

ORDINANCE NO. 2023-010

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN  
OF TRAFALGAR, INDIANA, AMENDING THE TOWN CODE  
BY CHANGES TO THE ZONING CODE FOR MIXED USE AND  
PLANNED UNIT DEVELOPMENTS

WHEREAS, pursuant to the requirements of Indiana Code 36-7-4-600 *et seq.* the Town of Trafalgar Plan Commission (the “Plan Commission”) has prepared this ordinance (the “Proposal”) to amend the Town of Trafalgar Zoning Ordinance; and

WHEREAS, the Plan Commission held a duly noticed public hearing on the Proposal on November 13, 2023; and

WHEREAS, the Plan Commission, after paying reasonable regard to 1) the Trafalgar Comprehensive Plan, 2) the current conditions and the character of the current structures and uses in each district, 3) the most desirable use for which the land in each district is adapted, 4) the conservation of property values throughout the jurisdiction, and 5) responsible development and growth, has made a recommendation to the Trafalgar Town Council (“Town Council”); and

WHEREAS, the Plan Commission has certified with a favorable recommendation for the adoption of the Proposal with certain changes resulting from the public hearing to the Town Council of the Town of Trafalgar, Indiana; and

WHEREAS, the Town Council desires to encourage appropriate and compatible land development and use to enhance property values, and promote the health, safety, and general welfare of the Town; and

WHEREAS, the Town Council desires to incorporate the changes recommended by the Plan Commission into the Town Code.

**NOW THEREFORE BE IT ORDAINED** by the Town Council of the Town of Trafalgar, Indiana, that:

**1. A new Section 152.072 shall be added to Title XV, Chapter 152 of the Town Code to state as follows:**

**§ 152.072 MU MIXED USE DISTRICT**

(A) *Purpose and Intent.* The MU district is intended to protect and enhance the character of the central business district, to guide new development and redevelopment activities in the downtown area and State Road 135 to allow for residential and commercial activities on the same parcel, and to promote a mix of high-density development with active street edges and pedestrian ways.

- (B) *Multiple Uses*. The MU district may include multiple principal uses, including a combination of R-1 residential and non-residential uses, provided that each use is a Permitted Use as set forth below.
- (C) *Permitted Uses*. Uses permitted in the MU Mixed Use District are expressly limited to the following list without variance approval from the Trafalgar Board of Zoning Appeals:
- (1) All permitted uses in R-1 Residential District Three Regulations.
  - (2) Professional services, limited to:
    - (a) Doctors and dentists;
    - (b) Interior decorator;
    - (c) Dance;
    - (d) Music;
    - (e) Art;
    - (f) Language and artisan school; and
    - (g) Beauty and barber school
  - (3) Clothing service, limited to:
    - (a) Clothing boutique
    - (b) Jewelry store;
    - (c) Tailor and pressing shop; and
    - (d) Shoe sales and repair shop.
  - (4) Equipment service, limited to:
    - (a) Radio shop; and
    - (b) Record shop
  - (5) Food Service, limited to:
    - (a) Butcher;
    - (b) Delicatessen;
    - (c) Bakery; and
    - (d) Restaurant.
  - (6) Personal service, limited to:
    - (a) Barber shop;
    - (b) Beauty shop;
    - (c) Photographic studio; and
  - (7) Retail service, limited to:
    - (a) Drug store;
    - (b) Hardware;
    - (c) Stationer; and
    - (d) Newsdealer.
- (D) No use shall comply with the following performance standards.
- (1) *Vibration*. No use shall cause earth vibrations or concussions detectable beyond the lot lines without the aid of instruments.
  - (2) *Smoke*. No use shall emit smoke of a density equal to or greater than No. 1 according to the Ringelmann Scale, as now published and used by the U.S. Bureau of Mines, which is incorporated by reference and made a part thereof.

