

ORDINANCE NO. 2016- \_\_\_\_\_

AN ORDINANCE ADOPTING THE WHITESTOWN PUD ENABLING ORDINANCE  
UDO Amendments

WHEREAS, the Petitioner, the Whitestown Plan Commission, seeks to adopt the Whitestown PUD Enabling Ordinance and related amendments to the Whitestown Unified Development 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 July 11, 2016; and

WHEREAS, the Whitestown Plan Commission certified its favorable recommendation to the Whitestown Town Council on July 11, 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 amendments to the Unified Development 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 amendments to the Whitestown Unified Development Ordinance for the purpose of allowing PUD zoned district within specific community development areas within the jurisdiction of the Town of Whitestown in accordance with IC 36-7-4-1506.

The language the Applicant seeks to amend is 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 proposed UDO amendments.

**Section 4.** In accordance with IC 36-7-4-610(e) and (f)(2), after adoption, copies and any amendments of the Town of Whitestown Unified Development 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.** This Ordinance shall be in full force and effect from and after its passage and upon proof to the Town that this Ordinance have been recorded.

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

TOWN COUNCIL OF WHITESTOWN, INDIANA.

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Eric Miller, President

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Jeff Wishek

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Susan Austin

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Clinton Bohm

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Kevin Russell

ATTEST:

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Matt Sumner, Town Clerk-Treasurer

Prepared by: Lauren Bailey

## Exhibit A

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### Proposed Amendments to the Unified Development Ordinance

- I. Section 2.13.A of the Whitestown UDO shall be amended to read as follows:

*Purpose*

This district is established to encourage improved land development and building site design, to encourage and allow a variety of innovative uses, building types and arrangements, and to allow development of land areas so planned, located or situated as to merit and justify consideration as a PUD district. The district is intended to be used only for large scale developments that will include a variety of residential and related uses and/or a variety of businesses and related uses, all planned and developed as a single unit.

- II. Section 2.13.C of the Whitestown UDO shall be amended to read as follows:

*New PUD*

For purposes of IC 36-7-4-1506, the Town Council will neither accept nor consider any proposal to create an additional PUD District Ordinance unless at least fifty percent (50%) of the land affected by the proposal is located within one or more of the special development areas identified in Chapter 4 (Land Use) of the Whitestown Comprehensive Plan. The following procedures shall govern the establishment and administration of any additional PUD districts:

- a. The area of land to be developed shall not be less than twenty (20) acres.
- b. Properties adjacent to the PUD district shall not be adversely affected.
- c. In a PUD district, the density of development, the lot and yard sizes, the building locations, the common use or public areas, and the pedestrian and traffic circulation system shall be specifically designated in a District Plan and approved by the WPC and the Town Council.
- d. The District Plan shall specifically designate the proposed land uses within the boundaries of the district including the various types of residential development and/or the specific types of business, together with all other related land uses.
- e. The district shall be designed to preserve any natural amenities of the site and to create a stable environment of compatible uses and functions.
- f. The district may permanently reserve land suitable for the common use of the public or the owners in the development. This may be accomplished by dedication, covenant, or easement. This land may be for future public facilities, for recreational or scenic open space, or for a landscape buffer zone as approved by the WPC. Provisions for permanent control and maintenance of this land shall be outlined in a form acceptable to the WPC.
- g. The District Plan shall be consistent with the purpose of this Section.
- h. The District Plan shall be submitted to and reviewed by the WPC in accordance to the WPC Rules and Procedures as a proposed amendment to the Zoning Map and as a Subdivision. Following the review by the WPC, including the required public hearing, the WPC shall make its recommendation to the Town Council in accordance with this Ordinance.

- i. Permits for any site improvement or structure in a PUD district shall be issued only after the plans for such development have been approved by the WPC, and after the District Plan has been duly recorded with the Boone County Recorder. All structures in an approved PUD shall be constructed as shown on the approved plans and in accordance with the applicable building codes, and any site improvement activities shall fall within the limitations for the approved District Plan.
- j. In the exercise of its continuing subdivision jurisdiction, the WPC may from time to time modify the approved PUD in a manner consistent with the approved PUD to allow for up to ten percent (10%) changed circumstances and/or conditions unforeseen at the time of original approval to be administratively approved.
- k. Approval of the District Plan by the WPC shall expire after a period of ten (10) years from the approval of the Plan unless the development is fifty percent (50%) completed in terms of public improvement including streets, parks, walkways, and utility installations such as power, gas, water, and sanitary sewers, in which latter instance an extension of time may be granted by the WPC not to exceed five (5) successive periods of two (2) years each.
- l. Upon the abandonment of a PUD district development authorized under this section (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the District Plan for thirty-six (36) consecutive months), or upon the expiration of ten (10) years from the approval by the WPC for a development that has been completed (or the expiration of an extension granted by the WPC as described above), the WPC shall initiate an amendment to the Whitestown Zoning Map so that the land will be zoned into a category or categories which most nearly approximate its then existing use or such other zoning category or categories as appropriate.

