



ORDINANCE NO. 2016-47

**AN ORDINANCE ADOPTING THE PROPOSED SPALDING COMMONS PLANNED UNIT DEVELOPMENT (PUD) ORDINANCE**

Adoption of a Planned Unit Development Ordinance (PUD)

WHEREAS, the Petitioner, the Whitestown Plan Commission, seeks to adopt the proposed Planned Unit Development (PUD) Ordinance known as the Spalding Commons PUD Ordinance; and

WHEREAS, pursuant to Indiana Code § 36-7-4-606, the Whitestown Plan Commission conducted the required public hearing and determined its favorable recommendation, by a 6 to 0 vote, on November 14, 2016; and

WHEREAS, the Whitestown Plan Commission certified its favorable recommendation to the Whitestown Town Council on November 15, 2016; and

WHEREAS, pursuant to Indiana Code § 36-7-4-606, the Town Council of the Town of Whitestown, having considered the application and the recommendation of the Whitestown Plan Commission, now adopts the proposal and approves the Planned Unit Development (PUD) Ordinance, all as hereinafter set out.

IT IS THEREFORE CONSIDERED, ORDAINED, AND ADOPTED as follows:

**Section 1.** That the Applicant is the Whitestown Plan Commission.

**Section 2.** That the Applicant seeks to adopt the proposed Planned Unit Development (PUD) in accordance with IC 36-7-36-1503.

The language the Applicant seeks to adopt the attached hereto as **Exhibit A** and incorporated herein by reference.

**Section 3.** That the Town Council hereby adopts/rejects the proposal of the Whitestown Plan Commission as certified, and hereby adopts/rejects **Exhibit A** as the Town of Whitestown Spalding Commons PUD Ordinance.

**Section 4.** In accordance with IC 36-7-4-610(e) and (f)(2), after adoption, copies of the Town of Whitestown Spalding Commons PUD Ordinance shall promptly be filed in the office of the Clerk-Treasurer of the Town of Whitestown. These copies shall be kept on file in the office for public inspection as required by IC 36-1-5-4.

**Section 5.** In accordance with IC 36-7-4-610(a), the Whitestown Plan Commission shall publish a notice of adoption in accordance with IC 5-3-1 which notice must: (1) summarize the subject matter of the ordinance (a Planned Unit Development Ordinance for the Town of Whitestown); (2) give the date of its adoption by this Council; (3) specify the areas that will be directly affected by the ordinance (all real property within the corporate boundaries of the Town of Whitestown); (4) specify the penalties for violations of the ordinance (a civil penalty of not more than \$300 per each day of violation); and (5) give two locations open to the public where the entire text of the ordinance will be available for inspection (the office of the Clerk-Treasurer and the office of the Chief of Police of the Town of Whitestown).

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**Section 6.** In accordance with IC 36-7-4-610(e), the Spalding Commons Planned Unit Development (PUD) Ordinance shall take effect fourteen (14) days after the final day on which notice of its adoption is published pursuant to Section 5 above.

ALL OF WHICH IS ADOPTED this 21 day of December, 2016, by the Town Council of the Town of Whitestown, Indiana.

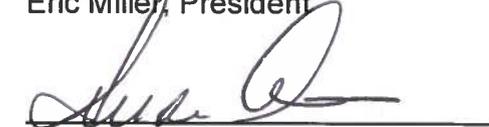
TOWN COUNCIL OF WHITESTOWN, INDIANA.



Eric Miller, President



Jeff Wishek



Susan Austin



Clinton Bohm



Kevin Russell

ATTEST:



Matt Sumner, Town Clerk-Treasurer

Prepared by: Lauren Bailey



## Exhibit A

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# APPROVAL OF A PUD ORDINANCE PROPOSAL KNOWN AS SPALDING COMMONS PUD ORDINANCE

1. **ADOPTION OF ORDINANCE:** Pursuant to Section 2.13 of the Whitestown Unified Development Ordinance and the IC 36-7-4-1500 series, a PUD district ordinance to be known as the Spalding Commons Planned Unit Development District Ordinance (referred to herein as the "Spalding Commons PUD Ordinance" or "this Ordinance") is hereby adopted. Pursuant to IC 36-7-4-1509(a)(1), the purpose of this Ordinance is to express in general terms the development requirements that will apply to the development of all of the real property included in the District area.

