

## Chapter 9

### DEVELOPMENT PLAN APPROVAL

**9.01 Intent:** It is recognized by this Ordinance that there is a value to the public in establishing safe and convenient traffic movement to and from higher density sites, both within the site and on the access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; that there is a value in insuring that new development is an investment in the continued quality of life of the community rather than a cost; and further, that there are benefits to the public in conserving natural resources. Toward this end, the review and approval of a development plan by the Plan Commission is required of certain buildings and types of development that can be expected to have an impact on natural resources, traffic patterns and intensity, adjacent land uses, and the character of future urban development.

**9.02 Buildings, Structures, and Uses Requiring a Development Plan:** Neither an Improvement Location Permit nor a Building Permit shall be issued for the construction of the following buildings, structures, or uses until a development plan in accordance with the requirements of this Ordinance has been reviewed and approved by the Plan Commission:

- A. Construction of any primary commercial or industrial building.
- B. Construction of an addition to a commercial or industrial building of 5,000 square feet of gross floor area; or, the construction of a secondary commercial or industrial building of 5,000 square feet of gross floor area.
- C. Construction of a multiple-family building containing 3 or more dwelling units.
- D. Construction of an addition or renovation of an existing residential structure which would increase the total number of dwelling units within the structure to 3 or more. This includes rooming or boarding establishments.
- E. Construction of 3 or more residential structures on one lot, parcel, or tract of land, where each structure contains 2 or more dwelling units.
- F. Construction in the Central Business District where the proposed development does not conform to the setback lines.
- C. Additional or multiple signs may be permitted by the Plan Commission for one or more entrances to a residential development.

**9.03 Development Plan - Application and Requirements:** An application for Development Plan approval shall be filed in the office of the Building Department upon the form provided. An application shall include 4 copies of a drawing(s) measuring not

more than 24 inches by 36 inches, drawn to a scale as large as practical, and including the following information: Current processing charge is \$15.00.

A. Existing Conditions:

1. Scale, date, north arrow, vicinity map, and title of the project.
2. The boundaries, dimensions, and total gross acreage of the property.
3. The relationship of the project to the surrounding road system, including the width of adjacent roadways.
4. The location and dimensions of existing manmade features such as roads, utilities, and structures, on both the petitioned site and adjacent properties, along with indication as to which features on the petitioned site are to be removed.
5. The location and dimensions of existing easements, watercourses, county drains, water and sewer lines, and other existing important physical features in and adjoining the project.
6. The location and delineation of existing trees 12 inches in diameter, or larger, as measured 3 feet above the ground, and information as to which trees will be removed. Existing woods may be indicated as such on the Plan.
7. Identification of the land use and zoning of the petitioned site and adjacent properties.

B. Proposed Conditions:

1. The location, dimensions, and height of the proposed main and accessory buildings, their relation one to another and to any existing structures to remain on the site. The distance from all proposed buildings and structures to the adjacent property lines.
2. The location of the 100 year flood plain and finished floor elevations, where applicable.
3. The internal circulation pattern for both vehicular and pedestrian traffic, including existing and proposed streets, driveways, and the location, size, and number of parking spaces in the off-street parking areas and the identification of service islands, service parking, and loading zones in accordance with Chapter 10.
4. Total project density for residential projects, or building floor area by the use intended for commercial and industrial projects.
5. Percentage of landscaping/open space areas and percentage of impervious surface areas to the total area of the site.

6. Landscaping areas, common open space areas, and buffer yard areas.

Note: A separate landscape plan may be required in those instances where the size and complexity of the proposed project indicate the need for additional detail.

7. Size, location, and orientation of all signs.

8. Location, height, and type of all exterior lighting.

9. Location, area, and type of screening for all exterior trash collection and/or recyclable collection areas.

10. The names and addresses of the developer(s), the property-owner(s), and the designer(s) of the plan.

11. Proposal for sanitary sewer, storm sewer, water, gas, and electrical services.

12. Identification of additional roadway needs, including improvements necessary to adequately access and service the site. In reviewing such a proposal, the Plan Commission may require the preparation of a Transportation Impact Study, at the applicant's expense; to identify the traffic impacts and problems which are likely to be generated by the proposal and to identify all improvements required to insure safe ingress and egress from the proposed development; elimination of hazards; and the maintenance of adequate street capacities.

13. The proposed phasing of construction for the project, if applicable, including:

a. The approximate date when construction of each phase of the project will be started and completed.

b. The order in which the phases of the project will be built and the anticipated overall completion date for the total project.

c. The minimum area and the approximate location of common open space and public location of common open space and public improvements that will be required at each stage.

14. A legal description of the property proposed for the development.

C. Drainage Plan

1. Contours of the site with elevations of the pre-developed site and the proposed finished grades.

2. The size of the watershed.

3. Calculations of the storm water run-off and retention/detention needs based upon the Rational Method.

D. Sewage approval by the County Health Department-

4. Proposals for the management and retention/detention of storm water drainage.

#### **9.04 Approval Process:**

A. Plan Commission: The Plan Commission shall review Development Plans.

B. Pre-Application Conference: Prior to filing any application for Development Plan approval, the prospective applicant should request a pre-application conference with the Joint Planning and Building Department staff. Such a request should include a general description of the nature, location, and extent of the proposed project and a list of any professional consultants assisting the applicant in respect to the development plan. The pre-Application Conference is intended to decrease costs for the applicant by eliminating any problems involved in the early stages of the development process.