- (3) *Smoke, particulate matter, noxious matter.* The emission of smoke, particulate matter or noxious or toxic gases shall conform to the standards and regulations of the State Air Pollution Control Board.
- (4) *Odor.* No use shall emit across the lot lines odor in such quantity as to be readily detectable at any point along the lot lines and as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.
- (5) *Sound.* No use shall produce sound in such a manner as to endanger the public health, safety or welfare or cause injury to property. Sound shall be muffled so as not to become detrimental due to intermittence, beat frequency, shrillness or vibration.
- (6) *Heat and glare.* No use shall produce heat or glare creating a hazard perceptible from any point beyond lot lines.
- (7) *Waste matter.* No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the State Department of Environmental Management or in such a manner as to endanger the public health, safety or welfare or cause it injury to property.

(E) Development Standards for Mixed Use.

- (1) The development standards for Mixed Use zoning shall generally conform to the standards set forth in R-3 Residential District Three Regulations, outlined in § 152.039(B)(2) of the Town Code.
- (2) Development standards for Mixed Use zoning may be waived upon proper petition for waiver and granting of approval from the Plan Commission.

**2. A new Section 152.073 shall be added to Title XV, Chapter 152 of the Town Code to state as follows:**

**§ 152.073 PLANNED UNIT DEVELOPMENT DISTRICTS (“PUD”)**

(A) *Purpose and intent.* As provided for by IC 36-7-4-1500 et seq., the purpose of these regulations is to allow greater design flexibility in development of land while remaining consistent with the goals of the Comprehensive Plan. The regulations are intended to encourage developments that are innovative and/or responsive to unique opportunities or constraints of a site. Planned unit developments should be used to address unique environmental aspects, provide a mix of land uses, or otherwise better implement the goals of the Comprehensive Plan than what could be accomplished with established zoning districts. Planned unit developments should be avoided where a similar result for the proposed development could be achieved through a conditional use permit, variance, minor modification, or rezoning to a different zoning district.

(B) *Uses allowed.*

- (1) All uses are subject to the discretion and approval of the Plan Commission and Council during the adoption of a planned unit development (PUD). Uses must

be compatible with the intent of the Comprehensive Plan and surrounding existing and future land uses.

(2) Permitted and special exception uses shall be specified in the PUD proposal. Special exception uses should be minimized.

(C) *Development standards.*

(1) Development standards and requirements shall be stated as part of a planned unit development proposal. All proposed development standards shall be subject to review and approval of the Plan Commission and Council during the approval process.

(2) Generally, PUD proposals may provide standards in place of lot or development standards stated in this chapter; sign development standards in Chapter 151, the Sign Regulations; and standards in Chapter 153, the Subdivision Control.

(4) Minimum land area. In order to encourage innovative design in a variety of scales, there is no minimum land area required for a PUD.

(5) Minimum open space.

(a) In recognition that innovative designs, particularly those proposing town center plans, may require flexibility in the amount of open space provided in the development, there is no minimum open space required.

(b) However, proposals with less than 20% of the gross area dedicated as open space must detail the design elements that justify lower amounts of open space.

(6) Development standards that are not specified in the PUD shall revert to the standards of the closest comparable established zoning district.

(D) *Origin of proposals.*

(1) An applicant may propose a planned unit development district in accordance with the procedures established in this section.

(2) The applicant must be the landowner(s) or intended developer of the development.

(3) The area proposed for a PUD may or may not be under single ownership. If under multiple ownership, the owners must have a contractual agreement to develop the property in accordance with the unified plan stipulated in the PUD and to assure the completion of the PUD as planned and to the satisfaction of the Plan Commission.

(E) *Limitation on zoning ordinance amendments.*

(1) Any amendment of the zoning ordinance that would affect an approved planned unit development prior to its completion shall not be applied to the PUD.

(2) New amendments to the zoning ordinance shall only apply to PUDs that have expired or that have been completely developed.

(F) *Procedures for approval.* Applications shall be accompanied by all plans and documents required by this code. A three-step application process shall be used: pre-design conference, concept plan approval, and PUD master plan approval.

(G) *Pre-design conference.* Prior to filing a formal application for approval of a planned unit development, the applicant shall schedule a pre-design conference with the Building Commissioner and the Plan Commission. The purposes of this conference shall be:

(1) To allow the applicant to present a general concept and to discuss characteristics of the proposed development; and

(2) To allow the Building Commissioner to inform the applicant of applicable policies, standards, and procedures.

(3) This pre-design conference is for informational purposes only, and no decision made during the conference is binding upon either party or upon the Plan Commission.