## 2. DEFINITIONS:

A. **Interpretation.** The general rules of construction and definitions set forth in Chapter 11 of the Whitestown UDO and the definitions set forth in this Section shall apply to the regulations contained in this Ordinance. Words and phrases not defined in this Section but defined in Chapter 11 shall be interpreted in accordance with the Chapter 11 definitions.

B. **Committee:** A committee established by the Plan Commission in accordance with its rules and procedures.

C. **Developer:** A property owner who submits an application for a District Plan to the Committee pursuant to Section 2.13 of the Whitestown UDO, or their successor in office as chosen pursuant to rules adopted under Section 6 of this Ordinance.

D. **District:** All of the real property duly rezoned by this Spalding Commons PUD Ordinance and subject to the jurisdiction of the Committee under this Ordinance.

E. **District Plan:** A plan for the development of particular premises within the District which is submitted to the Committee for review and approval in lieu of an application for secondary plat approval under Chapter 10 of the Whitestown UDO. The provisions of Chapter 10 do not apply to a District Plan as defined by this Section.

F. **Plan Commission:** The Plan Commission of the Town of Whitestown, established by ordinance under IC 36-7-4-202.

G. **Primary Plan:** A site plan or sketch plan for the development of particular premises within the District which is submitted to the Plan Commission for primary approval in lieu of any submission that would otherwise be required by Chapter 10 of the Whitestown UDO. The provisions of Chapter 10 do not apply to a Primary Plan as defined by this Section. The Primary Plan is intended to provide for regulatory flexibility in order to allow the real property included in the District to be developed into a compact urban village with the following emphases:

- 1) Architectural themes that will allow for freedoms in design and building materials while creating an integrated urban village.



- 2) Neighborhoods, activity areas, and open spaces around a well-designed transportation network where pedestrian activity is supported.
- 3) Shops with high pedestrian activity along the ground floors and office space or residential apartments on the upper floors.
- 4) Residential areas intermixed within close proximity of shops and places of work.
- 5) An emphasis on people and the neighborhoods where they live and play.
- 6) A design where open space, public and institutional uses and recreational uses are interwoven into the urban fabric of the overall village context.
- 7) Unified landscaping and traffic plans that will allow for cohesive flow through design and traffic patterns.
- 8) A mix of neighborhood businesses which may include light manufacturing uses.

H. PUD Administrator: The Director of Planning and Community Development, or another Town official or employee nominated by the Director for appointment to this position by the Plan Commission.

I. Whitestown UDO: The Unified Development Ordinance of the Town of Whitestown, Indiana and its jurisdictional area. References in this Ordinance to sections or chapters of Whitestown UDO are references to those provisions as they exist on the effective date of this Ordinance, and except as otherwise specifically provided, also include any amendments to those provisions which may hereafter be adopted by the Town pursuant to IC 36-7-4.

3. **ZONING MAP CHANGE:** The Official Zoning Map of the Town of Whitestown and its Jurisdictional Area is hereby changed to designate the real property described in Exhibit A, attached hereto, as the Spalding Commons PUD District. Development in this District shall be governed by the provisions of this Spalding Commons PUD Ordinance. Amendments to the provisions of this Ordinance must comply with the IC 36-7-4-1500 series.

