

- (G) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance;
- (H) Use and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;
- (I) Ensure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- (J) Review certified plans and specifications for compliance;
- (K) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 20.06.050(d) (Floodplain Development Permit); and
- (L) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Section 20.06.050(d) (Floodplain Development Permit).

(g) Hearing Officer

(1) Authority

The Hearing Officer, as may be authorized in the Plan Commission rules of procedure, shall have authority to act upon those matters, if any, delegated by the Plan Commission pursuant to Indiana Code 36-7-4-923, which may include to approve or deny a:

- (A) Variance from this UDO in accordance with Indiana Code 36-7-4-918.5; and
- (B) Conditional use under the terms of this UDO in accordance with Indiana Code 36-7-4-918.2.

(2) Procedures

The Hearing Officer shall review and hear petitions pursuant to procedures adopted by the Plan Commission by rule in accordance with Indiana Code 36-7-4-923 and Indiana Code 36-7-4-924. Where feasible and permissible, those procedures shall allow for the consolidation and simultaneous review of approvals connected with petitions relating to the same site.

(3) Appeals

Any interested person may appeal a decision by the Hearing Officer to the Board of Zoning Appeals within ~~ten~~five days after the decision is made.

(h) Plat Committee

(1) Authority

The Plat Committee, as may be authorized in the Plan Commission Rules of Procedure, shall have authority to act upon those matters, if any, delegated to it by the Plan Commission, pursuant to Indiana Code 36-7-4-701(e), which may include approval or denial of:

(A) Minor Changes Allowed

Development authorized by any approval under this UDO may incorporate minor changes from the approved plan, or permit, without the need for a new petition, provided that the Planning and Transportation Director determines that the proposed changes:

- i. Comply with the standards of this UDO;
- ~~ii. Are necessary to meet conditions of approval or commitments; and~~
- ~~iii.~~ ii. Would not significantly alter the function, form, intensity, character, demand on public facilities, or impact on adjacent properties as originally approved.

(B) Major Changes

Any modification of an approved plan or permit that the Planning and Transportation Director determines does not meet the criteria in subsection (A) above shall require a new petition that is submitted and reviewed in accordance with the full procedure and fee requirements applicable to the particular type of the original petition.

(4) Limitation on Subsequent Similar Petitions

Following denial of a petition, the decision-making body shall not decide on petitions that are the same or substantially similar within one year of the previous denial, or in accordance with Indiana Code Section 36-7-4-609, as amended. This waiting period may be waived by the decision-making body provided that:

- (A) There is a substantial change to circumstances, or new information available, relevant to the issues or facts considered during the previous petition review; or
- (B) The new petition is materially different from the previous petition.

(5) Appeals

Unless a different procedure is provided in Section 20.06.080(d) (Administrative Appeal) or another provision of this UDO, the following provisions apply to appeals of decisions under this UDO.

(A) Staff or Hearing Officer Decision

A staff decision may be appealed to the Board of Zoning Appeals pursuant to the procedure set forth in Section 20.06.080(d) (Administrative Appeal). Any appeal shall be filed with the Planning and Transportation Department within ~~ten~~ five days of staff's or the Hearing Officer's decision.

(B) Plan Commission, Board of Zoning Appeals, or Common Council Decision

Any person that has standing to obtain judicial review of a zoning decision as established in Indiana Code 36-7-4-1603: Standing may appeal a zoning decision made by the Plan Commission according to the judicial review process established in Indiana Code 36-7-4-1600: Judicial Review. Such appeal shall be filed at the appropriate venue in the judicial district where the land affected by the zoning decision is located and shall be filed no later than 30 days after the date of the zoning decision.

iv. Creation or expansion of any vehicular parking area.

(B) Activities Exempt from Site Plan Review

Site plan review is not required for the following activities, but such activities shall be subject to the standards of this UDO and building permit review:

- i. Construction of a single-family detached, duplex, triplex, or fourplex dwelling on a single lot, additions to such dwellings, an accessory dwelling unit, and structures accessory to such dwellings; and
- ii. Construction or erection of accessory buildings, fences, hedges, or walls; and
- iii. Interior tenant alterations or improvements that do not increase parking requirements or alter exterior building appearances.
- iv. Projects that fall below the thresholds for minor site plan review in Section ~~20.06.050(a)(2)(C)~~20.06.050(a)(2)(C)i.

(C) Thresholds for Minor and Major Site Plan Review

Site plan review is conducted by the Planning and Transportation Director or the Plan Commission, based on the thresholds below:

i. Minor Site Plan Review

Minor site plan review is required for any of the following activities unless that activity is exempt from the site plan process under Section 20.06.050(a)(2)(B), or the project meets or exceeds the thresholds requiring major site plan review under Section 20.06.050(a)(2)(C)ii:

1. A change in use that involves or requires site improvements;
2. Any expansion, alteration, or modification of a lawful nonconforming site feature or building that meets or exceeds the thresholds established in Section 20.06.090(f)(2) (Limited Compliance), and falls below the thresholds for major site plan review in Section ~~20.06.050(a)(2)(C)(ii)~~ **Error! Reference source not found;**
3. Development that contains 20,000 square feet or less of new non-residential gross floor area;
4. Development that contains 50 dwelling units or less;
5. ~~Expansions, alterations, or modifications that increase the gross floor area of an existing structure by 10 to 25 percent;~~
6. The alteration of any vehicular parking area;
7. Petitions for a ~~permit and/or certificate of zoning compliance for grading~~ permit where site improvements are required; or
8. Projects that qualify for affordable housing incentives and/or sustainable development incentives established in Section 20.04.110 (Incentives), provided that, if located adjacent to one or more lots in an R1, R2, R3, or R4 district or such project does not contain more than 75 dwelling units.