(4) There is no limit to the number of pre-design meetings requested by the applicant, if the meetings serve to advance the design and planning of the proposal.

(H) *Concept plan approval.*

(1) An application for planned unit development, the PUD concept plan, written development standards, other documentation, and filing fee shall be submitted to the Plan Commission by the application deadline. Written development standards shall include, at a minimum, standards for the following:

(a) Lot size(s);

(b) Height;

(c) Density or intensity;

(d) Setbacks;

(e) Floor area;

(f) Open space;

(g) Permitted uses;

(h) Any other relevant development standard, as determined by the Building Commissioner. The Building Commissioner shall confirm the application to be complete and ready for review by the Technical Review Committee.

(2) The Technical Review Committee shall review the proposal and prepare comments and recommendations.

(3) The application, Technical Review Committee comments and other pertinent documents shall be forwarded to the Plan Commission for its consideration, public hearing, and recommendation.

(4) The Plan Commission shall hold a public hearing on the application in accordance with its Rules of Procedure.

(5) After the public hearing and review of the application, the Plan Commission shall certify the application to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation.

(6) The Town Council shall act upon the certified proposal as in the case of any rezoning petition.

(7) Upon Council approval of the PUD concept plan, the PUD zoning shall become effective and shown on the zoning map designated as a planned unit development. After approval, the use and development of the site shall be governed by the planned unit development concept plan, subject to the approval of a PUD

master plan. No permit of any kind shall be issued in the PUD district until a PUD master plan has been approved.

(I) *Planned unit development master plan approval.* The purpose of the PUD master plan is to set the specific regulations for development of the planned unit development. The PUD master plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use(s) within each building. The PUD master plan shall conform to the approved PUD concept plan.

(1) The PUD master plan and supporting data shall be submitted to the Plan Commission.

(2) The Building Commissioner and the Technical Review Committee shall review the proposed master plan.

(3) The master plan shall be reviewed by the Plan Commission at a public hearing in accordance with its Rules of Procedure. The Plan Commission may approve, deny, or approve with conditions the application.

(4) No permit of any kind shall be issued within a planned unit development unless in accordance with the approved PUD master plan.

(J) *PUD plan content requirements.* Planned unit development PUD plans shall include all documentation listed in this section of the zoning ordinance, unless certain documentation is deemed superfluous or irrelevant by the Building Commissioner due to specific circumstances of the particular request.

(1) *Pre-design conference plans.*

(a) A letter of intent from the applicant setting forth the applicant's intention for developing the site, including at least the proposed uses and a draft of development standards.

(b) A scale sketch drawing of the site showing the proposed location and extent of land uses, major streets, and other significant proposed improvements, and the approximate location of all existing natural features, topographic or geologic constraints, and easements and rights-of-way.

(2) *PUD concept plans.*

(a) A drawing of the planned unit development shall be submitted at a scale appropriate to the size of the proposed development. The drawing shall show in concept the major circulation pattern, general location and dimension of buildings, structures, parking areas and other improvements, recreation facilities, stormwater facilities, and other details to indicate the character of the proposed development. The submission shall include at least:

1. Site location map;
2. The proposed name of the development and "Concept Plan" title;
3. Boundary lines and acreage of each component land use;
4. Projected phasing of the PUD;
5. Existing easements, including location, width, and purpose;
6. Existing land use(s) on abutting properties;
7. Other conditions on adjoining property: topography, use and location of major buildings, railroads, power lines, name of any subdivision plats, etc.;

8. Existing streets on and adjacent to the site, including street name, right-of-way width, walks, curbs, gutters, and culverts;
9. Proposed major streets and other major public improvements;
10. Streets and other major improvements planned by the public for future construction on or adjacent to the site;
11. Existing utilities on the site;
12. Other conditions on the site, including water courses, wetlands, wooded areas, isolated trees six inches or greater in diameter, existing structures, and other significant features;
13. Existing vegetation to be preserved and location and general nature and purpose of proposed landscaping;
14. Map data, such as north arrow, scale, date of preparation, and contact information.