4. **COMMITTEE COMPOSITION:** In addition to any requirements of the rules and procedures of the Town of Whitestown Plan Commission, at the discretion and option of any Developer, the Committee may also include two (2) representatives of the owners and Developers of the real property included in the District which shall be nominated by the Developers and appointed by the Commission (“Developer Representatives”); however, said Developer Representatives shall not exceed 40% of the entire composition of the Committee. The Committee shall review and approve any District Plan on behalf of the Plan Commission.

5. **DELEGATION OF PLAN REVIEW AUTHORITY:** Pursuant to IC 36-7-4-402(d), IC 36-7-4-701(e), and IC 36-7-4-1511, if a development review committee is established pursuant to Section 4 hereof, the Plan Commission may delegate authority to said development the Committee to review and approve each District Plan and to grant waivers or modifications to a District Plan under this Section 5:

A. All waiver and modification requests must be submitted in writing with appropriate documentation as determined by the PUD Administrator, in accordance with the rules of the Plan Commission.

B. Minor modifications are any changes that do not alter the concept or intent of the Primary Plan, change any land use, increase the density, reduce the open space, reduce the landscaping or buffering, change any lot line, change any structure location, alter or redesign any street, or change any protective



covenants, horizontal property ownership or owners' association documents or maintenance agreements. The determination whether a request constitutes a minor modification shall be made by the PUD Administrator.

C. Pursuant to IC 36-7-4-1511(i), the PUD Administrator may submit minor modification requests to the Committee for approval without a public hearing. Minor modification requests, when determined by the PUD Administrator to be complete, shall be docketed for action by the Committee within thirty (30) days of the submission.

D. All other waiver and modification requests, when determined by the PUD Administrator to be complete, shall be docketed for a public hearing by the Committee within thirty (30) days of the submission.

E. The Committee may, after a public hearing, grant waivers of any dimensional or quantitative standards contained in this Ordinance, but not by greater than forty percent (40%), consistent with the eight (8) emphases of the Primary Plan contained in Section 2.G of this Ordinance.

**6. BYLAWS AND APPEALS:** The Plan Commission shall adopt rules to provide for the requirements of Committee membership, duties and powers, commitments, meetings, and voting procedures. Pursuant to IC 36-7-4-1511(e), any decision of the Committee may be appealed to the Plan Commission. An appeal must be filed in writing with the Plan Commission within five (5) days after the date of the Committee's decision. An appeal shall be docketed for action by the Plan Commission within ninety (90) days of its original submission.

**7. PERMITTED USES:** Any use or arrangement of land or structures within the District which was legally existing under Chapter 2 on the effective date of this Spalding Commons PUD Ordinance shall be permitted. In addition, a building or premises may be used for any of the following purposes, subject to approval by the Committee pursuant to this Ordinance:

A. Any use permitted by right by Chapter 2 of the Whitestown UDO in any zoning district, other than AP-Agricultural Preservation, AG-General Agriculture, RE-Rural Equestrian, and I-2 General Industry Districts, shall be permitted by right in the District subject to the terms of this Ordinance.

B. Research and testing laboratories, and any storage use accessory to such research and testing activities, shall be permitted by right provided that the use is fully enclosed within a building. The term "accessory" as used herein shall be construed consistently with the definition of "accessory use" in Chapter 11 of the Whitestown UDO.

C. I-1 Light Industry uses shall be permitted provided the use is specifically approved by the Committee. Whenever the Committee has approved a use under the Paragraph C, approval of that use by the Board of Zoning Appeals under Section 9.3 of the Whitestown UDO is not also required.

D. With respect to uses not permitted by paragraph A, any use permitted by Special Exception by Chapter 2 of the Whitestown UDO in any zoning district, other than the AP-Agricultural Preservation, AG-General Agriculture, RE-Rural Equestrian, I-1 Light Industry except otherwise provided in Section C, and I-2 General Industry Districts, shall be permitted provided that the use is specifically approved by the Committee. Whenever the Committee has approved a use under this paragraph B, approval of that use by the Board of Zoning Appeals under Section 9.3 is not also required.

