

TOWN OF THORNTOWN

ORDINANCE NO.

2023- 05

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF THORNTOWN, BOONE COUNTY, INDIANA AMENDING THE TEXT OF THE TOWN OF THORNTOWN, INDIANA LAND USAGE ORDINANCE

WHEREAS, the Town Council of the Town of Thorntown, Indian, recognizes the need for orderly growth and development within the Town of Thorntown and the area within its planning jurisdiction; and

WHEREAS, the Town of Thorntown has an existing Land Usage Ordinance (hereinafter “Zoning Ordinance” or “Land Usage Ordinance”) contained in Title XV of the Town of Thorntown Code of Ordinances, which regulates development within its jurisdictional areas; and

WHEREAS, the Town Council adopted Ordinance **2023-01** Annexing Territory to the Town of Thorntown, Indiana; and

WHEREAS, Indiana Code 36-7-4-602(b) outlines the procedures and requirements for the Town of Thorntown to amend the text of its Land Usage Ordinance; and

WHEREAS, the Town Plan Commission (the “Commission”) considered a petition (“Westfall Place PUD”), filed with the Commission requesting an amendment to the Land Usage Ordinance and with regard to the subject real estate more particularly described in **Exhibit A** attached hereto (the “Real Estate”);

WHEREAS, the Commission forwarded Docket PUD-01-2022, after a public hearing held on the 9th day of January, 2023 and on the 13th day of February, 2023, to the Town Council with a favorable recommendation by a vote of 4 ayes, 0 nays, and 0 abstains, in accordance with Indiana Code § 36-7-4-608, as required by Indiana Code § 36-7-4-1505;

WHEREAS, the Secretary of the Commission certified the action of the Commission to the Common Council on the 15th day of February, 2023; and

WHEREAS, the Town Council is subject to the provisions of Indiana Code § 36-7-4-1507 and Indiana Code § 36-7-4-1512 concerning any action of this request;

WHEREAS, in considering this amendment to the Town of Thorntown Land Usage Ordinance, the Town Council for the Town of Thorntown has, pursuant to IC 36-7-4-603, paid reasonable regard to the comprehensive plan, current conditions and character of current structures and usage in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout the jurisdiction and responsible development and growth.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Thorntown, Boone County, Indiana, meeting in regular session, that the Zoning Ordinance and Zoning Map are hereby amended as follows:

Section 1. Applicability of Ordinance.

1. The Zoning Ordinance and Zoning Map are hereby changed to designate the Real Estate as a WESTFALL PLACE PUD

Residential/Planned Unit Development District to be known as the “Westfall Place PUD District” (the “District”). The District’s Base Zoning District shall be Residential and Overlay District shall be Planned Unit Development.

2. Development of the Real Estate shall be governed by (i) the provisions of this Ordinance and its exhibits, and (ii) the provisions of the Zoning Ordinance, as amended and applicable to the Base Zoning District (as defined herein) or Planned Development District, except as modified, revised, supplemented, or expressly made inapplicable by this Ordinance.
3. Except as modified, revised, supplemented, or expressly made inapplicable by this Ordinance, the standards of the Zoning Ordinance applicable to new single-family residential units shall apply.
4. Chapter (“Chapter”) cross-references of this Ordinance shall hereafter refer to the chapter as specified and referenced in the Zoning Ordinance.
5. All provisions and representations of the Zoning Ordinance that conflict with the provisions of this Ordinance are hereby made inapplicable to the Real Estate and shall be superseded by the terms of this Ordinance.

Section 2. Definitions. Capitalized terms not otherwise defined in this Ordinance shall have the meanings ascribed to them in the Town of Thorntown Zoning Ordinance.

Section 3. Concept Development Plan. The Real Estate shall be developed in substantial compliance with the Concept Plan, attached hereto as **Exhibit B.**

Section 4. Permitted Uses. The permitted uses, as defined by the Town of Thorntown Zoning Ordinance, for the Real Estate are described below.

1. Single-Family Dwellings
2. Residential Accessory Uses and Structures

Section 5. Development Standards. The standards of the Zoning Ordinance shall apply to the development of the Real Estate, except as otherwise modified or enhanced by this Ordinance.

Section 5.1 Lot Development Standards.

1. **Maximum Lot number:** The maximum Lot number shall be 167 lots.
2. **Minimum Lot size:** The minimum Lot size shall be 7,150 square feet.
3. **Lot Widths:** All Lots in the District shall have a minimum width of fifty-five (55’) feet measured at a point twenty-five (25’) feet from the Right-Of-Way.
4. **Front Yard Setback:** The minimum front yard setbacks shall be twenty-five (25’) feet from the Right-Of-Way. However, a varying front setback of 23’, 25’, and 27’ across multiple lots may be permitted when fulfilling Section 5.4 2 Monotonous Block Anti-Monotony.
5. **Side Yard Setback:** The minimum side yard setbacks for all Lots will be seven (7’)

feet. Homes with a third-car garage or other garage extension may have the side setbacks reduced to five (5') feet.