(b) Written statement of the planned unit development character. This statement shall include an explanation of the character of the proposed PUD and the reasons why it has been designed to take advantage of the flexibility of these regulations. The written statement shall be the proposed draft PUD ordinance, and shall include:

1. A statement of purpose of the PUD;
2. A specific explanation of how the proposed PUD meets the objectives of all adopted land use policies that affect the site, and how the PUD better meets these objectives than established zoning districts;
3. A statement of present and proposed ownership of the land within the project;
4. Proposed development schedule, including detailed phasing and projected dates of completion of each phase. Projected phase details shall include land area, use, density/intensity, and public facilities to be developed with each proposed stage;
5. Proposed permitted land uses and development standards for each use;
6. Architectural concepts for each proposed use, described by narrative, sketch/rendering, or representative photo;
7. Facilities reports. Concepts and feasibility plans for roads, sidewalks, sanitary sewers, stormwater management, water supply, street lighting, and other utilities.

(c) Traffic impact analysis, if requested by the Plan Commission.

(d) Notification of public hearing, as required by the Plan Commission Rules of Procedure. Additionally, notices shall include a reduced copy of the proposed concept plan and a copy of the proposed uses/development standards section of the proposal.

(e) Miscellaneous materials that the Plan Commission deems necessary to adequately review the proposal. The Building Commissioner shall notify the applicant of such requirements after the pre-design meeting.

(3) *PUD master plans.*

(a) Any additional materials or information as may have been required by or during the concept plan approval.

(b) An accurate plan of the entire phase for which PUD master plan approval is being requested that complies with the requirements of the Town's development standards. Single-family residential development on individual lots need not show precise locations of buildings on each lot, but shall show setbacks and other bulk constraints.

(c) If land is to be subdivided concurrently with PUD master plan approval, a subdivision preliminary plat meeting the requirements of the concept plan and Chapter 153 of this code.

(d) Projected construction schedule.

(e) Agreements and covenants that govern the use, maintenance, and continued protection of the planned unit development and its common spaces, shared facilities, and private roads (if any).

(K) *PUD review considerations.* When considering a planned unit development concept plan, the Plan Commission in its recommendation to Town Council, and the Town Council in its decision shall consider as many of the following as may be relevant to the specific proposal:

(1) The extent to which the proposed PUD meets the purposes of the zoning ordinance, the Comprehensive Plan, and any other adopted planning objectives of the town.

(2) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the planned unit development regulations.

(3) The extent to which the proposed plan departs from the established zoning and subdivision regulations otherwise applicable to the subject property, and the reasons why such departures are or are not deemed to be in the public interest.

(4) The proposal will not be injurious to the public health, safety, and general welfare.

(5) The physical design of the PUD and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated permanent open space, and furthers the amenities of light and air, recreation, and visual enjoyment.

(6) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or adversely affect the value of adjacent properties and neighborhoods..

(7) The desirability of the proposed plan to the town's physical development, tax base, and economic well-being.

(8) The proposal will not cause undue traffic congestion nor place excessive burdens on public infrastructure, and can be adequately served by existing or planned public facilities and services.

(9) The proposal preserves significant ecological, natural, historical, and architectural resources to the best extent possible.

(L) *Modifications.*



(1) Changes requiring new concept plan approval by the Town Council. Modifications that alter the concept or intent of the planned unit development, including, but not limited to:

- (a) Significant changes in the proportion or allocation of land uses;
- (b) Changes in the list of uses;
- (c) Changes in the location of uses;
- (d) Changes in functional uses of open spaces, where such change significantly alters the intensity of the open space use; and/or
- (e) Changes in the final governing agreements where such changes conflict with the approved concept plan.

(2) Changes requiring new PUD master plan approval by the Plan Commission. Modifications that constitute major changes from the approved PUD master plan, including, but not limited to:

- (a) Changes in site design requirements, such as location of required landscaping, signage, building height, bulk, or footprint, or other such requirements;
- (b) Increases in the number and/or size of signs;
- (c) Reduction in landscaping;
- (d) Alteration of the number of parking spaces or setbacks by 5% or more;
- (e) Increase in building square footage or height of 10% or more;
- (f) Changes in density by 10% or more;
- (g) Changes to the internal street system or off-street parking areas that the Town Council considers significant;
- (h) Significant changes in drainage management structures, as determined by the Town Council;
- (i) Changes in access to the site, where such change results in an increase of intensity of traffic patterns on or off the site; and/or
- (j) All other changes not expressly addressed under division (L)(1) above shall require new PUD master plan approval by the Plan Commission.