(B) Petition Submittal and Processing

The minor site plan petition shall be submitted, accepted, and revised, and may be withdrawn, in accordance with Section 20.06.040(c) (~~Petition Submittal and Processing~~ ~~Petition Submittal and Processing~~).

(C) Staff Review and Action**i. Generally**

1. The Planning and Transportation Director shall review the minor site plan petition and approve, approve with conditions, or deny the petition in accordance with Section 20.06.040(d) (Staff Review and Action), based on the general approval criteria in Section 20.06.040(d)(6)(B) (General Compliance Criteria).
2. Alternatively, the Planning and Transportation Director may refer the petition to the Plan Commission pursuant to Section 20.06.040(d)(2) (~~Petition Routing~~ ~~Petition Routing~~).

ii. Commitments

The Planning and Transportation Director may allow or require the owner of a parcel of real property to make a written commitment concerning use and/or development of that parcel in connection with approval of a site plan pursuant to Section 20.06.040(d)(8) (~~Commitments~~ ~~Commitments~~).

iii. Additional Review for Drainage and Floodplain

Any projects that are determined by the Planning and Transportation Department to be located within an identified floodway, floodway fringe, or within the floodplain shall also meet the criteria in Section 20.04.040 (Floodplain).

(D) Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 20.06.040(h) shall apply with the following modifications:

i. Notification of Findings

The Planning and Transportation Director shall make and sign written findings concerning each decision to approve or disapprove a minor site plan, and such written findings shall be made available to the petitioner.

ii. Expiration of Approval

Approval of a minor site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner, the Planning and Transportation Director grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval).

iii. Modification or Amendment of Approval

An approved minor site plan may be modified or amended in accordance with Section 20.06.040(h)(3) (~~Modification or Amendment of Approval~~ ~~Modification or Amendment of Approval~~).

iv. **Appeal**

Any person, other than the petitioner, aggrieved by a minor site plan decision by the Planning and Transportation Director may appeal the decision to the Plan Commission. Such appeal shall be filed in the Planning and Transportation Department within ~~five~~ eleven days of the staff's decision. The appeal shall specify the grounds for the appeal and shall be filed in the form established by the Plan Commission rules of procedure. All appeals shall be accompanied by fees required by the Plan Commission rules of procedure.

(4) **Major Site Plan Review Process**

Figure 06.05-2 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to major site plan review. Additions or modifications to the common review procedures are noted below.

Figure 06.05-2: Summary of Major Site Plan Review Procedure

(A) **Pre-Submittal Activities**

- i. A pre-submittal meeting shall be held in accordance with Section 20.06.040(b)(1) (Pre-Submittal Meeting).
- ii. A Development Review Committee meeting shall be held in accordance with Section 20.06.040(b)(2) (Development Review Committee (DRC) Meeting).
- iii. A pre-submittal neighborhood meeting shall be held in accordance with Section 20.06.040(b)(3) (~~Pre-Submittal Neighborhood Meeting~~ Pre-Submittal Neighborhood Meeting).

(B) **Petition Submittal and Processing**

The major site plan petition shall be submitted, accepted, and revised, and may be withdrawn, in accordance with Section 20.06.040(c) (~~Petition Submittal and Processing~~ Petition Submittal and Processing).

(C) Staff Review and Action

The planning and transportation staff shall review the petition and prepare a staff report and recommendation in accordance with Section 20.06.040(d) (Staff Review and Action), based on the general approval criteria in Section 20.06.040(d)(6)(B) (General Compliance Criteria).

(D) Scheduling and Notice of Public Hearings

The major site plan petition shall be scheduled for a public hearing before the Plan Commission and noticed in accordance with 20.06.040(e) (~~Scheduling and Notice of Public Hearings~~ Scheduling and Notice of Public Hearings).

(E) Review and Decision**i. Generally**

The Plan Commission shall review the major site plan petition and approve, approve with conditions, or deny the petition in accordance with Section 20.06.040(g) (~~Review and Decision~~ Review and Decision), based on the general approval criteria in Section 20.06.040(d)(6)(B) (General Compliance Criteria).

ii. Commitments

The Plan Commission may allow or require the owner of a parcel of real property to make a written commitment concerning use and/or development of that parcel in connection with approval of a site plan pursuant to Section 20.06.040(d)(8) (~~Commitments~~ Commitments).

iii. Additional Review for Drainage and Floodplain

Any projects that are determined by the Planning and Transportation Department to be located within an identified floodway, floodway fringe, or within the floodplain shall also meet the criteria in Section 20.04.040 (Floodplain).

(F) Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 20.06.040(h) shall apply with the following modifications:

i. Notification of Findings

The Plan Commission shall make written findings concerning each decision to approve or disapprove a major site plan, and such findings shall be made available to the petitioner.

ii. Expiration of Approval

Approval of a major site plan shall be effective for a maximum period of one year unless, upon petition by the ~~petitioner/developer~~, the Plan Commission grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval).

iii. Modification or Amendment of Approval

An approved major site plan may be modified or amended in accordance with Section 20.06.040(h)(3) (~~Modification or Amendment of Approval~~ Modification or Amendment of Approval).

