of intensity of traffic patterns on or off the site; and/or
 - (j) All other changes not expressly addressed under subsection (1) above shall require new PUD master plan approval by the Plan Commission.
- (3) Minor changes to approved PUD master plan may be approved by the planning staff. The staff may defer approval to the Plan Commission if it is deemed to be in the best interest of the community. Decisions of the staff may be appealed to the Plan Commission. Minor modifications shall include, but are not limited to:
 - (a) Changes in lot arrangements that are not detrimental to the proposed thoroughfare pattern of development;
 - (b) Substitution of plants in landscaping plans that are deemed to be equivalent to those shown in the approved PUD master plan;
 - (c) Changes in the number of parking spaces or size of setbacks by less than 5%;

- (d) Increases in building square footage or height by less than 10%;
- (e) Addition of buildable lots that result in a density increase of less than 10%;
- (f) Changes to the internal street system or off-street parking areas that the planning staff considers minor;
- (g) Minor changes in drainage management facilities, as determined by the MS4 Coordinator; and/or
- (h) Changes in access to the site, where such change does not result in an increase of intensity of traffic patterns.

(M) Expiration, Extensions, Rezoning

(1) Expiration or abandonment

- (a) If a Planned Unit Development concept plan establishes its own development and construction schedule, then the PUD concept plan shall expire according to that schedule.
- (b) A Planned Unit Development concept plan shall expire if a PUD master plan application is not submitted within two (2) years after the Town Council approval of the PUD concept plan.
- (c) A Planned Unit Development concept plan shall also be considered expired if a PUD master plan or a secondary plat has not been submitted within three (3) years of a previous PUD master plan approval or a secondary plat approval.
- (d) A Planned Unit Development master plan shall expire if a primary plat based on the PUD master plan is not submitted within two (2) years after the Plan Commission approval of the PUD master plan. If the approved primary plat expires, the PUD master plan shall expire at the same time.
- (e) Expired PUD master plans cannot be reinstated and must be formally resubmitted.

(2) Extensions

- (a) The planning staff shall periodically report to the Plan Commission on Planned Unit Development concept plans that have expired time limits. The developer, applicant, and/or property owner of the PUD site shall be notified of the expiration.
- (b) The Plan Commission shall determine whether to extend the time limit for the expired PUD, or to initiate a zoning map amendment so as to rescind the PUD zoning designation.
- (c) Extensions are at the discretion of the Plan Commission and shall be considered based on the requirements of Section (K).
- (d) No PUD master plan shall be considered for approval under an expired PUD concept plan unless the concept plan is formally extended by the Plan Commission.
- (e) An extension denial for any Planned Unit Development concept plan shall be equivalent to a major modification to the concept plan and shall require reapproval of the concept plan by the Plan Commission and Town Council.

(3) Rezoning Authority

- (a) A Planned Unit Development site may be rezoned to an established zoning district (or districts) by the applicant.
- (b) The Plan Commission or Town Council may initiate zoning map amendments for any expired Planned Unit Development for which an extension has not been granted.
- (c) The Plan Commission or Town Council may initiate zoning map amendments for any PUD that has been completely developed. Such amendment should duly

consider the uses, development standards, and other provisions of the PUD plans prior to be approved.

(N) Fees

- (1) Fees shall be charged by the Town for review, inspection, and analysis of Planned Unit Development petitions, as listed in the Schedule of Fees, Section 10.97 of the Whiteland Municipal Code.”

SECTION 3. This Ordinance shall be effective upon final adoption.

ADOPTED AND PASSED this ____ day of _____, 2013.

TOWN COUNCIL OF THE TOWN OF
WHITELAND, INDIANA

Robert Zehr, President

Kent Beeson, Vice-President

Roger Ford, Member

Ed Tichenor, Member

Chris Hadley, Member

ATTEST:

Michelle Richards, Clerk-Treasurer