III. Section 9.2.E.4 of the Whitestown UDO shall be amended to read as follows:

*Planned Unit Developments.* Any PUD District Ordinance that was adopted before January 1, 2011, by the Boone County Commissioners (as part of the Boone County Zoning Ordinance), for property that is now located within the Jurisdictional Area of the Town, is hereby ratified and shall hereafter be deemed to have originally been adopted by the Town Council as part of the Whitestown Zoning Ordinance. The following procedure applies to any proposal to amend an existing PUD District Ordinance, whether or not the ordinance was originally adopted before January 1, 2011:

- a. Terminology and Jurisdiction. PUD District Ordinances adopted before January 1, 2011, as described above, contain language referencing entities that may not have jurisdiction within Whitestown. For this reason, the following terms shall be replaced within those ordinances, and the indicated terms shall also be used in all ordinances that may be adopted after that date:
  - i) Whitestown Town Council shall replace references to the “Boone County Commissioners”, “County Commissioners”, and “legislative body.”
  - ii) WPC shall replace references to the “Boone County Area Plan Commission”, “Area Plan Commission of Boone County”, and “APC.”
  - iii) WBZA shall replace references to the “Boone County Area Board of Zoning Appeals” and “BZA.”
  - iv) Whitestown Comprehensive Plan shall replace references to the “Comprehensive Plan” and “Boone County Comprehensive Plan.”
  - v) Whitestown Unified Development Ordinance shall replace references to the “Boone County Zoning Ordinance”, “Zoning Ordinance of Boone County”, “Zoning Ordinance”, and “Boone County Ordinance” where appropriate.

- vi) Whitestown Zoning Map shall replace references to the “Boone County Zoning Map”, “Zoning Map for Boone County”, “Zone Map of the Zoning Ordinance”, “Zone Map”, “Official Zoning Map of Boone County”, and “Official Zoning Map.”
  - vii) Whitestown Unified Development Ordinance shall replace references to the “Subdivision Regulations”, “Subdivision Control Ordinance of Boone County”, “Boone County Subdivision Control Ordinance”, and “Boone County Ordinance” where appropriate.
  - viii) Administrator shall replace references to “Executive Director” and “Director.”
  - ix) Whitestown Public Works Department shall be added to references to the “Boone County Highway Department” where applicable.
  - x) Main Street shall replace references to “650 E”, and “County Road 650 E.”
  - xi) Development Plan shall replace references to the “Preliminary Development Plan”, “Primary Development Plan”, “Preliminary (Primary) Development Plan”, “Detailed (Secondary) Development Plan”, “Secondary Development Plan”, and “Final Development Plan.”
  - xii) Fee Schedule shall replace references to the “filing fee provisions” and “Boone County Area Plan Commission Fee Schedule.”
- b. The amendment proposal may be initiated either by the WPC, or by a petition signed by property owners who own at least fifty percent (50%) of the land affected by the proposal. The Town Council also may initiate the amendment proposal and require the WPC to prepare it.
- c. The WPC or petitioners shall prepare the amendment proposal so that it is consistent with the definition of a PUD District Ordinance.
- d. The amendment proposal may provide that any development requirements (other than permitted uses) that are specified in the PUD District Ordinance may be modified by a committee designated by the WPC, after a public hearing held in accordance with the WPC’s Rules and Procedures. However, any decision of a committee which approves or denies any requested modification may be appealed by the Administrator or any interested party to the WPC, also in accordance with the WPC’s Rules and Procedures.
- e. In considering the amendment proposal, both the WPC and the Town Council shall pay reasonable regard to: a) the Whitestown Comprehensive Plan; b) current conditions and the character of current structures and uses in each district; c) the most desirable use for which the land in each district is adapted; d) the conservation of property values throughout the Town; and e) responsible development and growth.
- f. The WPC shall give notice and hold a public hearing on the amendment proposal in accordance with its Rules and Procedures.
- g. Whenever the WPC deems it advisable, the WPC may permit or require the owner of a parcel of real property to make a Commitment subject to the rules prescribed for Commitments by IC 36-7-4-1015 and subsection 6 of this Section. By permitting or requiring a Commitment, the WPC does not become obligated to recommend or not recommend the adoption of the amendment proposal.
- h. Within ten (10) business days after the WPC determines its recommendation (if any), the WPC shall certify the amendment proposal to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation from the WPC.
- i. The Town Council shall vote on the amendment proposal within ninety (90) days after the WPC certifies the proposal. The Town Council’s consideration of the proposal is governed by IC 36-7-4-608 and IC 36-7-4-1512.

j. During the time when the amendment proposal is being considered by the Town Council, the owner of a parcel of land may make a new Commitment or modify the terms of a Commitment made when the proposal was before the WPC. No further action of the WPC is required for a new Commitment to be effective. If a Commitment made when the proposal was before the WPC is modified and the effect of the modification is to make the Commitment more stringent, no further action of the WPC is required for the modified Commitment to be effective. However, if the effect of such a modification is to make the Commitment less stringent, then the modified Commitment must be ratified by the WPC to be effective. A Commitment made or modified under this provision is subject to the rules prescribed for Commitments by IC 36-7-4-1015.

k. If the amendment proposal is adopted, the WPC shall update the Zoning Ordinance and zone maps to reflect the changes made by the amendment.

l. Unless the amendment proposal provides for a later effective date, the amendment takes effect on the date that it is duly adopted pursuant to IC 36-7-4-608.