4. **Emergency Waiver of Waiting Period**

The waiting period may be waived upon a written determination by the City's Housing and Neighborhood Development Department that there is an emergency condition dangerous to life, health, or property that requires demolition prior to the expiration of the waiting period.

(D) **Scheduling and Notice of Hearings**

i. **Discretionary Hearing**

The Historic Preservation Commission may conduct a hearing, at its sole discretion, during the waiting period, to determine if any structure described below should be recommended for local designation by the Common Council:

1. A "Contributing" structure located in any of multifamily or ~~mixed-use nonresidential~~ zoning district.
2. A "Contributing" structure located in ~~any single-family~~ the R1, R2, R3, or R4 zoning districts if the staff for the HPC determines that a review of the petition necessitates full HPC review.
3. A "Notable" structure located in any zoning district of the city.
4. An "Outstanding" structure located in any zoning district of the city.

ii. **Posted Notice Required**

1. **Generally**

- [a] Within three business days of receiving notice by the Planning and Transportation Director that his/her property is subject to the waiting period provisions of this section, the owner shall place upon the property where the structure is located, in plain public view, a notice to the public of the proposed demolition or partial demolition of the structure.
- [b] The notice shall be in such form as approved by the staff and shall remain in place until termination of the waiting period.
- [c] Noncompliance with this provision shall result in the delay period being extended by an amount of time equal to the amount of time, as reasonably determined or estimated by the Planning and Transportation Director, during which the notice was not properly in place.

2. **Exemption to Posted Notice**

- [a] This section shall not apply to a petition for partial demolition of a property classified as "Contributing" in any single-family district if staff for the Historic Preservation Commission reviews and releases the petition.
 - i. Staff, for purposes of this subsection, shall be those persons who have the same or equivalent technical expertise as the members of the Historic Preservation Commission as outlined in Section 2.16.010(c) of the Bloomington Municipal Code.

- ii. If within seven business days of the receipt of a petition the staff has not taken steps to forward the matter to the Historic Preservation Commission for further review, the petition shall be released automatically and the provisions of Section 20.06.050(c) shall apply.
 - iii. Staff's decision shall be based on the same criteria used by the Historic Preservation Commission when it renders a determination about whether or not a property should be recommended for local historic designation.
- [b] If staff for the Historic Preservation Commission determines that full Historic Preservation Commission review of a petition for a partial demolition of a property classified as "Contributing" in a single-family district is necessary, then the owner shall post the notice described in subsection ii.1 above on the property.

~~iii. Published Notice Required~~

~~Published notice pursuant to Section 20.06.040(e) is required except as modified to comply with Indiana State Code § 36-7-9-7. Notice must be published at least three times before demolition, with the first publication no more than 15 days after a petition to demolish the structure is filed, and the final publication at least 15 days before the issuance of a demolition permit.~~

(E) Review and Decision

- i. After expiration of the waiting period, which shall include early termination of the waiting period, a certificate of zoning compliance authorizing demolition shall be issued if the property owner has submitted a complete petition and all other requirements of the Bloomington Municipal Code and this UDO are met.
- ii. For any structure that is exempt from the waiting period of this section, a certificate of zoning compliance authorizing release of a demolition or partial demolition permit shall be issued within a reasonable time following receipt by the Planning and Transportation Department of a complete petition, provided all other requirements of the Bloomington Municipal Code and this UDO are met.
- iii. If within the 90 or 120 day waiting period the property is placed under interim protection or is locally designated as a historic or conservation district pursuant to Chapter 8.08, (Historic Districts and Standards) of the Bloomington Municipal Code, then no certificate of zoning compliance authorizing demolition or partial demolition may be issued except:
 - 1. Upon termination of interim protection without historic or conservation district designation being placed upon the property; or,
 - 2. Where historic or conservation district designation is placed upon the property, in accordance with and after all approvals required by Chapter 8.08 (Historic Districts and Standards) of the Bloomington Municipal Code.

(F) Post-Decision Actions and Limitations

Post-decision actions and limitations in Section 20.06.040(h) shall apply with the following modifications:

- i. The recipient of a permit or other approval subject to this section shall be bound to the details of the elevations, and the design, type, and location of materials depicted in the submission and may not deviate from such depiction, except as modified and approved at one or more public meetings of the Historic Preservation Commission, without applying for a new certificate of zoning compliance, petition for which shall commence a new waiting period.
- ii. No action of the Historic Preservation Commission may prevent issuance or effect revocation of such certificate of zoning compliance, or a demolition permit issued in reliance upon such certificate of zoning compliance, for a period of one year from the end of the waiting period. The demolition delay approval by the Historic Preservation Commission shall expire one year after the approval is issued.

(d) Floodplain Development Permit

(1) Purpose

The floodplain development permit procedure is intended to minimize public and private losses due to flood conditions in specific areas and to provide a mechanism to ensure compliance with this UDO by providing a thorough permitting and inspection process for all floodplain development activities.

(2) Applicability

- (A) No development shall occur in any special flood hazard area (SFHA) and known flood prone areas, unless a grading permit for such activity has been issued.
- (B) Compliance with the standards in this UDO shall not relieve any person of the independent obligation to comply with all applicable standards and practices established in federal and state law and all other applicable rules, regulations, standards and specifications of the City regarding development within a floodplain.