C. The Formal Application:

1. Staff Review: Upon submission of the formal application, development plan, and all other required materials, to the Plan Commission, the Building Commissioner shall initiate an administrative review of the request by all affected Town and/or County Departments, the results of which shall be reported to the Plan Commission for its consideration.

The Town Utility Department shall review the drainage plan and submit a written report to the Plan Commission. The County Engineer, as may be applicable, may require additional information or documentation from the applicant, if necessary, to adequately review the drainage plan.

2. Plan Commission Review: Upon receiving the application, a development plan, staff report, and associated documents from the Planning Commissioner the Plan Commission shall review the request based upon:

a. Consistency with the minimum development standards established by the Zoning Ordinance.

b. Compatibility with surrounding structures and land uses.

c. The Design Standards established in the Plan Commission's "Rules of Procedure."

d. General planning, zoning, and engineering standards established by the Comprehensive Plan, Zoning Ordinance, Subdivision Regulations, and other applicable City ordinances.

After considering the potential impacts of the proposed project on the character of the neighborhood, traffic conditions, public utility facilities, and such other matters pertaining to the general health, welfare, and safety of the Town of South Whitley, in light of the above referenced criteria, the Plan Commission shall render a decision on the application, either denying it, approving it, or approving it with specific stated conditions. During its review, the Plan Commission may consider comments from interested parties on the application. The Executive Committee may also continue their review from time to time as they may deem necessary.

3. **Appeal from Plan Commission Decision:** Any person aggrieved of any decision of the Plan Commission in exercising their authority to review and approve Development Plans or any officer or department of the government effected by any decision of the Plan Commission, may appeal that decision, providing that the appeal is submitted in writing to the office of the Building Commissioner no later than ten (10) calendar days following the date of the Plan Commission's decision. Upon the receipt of such an appeal, the Staff of the Building Commissioner place the appeal upon the Plan Commission's next agenda for their consideration.

#### **D. Modifications To An Approved Development Plan:**

1. An approved development plan may be amended upon written application to the Building Commissioner.

2. The Department shall review the proposed modifications to certify whether they comply with all standards and requirements of the Zoning Ordinance and that no substantial deviation from the approved Development Plan has occurred. A "substantial deviation" shall include, but is not limited to:

a. Modification of building locations which would affect setback distances or buffering from adjacent property.

b. Relocation of an access point to the site.

c. A major redesign of the parking areas and/or vehicular use areas.

d. Fundamental change in the overall concept of the development. If the Department determines that the proposed modification is inconsistent with the standards and requirements of the Zoning Ordinance, or a substantial modification exists, the modified development plan must be resubmitted for approval to the Plan Commission prior to the issuance of an Improvement Location.

If the Plan Commission determines that the proposed modification is consistent with the standards and requirements of the Zoning Ordinance, and that a substantial deviation does not exist, then the Department may approve the modified development plan and issuance of Improvement Location Permits may occur.

### **9.05 Period of Validity:**

- A. Development Plan Approval expires if an Improvement Location Permit is not issued within two (2) years from the date of its approval.
- B. Upon request, and after good cause is shown, the time within which an Improvement Location Permit must be secured may be extended by the Plan Commissioner.
- C. If the period of validity has expired without either the issuance of an Improvement Location Permit or an extension being granted, the Department shall file with the records of the Plan Commission a certificate of noncompliance and no Improvement Location or Building Permit shall be issued until a new development plan application is approved.

### **9.06 Contractual Agreement:**

- A. The filing of a proposed development plan for approval constitutes an agreement by the owner and applicant, their successors and assigns, that if the development plan is approved by the Plan Commission, permits issued for the improvement of the property and the activities subsequent thereto, shall be conformance with the approved development plan.
- B. An approved development plan authorizes only the arrangement and construction set forth in such approved plans and applications. Arrangement and construction different from the approved development plan, including any approved modifications thereto, shall constitute a violation of this Ordinance.
- C. The approved development plan shall have the full force and effect of the Zoning Ordinance. Any violations shall be grounds for the Building Commissioner to issue stop work orders, withhold further permits, and take all actions necessary for the assessment of all penalties and fines as outlined in Chapter 1, Section 1.14 of this Ordinance.

**9.07 Performance Guarantee:** As a condition of approval of the development plan, and in those instances in which significant improvements relating to the project, exclusive of building(s), will be delayed for an extended period due to the season of the year, weather conditions, or other unavoidable problems, the Plan Commission may require a deposit by the applicant with the Town Of South Whitley and/or the Whitley County Board of Commissioners, as may be applicable, in the form of certified check, or other surety as may be acceptable to the Town Clerk in an amount to insure performance of any obligations of the applicant to make improvements shown upon the development plan or attested to in any accompanying documents.

- A. Amount: The amount of the guarantee shall be established by the Town Clerk, as may be applicable, and shall be sufficient to insure completion of the improvements within the time period specified by this Ordinance.

B. Approval: Final approval of the amount, nature, and form of the performance guarantee shall rest with the Plan Commission.

**9.08 Development Plan Review Design Standards:** The Plan Commission shall establish design standards which are to be utilized by the applicant when preparing a development plan and by the Plan Commission when reviewing a development plan. The design standards shall be a part of the "Rules of Procedure."