E. Mixed uses shall be permitted (if permitted by paragraph A, B, C, or D).

F. Assisted living and memory care facilities shall be permitted.

G. Skilled nursing facilities shall be permitted.



## H. Parks and Recreation Facilities

I. Retail uses shall be permitted.

**8. DEVELOPMENT REQUIREMENTS:** Subject to any commitments duly imposed by the Plan Commission or the Committee pursuant to IC 36-7-4-1015, the standards contained in the Primary Plan and in this Spalding Commons PUD Ordinance shall be deemed to establish the minimum requirements for a District Plan within the District.

**9. SITE DEVELOPMENT:** The Committee shall require that each District Plan provide for the following:

A. Connection to public water and sewer.

B. The following to be screened from view by materials compatible with those used in the principal building: dumpsters, mechanical equipment, service entrances, loading areas, outdoor storage.

C. The construction materials and colors of walls and fences that are visible from any public thoroughfare or parking area with more than five (5) parking spaces to be uniform and compatible with the architectural style, color, and building materials of the principal building and its surroundings.

D. Vinyl coated chain link fences to be erected only where they are not visible from any public thoroughfare.

E. A minimum of fifteen percent (15%) of the subdivision premises or project area to be reserved as designed open spaces wherever a development of a particular premises or project area is proposed to be of residential uses. The Committee shall require that the designed open spaces for such a development be composed of land areas allowing for passive or active recreational use by residents of the neighborhood which are integrated into an overall site plan or neighborhood design. The amount of any acreage that comprises incidental or residual land remaining between buildings shall not be counted toward the designed open space requirement. Uses other than residential shall meet the open space requirements of section 6.3 of the Whitestown UDO.

**10. ARCHITECTURAL DESIGN:** This Section 10 applies to single-family dwellings only to the extent determined by the Committee in its discretion. The Committee shall review all elevations of a single-family residential dwelling and require that each District Plan provide for the following:

A. The front facade to be architecturally emphasized, although all sides of the building should be consistent with the front facade.

B. The building to be architecturally oriented to a street or public thoroughfare, with the main entrance located on the street facade or facing the public thoroughfare. However, where there is a no-access easement or access is prohibited from a particular street or public thoroughfare, the building is not required to face that street or public thoroughfare.

C. Windows and doors to be vertical in orientation.

D. Black, opaque, or reflective glass materials to be used only in exceptional circumstances.

E. Only the following to be used as exterior building materials: brick, wood, stone, stucco, paintable composite or engineered siding boards or fiber cement siding (e.g., Hardiplank), or materials of equivalent function or appearance.

F. Heights of structures to be no more than 25% above the median height of surrounding buildings (including buildings located outside of the District) as determined by the Committee. However, in no event shall the Committee disallow single-family dwellings with heights that comply with Section 17.A of this Ordinance.

G. The mass of a building and scale of the building proportions to be roughly similar to surrounding buildings. However, where adjacent buildings have a similar roofline, flat rooflines may be permitted, with the use of cornices, parapets, or some other form of architectural emphasis along the roofline.

H. Contrasting colors to be limited. Color schemes should be kept simple, with no more than two (2) trim colors on a particular building unless deviation is specifically requested and approved by the Committee. In any event, the color scheme should tie all parts of a building together. Typically, the color that is used in a storefront area should be repeated in the upper story windows or cornice area.

I. Designs to be signed by a registered architect or engineer.

J. Anti-Monotony Standards pursuant to Chapter 7.

K. Density incentives shall be available consistent with Section 7.4 of the Whitestown UDO.

11. **LANDSCAPING:** The landscape design for a project area must incorporate the entire site and consist of a palette of plants with year-round appeal which may include annuals, perennials, shrubs, and trees. Plant materials shall be chosen which are indigenous and moderately fast-growing. The Committee shall require that each District Plan include a landscape plan to comply with Table 1 within the Whitestown UDO and that provides for the following:

A. Parking areas and driveways to be landscaped with shrubs, trees, or tree groupings. However, no landscaping is required for a parking lot that will not be visible from a public thoroughfare.