(3) Floodplain development permit Review Process

Figure 06.05-6 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to floodplain development permit review. Additions or modifications to the common review procedures are noted below.

(2) **Applicability**

No land-disturbing activity shall occur on platted or unplatted lands in any zoning district, unless a grading permit for such activity has been issued.

(A) **Exemptions**

- i. Land-disturbing activity covering an area less than 2,500 square feet;
- ii. Land-disturbing activity on lots containing the uses: dwelling, single-family (attached); dwelling, single-family (detached); dwelling, duplex; dwelling, triplex; or dwelling, fourplex, an individual single-family lot.
- iii. Projects with only Land-disturbing activity solely for new foundations for buildings or additions with a footprint of 5,000 square feet or less.

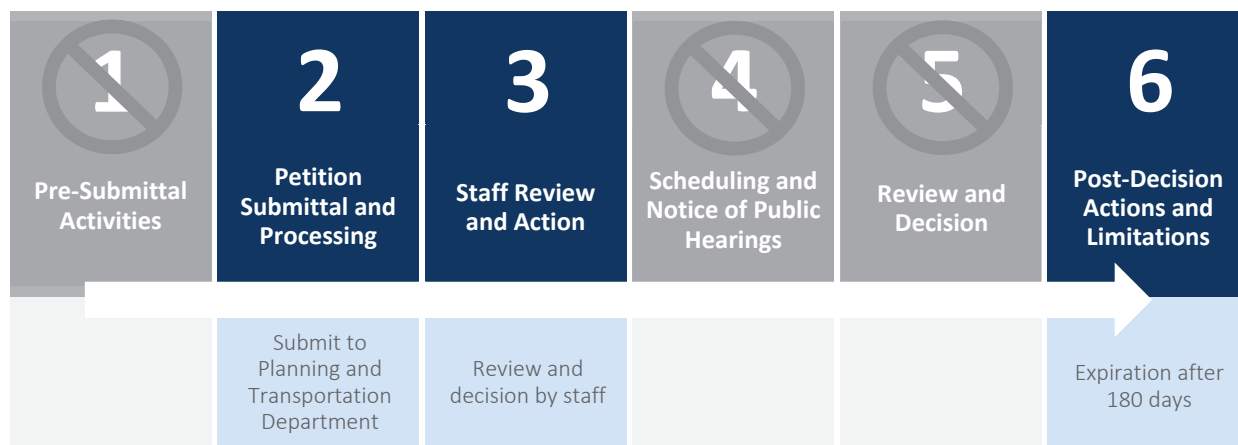
(B) **Additional Requirements**

Compliance with the standards in this UDO shall not relieve any person of the independent obligation to comply with all applicable standards and practices set out in Indiana Administrative Code, 327 IAC 15-5, and 327 IAC 15-13, regarding stormwater runoff associated with construction activity; the Indiana Stormwater Quality Manual developed by the Indiana Department of Environmental Management; all applicable provisions of Title 10 (Wastewater) of the Bloomington Municipal Code regarding stormwater runoff; and all applicable rules, regulations, standards and specifications of the City Utilities Department regarding stormwater management practices.

(3) **Grading Permit Review Process**

Figure 06.05-6 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to grading permit review. Additions or modifications to the common review procedures are noted below.

Figure 06.05-6: Summary of Grading Permit Procedure



(A) **Petition Submittal and Processing**

The grading permit petition shall be submitted, accepted, and revised, and may be withdrawn, in accordance with Section 20.06.040(c) (Petition Submittal and Processing ~~Petition Submittal and Processing~~) with the following modifications:

v. Time Limitation

If an easement modification or termination petition has been denied, the petitioner shall not file a new petition with the same or substantially similar request for a period of six months.

20.06.060 Subdivision Procedures

(a) General Standards

(1) Purpose

The purpose of these subdivision procedures, and the related standards in Chapter 20.05: (Subdivision Standards) is to guide the development of the Plan Commission's jurisdiction to provide for the improvement of the health, safety, convenience, and general welfare of its citizens and to plan for the future development of the community; to the end that streets and highways be carefully planned; that new areas grow only with adequate street/utility, health, education and recreational facilities; that the needs of public utilities and facilities be recognized in the future growth; and that residential areas provide healthy surroundings for family life and that the growth of the community is commensurate with the efficient and economical use of public funds.

(2) Applicability**(A) Generally**

This Section 20.06.060 shall apply to all subdivisions of land in any zoning district located within the jurisdiction of the Plan Commission, except as stated in subsection (B) below. No land within that jurisdiction shall be subdivided until:

- i. A plat conforming to these regulations has been approved and certified by the Plan Commission; and
- ii. The approved secondary plat has been filed with the County Recorder's office.

(B) Exemptions

The regulations of this Section 20.06.060 shall not apply to the following:

- i. An adjustment of lot lines as shown on a recorded plat which does not reduce ~~the lots the area, frontage, width, depth, or building setback lines of each building site~~ below the minimum zoning requirements of Chapter 2 and does not ~~increase change~~ the original number of lots ~~in any block of the recorded plat~~.
- ii. A division of land into two or more tracts for an agricultural use of 10 or more acres, not involving any new street or access easement.
- iii. An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property.
- iv. The unwilling sale of land as a result of legal condemnation as defined and allowed in state law.
- v. Modification of existing streets to conform to the Comprehensive Plan.

