

PROPOSED DRAFT

Spalding Commons Planned Unit Development District Ordinance

1. **ADOPTION OF ORDINANCE:** Pursuant to Section _____ of the Town of Whitestown Code and the Ind. Code § 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 Ind. Code § 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 _____ of the Town of Whitestown Code 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 _____ shall be interpreted in accordance with the Chapter _____ definitions.

B. Committee: A committee appointed by the Plan Commission under this Spalding Commons PUD Ordinance which meets the membership requirements of a plat committee pursuant to Ind. Code § 36-7-4-701(e).

C. Developer: A property owner who submits an initial FDP (as hereinafter defined) application to the Committee, 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. Final Design Plan ("FDP"): 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 Title _____ of the Town of Whitestown Code (the Subdivision Control Ordinance). The provisions of Title _____ do not apply to a FDP as defined by this Section.

F. Plan Commission: The Plan Commission of the Town of Whitestown, established by ordinance under IND CODE 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 Title _____ of the Town of Whitestown Code (the Subdivision Control Ordinance). The provisions of Title _____ (the Subdivision Control Ordinance) 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. Title _____: The Unified Development Ordinance of the Town of Whitestown, Indiana and its jurisdictional area, as codified in Title _____ of the Town of Whitestown Code. References in this Ordinance to sections or chapters of Title _____ 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 City pursuant to Ind. Code § 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 Section _____ as well as the Ind. Code § 36-7-4-1500 series. All provisions and representations of Title _____ which conflict with the provisions of this Ordinance are hereby rescinded as applied to the District and shall be superseded by the terms of this Ordinance.

4. **COMMITTEE COMPOSITION:** A development review committee (“Committee”) shall be appointed to review and approve any FDP on behalf of the Plan Commission. The Committee shall be composed of five (5) members, including two (2) representatives of the Plan Commission, two (2) representatives of the owners and Developers of the real property included in the District, and the PUD Administrator. The two (2) representatives of the Commission, at least one (1) of which must be a member of the Commission, shall be appointed by the Commission; the two (2) representatives of the owners and Developers shall be nominated by the Developers and appointed by the Commission; and the PUD Administrator shall be appointed by the Commission.

5. DELEGATION OF PLAN REVIEW AUTHORITY: Pursuant to Ind. Code § 36-7-4-402(d), Ind. Code § 36-7-4-701(e), and Ind. Code § 36-7-4-1511, authority is hereby delegated to the Committee to review and approve each FDP and to grant waivers or modifications to a FDP 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 Ind. Code § 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 thirty-five percent (35%), 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 Ind. Code § 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 Title _____ 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 Title _____ in any zoning district, other than the AP-Agricultural Preservation, AG-General Agriculture, RE-Rural Equestrian, I-1 Light Industry, and I-2 Heavy Industry Districts, shall be permitted by right in the District subject to the terms of this Ordinance.

B. With respect to uses not permitted by paragraph A, any use permitted by Special Exception by Title _____ in any zoning district, other than the AP-Agricultural Preservation, AG-

General Agriculture, RE-Rural Equestrian, I-1 Light Industry, and I-2 Heavy 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 16.05.040 is not also required.

C. Any warehouse or light industrial use, including research and testing laboratories, shall be permitted provided that the use is fully enclosed within a building.

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

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

F. Skilled nursing facilities shall be permitted.

8. DEVELOPMENT REQUIREMENTS: Subject to any commitments duly imposed by the Plan Commission or the Committee pursuant to Ind. Code § 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 FDP within the District. Accordingly, the Committee may adopt standards and requirements that are more restrictive. In such cases, the more restrictive standards are applicable, subject to appeal to the Plan Commission.

9. SITE DEVELOPMENT: The Committee shall require that each FDP provide for the following:

A. All utilities to be located underground.

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 primarily 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.

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 FDP 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 building materials: brick, wood, stone, stucco, 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.

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 FDP include a landscape plan 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. Where required by the Committee, designs to be signed by a registered landscape architect, and to include indication of a maintenance plan.

12. **LIGHTING:** The Committee shall require that each FDP include a lighting plan that complies with Section _____.

13. **OUTDOOR STORAGE:** 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. However, all provisions of Title _____ which may now or hereafter regulate outdoor storage in any particular, including but not limited to Sections _____, _____, _____, _____, and _____, are applicable within the District.

14. **VEHICULAR AND PEDESTRIAN CIRCULATION:** Pursuant to Section _____, the Committee shall require that each FDP 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 Title _____, including any private streets that may be authorized. 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 Chapter _____, 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 FDP include a signage plan that complies with Chapter _____. 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: 50 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 eight (8) stories and a total height (including unoccupied building elements) of up to one hundred twenty (120) feet.

18. SETBACKS: The Committee shall require that each FDP include provisions for adequately buffering any residential land uses from adjacent, incompatible land uses. For that purpose, the 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): 20 feet, from the front property line. A garage or carport is permissible if it is located a minimum of twenty (20) feet behind the front facade of the single-family dwelling. 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. 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 shall require that a minimum of seventy percent (70%) of the front facade of a main building be set along the sidewalk. 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, 50% of the lot area.

B. Single-family (attached) or multi-family dwellings: maximum lot coverage including accessory buildings and paved areas, 80% 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, 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.

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 FDP, 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, 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 _____.

23. **EFFECTIVENESS:** Pursuant to Ind. Code § 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 Ind. Code § 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 Ind. Code § 36-7-4-610(f).