B. A minimum of six percent (6%) of the total interior parking lot area to be landscaped with planted islands.

C. A minimum of one (1) tree and two (2) shrubs to be planted in interior islands for every two thousand five hundred (2,500) square feet of parking lot.

D. Each planted island to be a minimum of one hundred seventy (170) square feet in size with the smallest dimension of pervious surface to be a minimum of six (6) feet in order to allow for adequate root aeration and expansion.

E. Landscape screening to be of a height and density so as to provide the full desired effect within three (3) growing seasons. Where landscaping is to be used as screening, it must be opaque year-round.

F. Notwithstanding anything in this Section 11 to the contrary, the Committee may reduce or waive entirely any of the landscaping requirements set forth herein.

12. **LIGHTING:** The Committee shall require that each District Plan include a lighting plan that complies with Section 4.2 of the Whitestown UDO.



13. **OUTDOOR SALES:** The Committee may, in its discretion, permit outdoor sales in connection with any legal business use, subject to reasonable conditions as determined by the Committee.

14. **VEHICULAR AND PEDESTRIAN CIRCULATION:** Pursuant to Section 7.13 of the Whitestown UDO, the Committee shall require that each District Plan contain provisions for the safe and functional movement of vehicular and pedestrian traffic to and from the site. The Committee shall further require that all streets, curbs, gutters, and sidewalks be designed and constructed in accordance with the respective standards contained in Section 7.13 of the Whitestown UDO, including any private streets that may be authorized, and such improvements shall be designed and constructed so as to minimize vehicular-pedestrian conflicts along major and minor arterials. The Committee may consider any supplemental documents including the Comprehensive Plan, Transportation Plan, and the Bike & Pedestrian Plan. The parking space and loading space requirements for each use shall be determined by the Committee in its discretion, except that the Committee shall at a minimum require that all loading spaces be screened from all thoroughfares. The Committee may not permit loading spaces to occupy any part of a required yard setback.

15. **DRAINAGE AND WATER DETENTION:** Pursuant to Section 7.5 of the Whitestown UDO, the Committee shall require that a stormwater drainage plan be submitted and that all site grading and retention/detention facilities be designed to drain the site adequately without creating a negative impact on the drainage characteristics of any neighboring property. The Committee shall also require that storm retention/detention facilities be grouped together wherever possible, in order to provide water features that can become site amenities.

16. **SIGNAGE:** The Committee shall require that each District Plan include a signage plan that complies with Section 4.5 of the Whitestown UDO. No signage plan may allow for billboards or reader boards. No signage plan may allow for internally illuminated signs other than those using channeled lettering. The signage plan must include any interior signs that are designed to be viewed from the exterior of the building. The PUD Administrator shall administer the provisions of the signage plan.

17. **BUILDING HEIGHTS:** The maximum building heights within the District are as follows:

A. Single-family dwellings (detached): 35 feet.

B. Single-family (attached) or multi-family dwellings: 45 feet. However, the Committee may permit the height of enclosed unoccupied building elements to exceed the maximum height by no more than 50%, and the height of purely decorative unoccupied elements (such as flagpoles, spires, and steeples) that are located on top of unoccupied enclosed space to exceed the maximum height by no more than 100%.

C. Other buildings: 70 feet. However, the Committee may permit the height of enclosed unoccupied building elements to exceed the maximum height by no more than 50%, and the height of purely decorative unoccupied elements (such as flagpoles, spires, and steeples) that are located on top of unoccupied enclosed space to exceed the maximum height by no more than 100%. In addition, the Committee may permit a hotel use to have a maximum of six (6) stories and a total height (including unoccupied building elements) of up to one hundred (100) feet.