- vi. The acquisition of street rights-of-way by a public agency in conformance with the Comprehensive Plan.
- vii. The exchange of land between owners of adjacent property provided that such exchange does not ~~serve to reduce~~ the parcels below the minimum zoning requirements of Chapter 2 and does not increase the original number of parcels, lot area or other dimensions below required minimums.
- viii. The platting of condominium units regulated by Indiana Code 32-25: Condominiums.

(C) Jurisdiction

After the provisions of this Section 20.06.060 (~~Subdivision Procedures~~ Subdivision Procedures) and related provisions in Chapter 20.05: (Subdivision Standards) have been adopted, the Plan Commission shall have exclusive control over the approval of all plats and replats involving land covered by this UDO.

(D) Subdivision Type

All subdivisions shall be designed according to one of the subdivision types specified in Chapter 20.05: Subdivision Standards. A single subdivision shall not incorporate more than one of the subdivision types unless specifically authorized by the Plan Commission.

(b) Primary Plat

(1) Purpose

The primary plat procedure provides a mechanism for the city to review an overall plan for a proposed subdivision and ensures that the statutory requirements established in the Indiana Code for the subdivision of land are met.

(2) Applicability

A primary plat shall be prepared in conjunction with any proposal to subdivide or plat property within the jurisdictional area of the Plan Commission.

(3) Primary Plat Review Process

Figure 06.06-1 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to primary plat review. Additions or modifications to the common review procedures are noted below.

Figure 06.06-1: Summary of Primary Plat Procedure

- iii. Minor changes to an approved landscape plan that do not alter the general concept or screening effectiveness of the landscaping;
- iv. Minor changes to the internal street system and off-street parking areas; and
- v. Changes in the exact type of use in any particular location within the development, as long as the type of use is allowed by the PUD district ordinance and preliminary plan in that general location.
- vi. Changes of less than ten percent of the gross floor area of an approved building.

[b] **Major Changes**

The following changes shall require a new final plan, provided that this subsection [b] shall not be interpreted to allow any change that would otherwise require an amendment to the PUD district ordinance and/or the preliminary plan:

- i. Changes in lot arrangement, or addition of buildable lots which do not change approved density of the development;
- ii. Changes in site design requirements, such as location or design of required landscaping, signage, building heights or footprints, setbacks, encroachment into areas slated for preservation under any of the sections of Section 20.04.030 (Environment), or other such development or design standards in the PUD district ordinance;
- iii. Changes in access to the development site, where such change amounts to an intensification of traffic patterns on roadways; and/or
- iv. Any reduction in aesthetic treatment.

4. **Appeal to Plan Commission**

Interested parties, as defined in Section 20.06.040(e)(2)(D) (Notice to Interested Parties), affected by the decision of the Planning and Transportation Director upon review of a final plan may within ~~ten~~ five days of such decision request that the Plan Commission review the Planning and Transportation Director decision. Such request shall be in writing and shall specify the grounds of the appeal. A public hearing shall be required with notice pursuant to the Plan Commission rules of procedure. The Plan Commission may affirm, reverse, or modify the Planning and Transportation Director decision.

5. **Revisions**

Following final approval, the petitioner shall submit revised copies of the final plan that address the comments and concerns of the staff. The petitioner shall refer to the final plan petition form to determine the format and number of copies of the revised plans to deliver to the Planning and Transportation Department.

(2) **Applicability**

- (A) An administrative appeal may be made by any person aggrieved by an order, requirement, decision, or determination made by an administrative official, Hearing Officer, staff member, administrative board or other body, except the Plan Commission, charged with the administration or enforcement of any part of this UDO.
- (B) This administrative appeals section shall not apply to fines levied under the authority of Section 20.06.100 (Enforcement and Penalties). Such fines may be appealed under the procedures specified in Section 20.06.100 (Enforcement and Penalties).

(3) **Administrative Appeal Review Process**

Figure 06.08-3 identifies the applicable steps from 20.06.040 (Common Review Procedures) that apply to administrative appeal review. Additions or modifications to the common review procedures are noted below.

Figure 06.08-3: Summary of Administrative Appeal Procedure



(A) **Petition**

An appeal petition shall be submitted and accepted, and may be revised or withdrawn, in accordance with Section 20.06.040(c) (Petition Submittal and Processing ~~Petition Submittal and Processing~~), with the following modifications:

i. **Burden of Proof on Petitioner**

The petitioner has the burden of proving the necessary facts to warrant approval of an appeal by the appropriate decision-making body. Such proof shall be provided at time of petition.

ii. **Time Limit**

An administrative appeal shall be filed with the Planning and Transportation Department within ~~ten five~~ days of the order, requirement, decision, or determination that is being appealed.

iii. **Stay of Proceedings**

An appeal stays all proceedings from further action unless the Planning and Transportation Director determines that a stay would create adverse impacts to the health, safety, or welfare of the city or neighborhood.

- (D) No additional structure not conforming to the requirements of this UDO shall be erected in connection with the nonconforming use of land or structure.
- (E) Whenever a nonconforming use of land or a building has been discontinued for a period of one-year, future use of land or building shall comply with this UDO.

(2) Change in Use

- (A) A nonconforming use that has been changed to a less nonconforming use pursuant to this subsection may not subsequently be changed back to a more nonconforming use.
- (B) A nonconforming use, if changed to a conforming use, may not subsequently be changed back to any nonconforming use unless otherwise permitted by this UDO.
- (C) A lawful nonconforming use which has been abandoned, including a use involving occupancy by four or five adults which has been voluntarily waived and relinquished pursuant to Section 20.06.090(c)(4) (~~Residential Occupancy Residential Occupancy~~), shall not be resumed or replaced by another nonconforming use.