(3) Minor changes to approved PUD master plan may be approved by the Building Commissioner. The Building Commissioner may defer approval to the Plan Commission if it is deemed to be in the best interest of the community. Decisions of the Building Commissioner may be appealed to the Plan Commission. Minor modifications shall include, but are not limited to:

- (a) Changes in lot arrangements that are not detrimental to the proposed thoroughfare pattern of development;
- (b) Substitution of plants in landscaping plans that are deemed to be equivalent to those shown in the approved PUD master plan;
- (c) Changes in the number of parking spaces or size of setbacks by less than 5%;
- (d) Increases in building square footage or height by less than 10%;
- (e) Addition of buildable lots that result in a density increase of less than 10%;
- (f) Changes to the internal street system or off-street parking areas that the Building Commissioner considers minor;

(g) Changes in access to the site, where such change does not result in an increase of intensity of traffic patterns.

(M) *Expiration, extensions, rezoning.*

(1) *Expiration or abandonment.*

(a) If a planned unit development concept plan establishes its own development and construction schedule, then the PUD concept plan shall expire according to that schedule.

(b) A planned unit development concept plan shall expire if a PUD master plan application is not submitted within two years after the Town Council approval of the PUD concept plan.

(c) A planned unit development concept plan shall also be considered expired if a PUD master plan or a secondary plat has not been submitted within three years of a previous PUD master plan approval or a secondary plat approval.

(d) A planned unit development master plan shall expire if a primary plat based on the PUD master plan is not submitted within two years after the Plan Commission approval of the PUD master plan. If the approved primary plat expires, the PUD master plan shall expire at the same time.

(e) Expired PUD master plans cannot be reinstated and must be formally resubmitted.

(2) *Extensions.*

(a) The Building Commissioner shall periodically report to the Plan Commission on planned unit development concept plans that have expired time limits. The developer, applicant, and/or property owner of the PUD site shall be notified of the expiration.

(b) The Plan Commission shall determine whether to extend the time limit for the expired PUD, or to initiate a zoning map amendment so as to rescind the PUD zoning designation.

(c) Extensions are at the discretion of the Plan Commission and shall be considered based on the requirements of division (K) above.

(d) No PUD master plan shall be considered for approval under an expired PUD concept plan unless the concept plan is formally extended by the Plan Commission.

(e) An extension denial for any planned unit development concept plan shall be equivalent to a major modification to the concept plan and shall require reapproval of the concept plan by the Plan Commission and Town Council.

(3) *Rezoning authority.*

(a) A planned unit development site may be rezoned to an established zoning district (or districts) by the applicant.

(b) The Plan Commission or Town Council may initiate zoning map amendments for any expired planned unit development for which an extension has not been granted.

(c) The Plan Commission or Town Council may initiate zoning map amendments for any PUD that has been completely developed. Such amendment should duly consider the uses, development standards, and other provisions of the PUD plans prior to being approved.

(N) *Fees.* Fees shall be charged by the Town for review, inspection and analysis of planned unit development petitions, as listed in the Town's Fee Schedule, which may be amended from time to time.

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DULY PASSED AND FINALLY ADOPTED on the 7<sup>th</sup> day of December 2023, by a vote of 4 in favor and 0 against.

\_\_\_\_\_  
Jason Ramey, President

Voting In Favor

Voting Opposed

\_\_\_\_\_  
Jason Ramey, President

\_\_\_\_\_  
Jason Ramey, President

*[Signature]*  
Absent - LEFT at 7:15  
\_\_\_\_\_  
Jessica Jones, Vice President

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Jessica Jones, Vice President

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Jerry Rafferty

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Jerry Rafferty

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Jeff Eisenmenger

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Jeff Eisenmenger

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Kyle Siegfred

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Kyle Siegfred

Attest:  
*[Signature]*  
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Donna J. Moore, Clerk-Treasurer