D. Mixed-Use buildings: 80 feet. However, the Committee has the authority to grant, and will look favorably upon, waiver requests of up to 40% of this standard (to permit a building height up to 40% higher. Enclosed unoccupied building elements may not exceed the maximum height by more than 40%, and the height of purely decorative unoccupied elements (such as flagpoles, spires, and steeples) to exceed the maximum height by no more than 40% of the building.

18. **SETBACKS:** The Committee shall require that each District Plan include provisions for adequately buffering any residential land uses from adjacent, incompatible land uses. For that purpose, the

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Committee may, in its discretion, require that buildings be set back from their respective property lines as follows:

A. Single-family dwellings (attached or detached): 15 feet, from the front property line. A garage or carport is permissible if it is located a minimum of fifteen (15) feet behind the front facade of the single-family dwelling. Side-yard setbacks to be a minimum of five (5) feet between primary structures. Side-setbacks may be reduced to zero with Committee approval. Outdoor parking may be permitted only in the rear yard of a lot. This Section 18.A does not apply to residential lots exceeding one-half (1/2) acre in size.

B. Multi-family dwellings: 20 feet, from the front property line. Attached garages, detached garages, or carports are permissible if they are located a minimum of twenty (20) feet behind the front facade of the multi-family dwelling. Side-yard setbacks to be between zero to five (0-5) feet between structures. Outdoor parking may be permitted only in the rear yard of a lot; however, on-street parking is permissible.

C. Other buildings: no minimum setback. However, the Committee may require that a minimum of seventy percent (70%) of the front facade of a main building be set along the road. The remaining thirty percent (30%) of the front facade may be set back a maximum of ten (10) feet in order to create entrances, courtyards, and open spaces.

**19. LOT REQUIREMENTS:** Lot coverage and other area requirements for buildings are as follows:

A. Single-family dwellings (detached): minimum lot area, 5,000 square feet; maximum lot coverage including accessory buildings and paved areas, 70% of the lot area.

B. Single-family (attached) or multi-family dwellings: maximum lot coverage including accessory buildings and paved areas, 70% of the lot area.

C. Mixed use buildings (those including retail uses): 90% of the lot area. However, the Committee shall require that the ground floor of the building be restricted to retail uses, personal services, office space, restaurants, cafes, and other uses that will encourage street level activities. Office or residential uses shall be restricted to the upper floors of such buildings and shall be a minimum of 500-700 square feet in area.

D. Office buildings: maximum building footprint, 40% of the lot area; maximum lot coverage including paved areas, 70% of the lot area.

**20. MAINTENANCE AND IMPROVEMENTS:** After the construction of structures in accordance with a District Plan, any new construction or reconstruction of a structure is subject to review and approval by the Committee, unless the work involves no change in the exterior materials, design, texture, color, or original appearance of the structure (such as painting, or the attachment of new signs, awning, or other hardware to the structure). However, the owner or Developer may make interior alterations and repairs and conduct ordinary maintenance to any property, without any formal review or approval by the Committee.

**21. REPAIRS:** If a structural condition exists on any property which may impair public safety, or in accordance to any section of the PUD, the owner or Developer may promptly repair the deficiency without any formal review or approval by the Committee. However, the owner or Developer shall promptly advise the PUD Administrator of the purpose of any repair work, so that a determination may be made as to whether any review or approval is required.

**22. ENFORCEMENT:** A person who violates this Spalding Commons PUD Ordinance, or who fails to comply with any requirement imposed upon the person's real property under this Ordinance, is subject to the penalties and other remedies provided by Section 9.6 of the Whitestown UDO.

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23. **EFFECTIVENESS:** Pursuant to IC 36-7-4-610(e), this Spalding Commons PUD Ordinance shall take effect fourteen (14) days after the later of the following: a) the final day on which notice of its adoption is published under IC 36-7-4-610(a), or b) the day on which it is filed in the office of the Clerk-Treasurer of the Town of Whitestown under IC 36-7-4-610(f).