(3) Abandonment of a Nonconforming Use

A lawful nonconforming use shall be deemed abandoned when the nonconforming use has been replaced by a conforming use or when the nonconforming use has ceased and has not been resumed for a continuous period of ~~twelvesix~~ months, or when the furnishings have been removed and not replaced for a continuous period of ~~twelvesix~~ months.

(4) Residential Occupancy

(A) Authority to Continue

In the R1, R2, R3, and R4 zoning districts, a nonconforming use involving occupancy of a dwelling unit by four or five adults who are not all related to each other, which was duly registered on or before October 1, 1985, in accordance with Ordinance 85-15; or was duly registered on or before November 1, 1995, in accordance with Ordinance No. 95-21, shall be deemed a lawful nonconforming use which may be continued under this UDO, without further registration, and shall be considered a lawful nonconforming use that may continue only as provided in this section.

(B) Transition from Prior Regulations

- i. Where a lawfully existing dwelling unit was lawfully occupied by four or five adults who were not all related to each other on the effective date of this UDO, but becomes nonconforming under this UDO because of being so occupied, the property owner may register such property as a lawful nonconforming use, and if properly and timely registered, such use will be a lawful nonconforming use which may be continued under this UDO without further registration.
- ii. Forms for such registration shall be available in the Planning and Transportation Department and shall be completed by the property owner or agent and filed in the Planning and Transportation Department within 180 days of the effective date of this UDO.

(e) Nonconforming Lots

A lawfully nonconforming lot may continue in its existing condition unless and until full or limited compliance with the development standards of this UDO is required as established in Section 20.06.090 (~~Nonconformities~~ ~~Nonconformities~~).

- (1) All lots legally established and recorded prior to the effective date of this UDO or its subsequent amendments that do not meet the lot area and lot width standards of this UDO shall be deemed a substandard lot, otherwise known as a lawful nonconforming lot of record.
- (2) A lawful nonconforming lot of record may be used and developed or redeveloped without compliance with the lot area and lot width standards of this UDO as long as all use restrictions and other development standards of this UDO are met.

(f) Nonconforming Site Features

A lawfully nonconforming site feature may continue in its existing condition unless and until full or limited compliance with the development standards of this UDO is required. No increase in the degree of nonconformity with any site feature is permitted except as expressly provided in this section.

(1) Full Compliance

A lawful nonconforming site shall be brought into compliance with this UDO with any petition for new building construction or in connection with demolition of existing and construction of new buildings.

(2) Limited Compliance

(A) Applicability

A lawful nonconforming site or structure shall be brought into compliance with the standards in paragraph (B) below when any of the following occur on the site:

i. Nonresidential and Mixed-Use

1. Any change in use, expansion, enlargement, or relocation of any use;
2. Reestablishment of a prior conforming use that has been discontinued for a period of 12 months or longer; or
3. Expansions, alterations, or modifications that increase the gross floor area of the building by more than 10 cumulative percent, including previous additions approved under any UDO effective since February 12, 2007.

ii. Multifamily

1. Any expansions, alterations, or modifications to an existing building, with the exception of accessory structures less than 580 square feet, provided that the accessory structure does not increase the degree of nonconformity regarding required maximum impervious surface coverage or required number of parking spaces;
2. Any change in use, or any expansion, enlargement, or relocation of any use; or
3. Any addition of bedrooms or dwelling units.

vi. Bicycle Parking

All required bicycle parking must be installed per Section 20.04.060(l) (~~Minimum Bicycle Parking Required~~ ~~Minimum Bicycle Parking Required~~) and Section 20.04.060(m) (~~Bicycle Parking Location and Design~~ ~~Bicycle Parking Location and Design~~).

vii. Landscaping

If full compliance with Section 20.04.080 (~~General Landscaping~~ ~~General Landscaping~~) cannot be achieved due to lack of adequate planting area, all yard areas must be landscaped to the maximum practicable density with a priority given to shade tree installation.

viii. Pedestrian Facilities

Any street frontage without existing pedestrian facilities shall be required to install pedestrian facilities per Section 20.04.050(d) (~~Pedestrian and Bicycle Circulation~~ ~~Pedestrian and Bicycle Circulation~~). If substandard pedestrian facilities exist, new facilities shall not be required if existing facilities are in functional condition, except that ~~curb ramps pedestrian facilities~~ shall comply with the Americans with Disabilities Act.

ix. Signage

All signage must be brought into compliance with Section 20.04.100 (Signs) to the extent practicable, although freestanding signs may use existing setbacks where the sign is not located within a restricted vision clearance area.

x. Dumpster Enclosures

All outdoor waste collection facilities must be brought into compliance with Section 20.04.080(m) (~~Screening~~ ~~Screening~~).

xi. Lighting

All lighting shall be brought into compliance with Section 20.04.090 (Outdoor Lighting).

xii. Entrances and Drives

All entrances and drives shall be brought into compliance with Section 20.04.050(c) (~~Driveways and Access~~ ~~Driveways and Access~~), with the exception of driveway location requirements.

(g) Nonconforming Signs

(1) Generally

- (A) Notwithstanding any other provision of this chapter or this UDO, a lawful nonconforming sign may not be altered, relocated or expanded, which includes any increase in height or area, except as expressly provided in this Section 20.06.090(g).
- (B) Ordinary maintenance is permitted and shall include replacement of supports with different materials or design from the previous supports but shall not include any increase in the dimensions or numbers of supports.

