

Plan Commission Report #2

PLANNING & BUILDING DEPARTMENT

Town of Avon, Indiana
6570 East U.S. Highway 36
Avon, IN 46123

Case Number: ZA 09-12
Case Name: Chapter 5 – Planned Unit Development
Report Date: January 25, 2010

GENERAL INFORMATION AND CASE DESCRIPTION

Case Type:	Text Amendment	
Applicant:	Town of Avon	Owner: N/A

EXHIBITS

1) Revised Text, Chapter 5 – Planned Unit Developments
2) Revised Text, Appendix A-8
3) Comprehensive Plan Recommendation comparison table

PETITION HISTORY

The January 25, 2009 hearing represents the first consideration of the proposed text amendment by the Avon Plan Commission.

This petition was scheduled to be heard at the November 23, 2009, but was continued to December 21, 2009 at the request of staff to allow additional time to generate the revised text. The December 21, 2009 hearing was cancelled due to a lack of new business, continuing this item to January of 2010.

PROCEDURAL

- Notice of the November 23, 2009 public hearing was published in the Hendricks County Flyer in accordance with the Rules of Procedure. At this petition was continued at subsequent Public Hearings or noted as continued on meeting cancelation notices, the public notice remains valid.
- Zoning amendments require a public hearing.
- The Plan Commission may send forward the zoning amendment to the Town Council with a favorable recommendation, unfavorable recommendation or no recommendation. The Plan Commission may also continue the zoning amendment.

SUMMARY

The proposed revision to Chapter 5: Planned Unit Development represents a response to concerns identified by the Avon community during the development of the Town of Avon 2005-2025 Comprehensive Plan. Issues identified in the "Implementation" section of the Comprehensive Plan recommend modifications to the terms of the Planned Unit Development ordinance to better justify PUD requests, better delineate zoning standards created by a PUD district, prevent misuse of the PUD as a means to decrease standards without related increases

in quality, and reduce public hearing time devoted to PUD requests. In addition to these issues, review by Town staff identified confusing and conflicting ordinance language in the current text of the Avon Zoning Ordinance, as well as redundant provisions, confusing procedural steps, and instances where arbitrary decision-making could introduce potential liability for the Town.

The proposed revised ordinance attempts to deal with these issues.

ANALYSIS

The proposed revision would be considered a “clean sheet” attempt, with the new ordinance retaining very little of the content of the existing ordinance. For this reason, a side-by-side comparison of the two documents is not provided. Instead, this report will attempt to describe the proposed revisions by identifying main revision categories: statutory compliance, procedural changes, submittal requirements, and ordinance clarity & general revisions.

Statutory compliance:

The Indiana enabling legislation for Planned Unit Development is found in IC 36-7-4-1500, known as “the 1500 series.” The terms of the 1500 series establish fundamental elements of the PUD process, such as requiring that the adoption of a PUD district be treated as an ordinance amendment, and thus requiring a legislative act by a municipality’s elected body. The 1500 series further establishes that a PUD district may amend standards contained within a municipality’s zoning ordinance, allows for localities to establish submittal requirements and approval procedures, and allows for the local legislative body to delegate final approvals as necessary.

The proposed revision to the Planned Unit Development district ordinance is undergoing review by the Town attorney, and is believed by Staff to be generally consistent with the State enabling legislation. Minor procedural issues identified in the current Town PUD ordinance, such as the arbitrary ability of the Zoning Administrator to remove a request from the hearing process (thereby denying due process) have not be carried forward to the proposed revised text.

Procedural Changes:

The current Town of Avon Planned Unit Development review and approval procedures are established by Section 11 of Chapter 5 of the Avon Zoning Ordinance. This Chapter establishes four main procedural steps : Preliminary Plan Review by the Zoning Administrator; Preliminary Plan Review by the Plan Commission, Preliminary Plan Review by the Town Council and Adoption, and Secondary Review of the Final Plan by the Plan Commission. The current language is non-linear and lacks transparency, with many procedural steps appearing to be of a discretionary nature on the part either the petitioner or the Zoning Administrator.

The proposed revised Planned Unit Development ordinance would clarify the Preliminary process for seeking approval for a proposed PUD district, and would consist of the following:

- 1) A mandatory pre-filing conference;
- 2) Submittal in accordance with Town standards;
- 3) A neighborhood informational meeting;
- 4) Review by a Technical Advisory Committee;
- 5) An informational appearance before the Plan Commission;
- 6) A public hearing before the Plan Commission; and
- 7) Action by the Town Council.

The proposed revision would further remove a PUD-specific Secondary Review process, and would instead allow existing review processes (Development Plan Review or Primary Plat) to

serve as the required secondary review process. This proposed change is intended to increase consistency in Plan Commission reviews by utilizing established, detailed review processes.

Additional changes within the procedural language regarding amending approved PUD districts would work in concert with the changes to the PUD Secondary Review process to emphasize the establishment of PUD specifics in the Preliminary Review. While a PUD District is acknowledged as a tool to provide a developer additional flexibility and allow creativity in the development of a site, members of the Plan Commission have expressed concern that PUD ordinances and supporting documentation have been lacking in information at the Preliminary stage, and that this lack of information has impaired informed decision-making. The emphasis of the Preliminary stage is intended to reduce occurrences of this concern.

Submittal Requirements:

The current text of the Planned Unit Development district ordinance incorporates submittal requirements into multiple locations within Chapter 5. Many of these requirements conflict with adopted Town forms and standards found elsewhere within the Town of Avon Zoning Ordinance. In addition, Appendix A-8 establishes a series of additional supporting documents that may be required as a component of a PUD district request.

The proposed revision attempts to consolidate the submittal standards to Appendix A-8 through explicit reference in the revised text. Wherever possible, the revised text references submittal through existing forms and documents found within the Zoning Ordinance, such as the approved Commitment Form. Further, proposed revisions to Appendix A-8 attempt to address many of the issues identified in the Implementation Items of the Comprehensive Plan.

Ordinance Clarity & General Revisions

The proposed revision emphasizes paring the Ordinance language down to the items necessary to remain in compliance with State statute, those items necessary to clearly identify the Town's adopted approval process, those items required for compliant submittal, and those items necessary to effectively and clearly administer an adopted Planned Unit Development district. In many instances, the text of the current ordinance diverges from the stated title of any given section by including procedural steps in a submittal requirements section, or some similar mixing of purpose.

The proposed revision attempts to limit language that would cloud or confuse the petition process. Proposed revisions to Appendix A-8 would attempt to clearly define the items required for submittal.

RECOMMENDATION

- 1) Discuss potential additions and revisions to the revised text of Chapter 5: PUD Districts at the January 25, 2010 Plan Commission meeting; then
- 2) Conduct the necessary public hearing to allow comment from any interested parties; and
- 3) Continue this petition to the February 22, 2010 hearing to allow staff time to process and incorporate any changes.

Submitted By:

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Town of Avon, Indiana