Chapter	Citation	Current Language	Proposed Language	Synopsis	Difficulty	Type of Change
6	20.06.020(g)(3)	Any interested person may appeal a decision by the Hearing Officer to the Board of Zoning Appeals within five days after the decision is made.	Any interested person may appeal a decision by the Hearing Officer to the Board of Zoning Appeals within five ten days after the decision is made.	Extends time period allowed for appeals	easy	revision
6	20.06.040(h)(3)(A)(ii)	ii. Are necessary to meet conditions of approval or commitments; and	ii. Are necessary to meet conditions of approval or commitments; and	Removing this requirement because the others cover what is necessary.	medium	revision
6	20.06.040(h)(5)(A)	A staff decision may be appealed to the Board of Zoning Appeals pursuant to the procedure set forth in Section 20.06.080(d) (Administrative Appeal). Any appeal shall be filed with the Planning and Transportation Department within five days of staff's or the Hearing Officer's decision.	A staff decision may be appealed to the Board of Zoning Appeals pursuant to the procedure set forth in Section 20.06.080(d) (Administrative Appeal). Any appeal shall be filed with the Planning and Transportation Department within five ten days of staff's or the Hearing Officer's decision.	Extends time period allowed for appeals	easy	revision
6	20.06.050(a)(2)(C)(i)(5)	5. Expansions, alterations, or modifications that increase the gross floor area of an existing structure by 10 to 25 percent;	5. Expansions, alterations, or modifications that increase the gross floor area of an existing structure by 10 to 25 percent;	Removes this standard since there are two previous sections that address triggers for residential and non-residential development.	Medium	Revision
6	20.06.050(a)(2)(C)(i)(7)	7. Petitions for a permit and/or certificate of zoning compliance for grading; or	1. Petitions for a permit and/or certificate of zoning compliance fer grading permit where site improvements are required ; or	Adds language not requiring staff level minor site plan approval for grading permit where no improvements are required.	easy	revision
6	20.06.050(a)(3)(D)(ii)	(ii) Expiration of Approval Approval of a minor site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner, the Planning and Transportation Director grants an extension pursuant to Section 20.06.040(h)(1) (Expiration of Approval).	(ii) Expiration of Approval Approval of a minor site plan shall be effective for a maximum period of one year unless, upon petition by the petitioner, the Planning and Transportation Director grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval).	Codifies what has been common practice within the Department.	easy	Clarification
6	20.06.050(a)(3)(D)(iv)	Any person, other than the petitioner, aggrieved by a minor site plan decision by the Planning and Transportation Director may appeal the decision to the Plan Commission. Such appeal shall be filed in the Planning and Transportation Department within five days of the staff's decision. The appeal shall specify the grounds for the appeal and shall be filed in the form established by the Plan Commission rules of procedure. All appeals shall be accompanied by fees required by the Plan Commission rules of procedure.	Any person, other than the petitioner, aggrieved by a minor site plan decision by the Planning and Transportation Director may appeal the decision to the Plan Commission. Such appeal shall be filed in the Planning and Transportation Department within five ten days of the staff's decision. The appeal shall specify the grounds for the appeal and shall be filed in the form established by the Plan Commission rules of procedure. All appeals shall be accompanied by fees required by the Plan Commission rules of procedure.	Extends time period allowed for appeals	easy	revision
6	20.06.050(a)(4)(F)(ii)	(ii) Expiration of Approval Approval of a major site plan shall be effective for a maximum period of one year, unless, upon petition by the developer, the Plan Commission grants an extension pursuant to Section 20.06.040(h)(1) (Expiration of Approval).	(ii) Expiration of Approval Approval of a major site plan shall be effective for a maximum period of one year, unless, upon petition by the developer petitioner , the Plan Commission grants an extension during that one year period and pursuant to Section 20.06.040(h)(1) (Expiration of Approval).	Codifies what has been common practice within the Department.	easy	Clarification
6	20.06.050(c)(3)(D)(i)(1)	1. A "Contributing" structure located in any of multifamily or nonresidential zoning district.	1. A "Contributing" structure located in any of multifamily or nonresidential nonresidential zoning district.	Revises language referencing districts	easy	Clarification
6	20.06.050(c)(3)(D)(i)(2)	2. A "Contributing" structure located in any single-family district if the staff for the HPC determines that a review of the petition necessitates full HPC review.	2. A "Contributing" structure located in any single-family district the R1, R2, R3, or R4 districts if the staff for the HPC determines that a review of the petition necessitates full HPC review.	Revises language referencing districts	easy	clarification

6	20.06.050(c)(3)(D)(iii)	Published notice pursuant to Section 20.06.040(e) is required except as modified to comply with Indiana State Code § 36-7-9-7. Notice must be published at least three times before demolition, with the first publication no more than 15 days after a petition to demolish the structure is filed, and the final publication at least 15 days before the issuance of a demolition permit.	Published notice pursuant to Section 20.06.040(e) is required except as modified to comply with Indiana State Code § 36-7-9-7. Notice must be published at least three times before demolition, with the first publication no more than 15 days after a petition to demolish the structure is filed, and the final publication at least 15 days before the issuance of a demolition permit.	This section is not needed.		easy	revision
6	20.06.050(c)(3)(F)(ii)	i. No action of the Historic Preservation Commission may prevent issuance or effect revocation of such certificate of zoning compliance, or a demolition permit issued in reliance upon such certificate of zoning compliance, for a period of one year from the end of the waiting period.	i. No action of the Historic Preservation Commission may prevent issuance or effect revocation of such certificate of zoning compliance, or a demolition permit issued in reliance upon such certificate of zoning compliance, for a period of one year from the end of the waiting period. The demolition delay approval by the HPC shall expire one year after the approval is issued.	Clarifies expiration time limit for a decision from the HPC.		easy	revision
6	20.06.050(e)(2)(A)(ii)	Land-disturbing activity on an individual single-family lot.	i. Land-disturbing activity on an individual single-family lot on lots containing the uses: dwelling, single-family (attached); dwelling, single-family (detached); dwelling, duplex; dwelling, triplex, or dwelling, fourplex.	Provides specific language for when a grading permit is not required		easy	clarification
6	20.06.050(e)(2)(A)(iii)	Projects with only new foundations for buildings or additions with a footprint of 5,000 square feet or less.	Projects with only new foundations new Land-disturbing activity solely for new foundations for buildings or additions with a footprint of 5,000 square feet or less.	Revises wording of section.		easy	clarification
6	20.06.060(a)(2)(B)(i)	i. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth, or building setback lines of each building site below the minimum zoning requirements and does not change the original number of lots in any block of the recorded plat.	i. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth, or building setback lines of each building site the lots below the minimum zoning requirements of Chapter 2 and does not increase change the original number of lots. lots in any block of the recorded plat.	Adds new language to reflect previous interpretations for what standards lot line adjustments are reviewed by.		easy	clarification
6	20.06.060(a)(2)(B)(vii)	The exchange of land between owners of adjacent property provided that such exchange does not serve to reduce lot area or other dimensions below required minimums.	The exchange of land between owners of adjacent property provided that such exchange does not serve to reduce the parcels below the minimum zoning requirements of Chapter 2 and does not increase the original number of parcels. lot area or other dimensions below required minimums.	Deletes unnecessary section		easy	clarification
6	20.06.070(c)(3)(E)(ii)(4)	Interested parties, as defined in Section 20.06.040(e)(2)(D) (Notice to Interested Parties), affected by the decision of the Planning and Transportation Director upon review of a final plan may within five days of such decision request that the Plan Commission review the Planning and Transportation Director decision. Such request shall be in writing and shall specify the grounds of the appeal. A public hearing shall be required with notice pursuant to the Plan Commission rules of procedure. The Plan Commission may affirm, reverse, or modify the Planning and Transportation Director decision.	Interested parties, as defined in Section 20.06.040(e)(2)(D) (Notice to Interested Parties), affected by the decision of the Planning and Transportation Director upon review of a final plan may within five ten days of such decision request that the Plan Commission review the Planning and Transportation Director decision. Such request shall be in writing and shall specify the grounds of the appeal. A public hearing shall be required with notice pursuant to the Plan Commission rules of procedure. The Plan Commission may affirm, reverse, or modify the Planning and Transportation Director decision.	Extends time period allowed for appeals		easy	revision
6	20.06.080(d)(3)(A)(ii)	An administrative appeal shall be filed with the Planning and Transportation Department within five days of the order, requirement, decision, or determination that is being appealed.	An administrative appeal shall be filed with the Planning and Transportation Department within five ten days of the order, requirement, decision, or determination that is being appealed.	Extends time period allowed for appeals		easy	revision

6 20.06.090(c)(3)		A lawful nonconforming use shall be deemed abandoned when the nonconforming use has been replaced by a conforming use or when the nonconforming use has ceased and has not been resumed for a continuous period of six months, or when the furnishings have been removed and not replaced for a continuous period of six months.	A lawful nonconforming use shall be deemed abandoned when the nonconforming use has been replaced by a conforming use or when the nonconforming use has ceased and has not been resumed for a continuous period of six twelve months, or when the furnishings have been removed and not replaced for a continuous period of six-twelve months.	Syncs language with definition of "use, abandonment of" that lists twelve months as the time period.	easy	revision
6 20.06.090(f)(2)(A)(i)(3)		Expansions, alterations, or modifications that increase the gross floor area of the building by more than 10 percent.	Cumulative expansions, alterations, or modifications that increase the gross floor area of the building by more than 10 cumulative percent, including previous additions approved under any UDO effective since February 12, 2007.	Clarifies that all previous additions approved since the 2007 UDO are included.	easy	Clarification
6 20.06.090(f)(2)(B)(viii)		i. Pedestrian Facilities: Any street frontage without existing pedestrian facilities shall be required to install pedestrian facilities per Section 20.04.050(d) (Pedestrian And Bicycle Circulation). If substandard pedestrian facilities exist, new facilities shall not be required if existing facilities are in functional condition, except that pedestrian facilities shall comply with the Americans with Disabilities Act.	i. Pedestrian Facilities: Any street frontage without existing pedestrian facilities shall be required to install pedestrian facilities per Section 20.04.050(d) (Pedestrian and Bicycle Circulation). If substandard pedestrian facilities exist, new facilities shall not be required if existing facilities are in functional condition, except that curb ramps pedestrian facilities shall comply with the Americans with Disabilities Act.	Clarifies that ramps on existing sidewalks are evaluated for compliance standards.	easy	revision