6. **Rear Yard Setback:** The minimum rear yard setbacks shall be fifteen (15') feet from the Rear Lot Line.
7. **Maximum Lot Coverage:** The maximum lot coverage including impervious surface shall be 50% of the total lot.
8. **Minimum Finished Floor Area:** All dwellings shall have a minimum finished floor area of 1,200 square feet.
9. **Minimum Ground Floor Finish Floor Area:** The ground floor finished floor area shall be a minimum of 1,200 square feet for a one-story dwelling and 800 square feet for a two-story dwelling.
10. **Street Width:** All Streets shall be designed with a Right-Of-Way of fifty (50') feet.

Section 5.2 General Development Standards

1. **Minimum Open Space:** The minimum open space shall be 20% of gross acreage.
2. **Sidewalks:** All sidewalks shall be a minimum of five feet (5') width.
3. **Street Trees:** Developer shall provide 1 canopy tree for every 50 linear feet of Right-Of-Way.
4. **Amenities:** A community park with parking, playground, and seating area, an eight (8') wide asphalt trail, and a central site amenity shall be installed as generally depicted in **Exhibit B.**
5. **Homeowners Association (HOA):** The Developer shall be responsible for establishing a Homeowners Association (HOA) for the PUD. This HOA shall be responsible for the maintenance of the common areas including detention ponds, open space, and private amenities.
6. **Prohibited Plant Species:** The plant species listed on Tables 1 and 2 shall be prohibited within the PUD.

Table 1: Prohibited Trees		
Common Name	Scientific Name	Negative Feature (s)
American Elm (Disease resistant varieties of American Elm are acceptable.)	Ulmus americana	Insects, disease
Ash	Fraxinus	Insects
Austrian (Black) Pine	Pinus nigra	Disease prone
Autumn Olive	Elaeagnus umbellata	Poor form, disease prone, invasive
Black Locust	Robinia pseudocacia	Invasive
Boxelder	Acer negundo	Aggressive shallow roots, weak wood
Bradford Pear	Pyrus calleryana 'Bradford'	Weak branching, low branches

Cottonwood	Populus deltoides	Weak wood, shallow roots, seeds
European White Birch	Betula pendula	Insect prone
Ginko (female)	Ginko biloba – Female	Fruits, odors
Lombardy Poplar	Populus nigra ‘Italica’	Insects, disease, short-lived
Mimosa	Albizia julibrissin	Invasive
Mulberry	Morus species	Fruits, shallow roots, invasive
Norway Maple	Acer platanoides	Invasive
Princess Tree	Paulownia tomentosa	Invasive
Russian Olive	Elaeagnus angustifolia	Poor form, disease prone, invasive
Siberian Elm	Ulmus pumila	Weak wood, seeds, shallow roots
Silver Maple	Acer saccharinum	Aggressive shallow roots, weak wood
Tree of Heaven	Ailanthus altissima	Seeds, suckers, weak wood, invasive
White Poplar	Populus alba	Suckers, shallow roots, weak wood, invasive
Willow	Salix species	Weak wood, shallow roots

Table 2: Prohibited Shrubs

Common Name	Scientific Name	Negative Feature (s)
Bicolor Lespedeza	Lespedeza bicolor	Invasive
Black Alder	Alnus glutinosa	Invasive
Buckthorn	Rhamnus cathartica, R. frangula	Invasive
Bush Honeysuckles (Amur, Morrow, Tartarian)	Lonicera maackii, L. morrowii, L. tatarica	Invasive
Privet	Ligustrum	Invasive
Multiflora Rose	Rosa multiflora	Invasive
Winged Burning Bush	Euonymus alatus	Invasive

Section 5.4 Development Standards

1. Architectural Anti-Monotony: No two dwellings with the same elevation and exterior color package shall be permitted adjacent to, diagonally, or across from each other
2. Monotonous Block Anti-Monotony: A common area or easement a minimum of thirty (30’) feet wide with two (2) deciduous trees shall constitute a break for contiguous lots on the same side of the street within the same block. A varying Minimum Front Yard Setback for contiguous lots may be used in lieu of a thirty (30’) foot common area or easement, and shall be randomly set and vary by four (4’) feet in two (2’) foot increments (23’, 25’, and 27’ setbacks) along the street segment.
3. Building Massing Anti-Monotony: Chapter 152.70-89, Section 152.72.C.2.C This section shall not apply to this PUD.
4. Maximum Building Height: The maximum building height shall be thirty-five (35’) feet.
5. Architectural Character: **EXHIBIT C** is incorporated as a compilation of images designed to capture the intended quality and character of structures to be constructed. These images do not represent final design or style of all proposed homes, but instead serve as a sample of homes intended to be constructed with the intent of promoting architectural diversity.
6. Roof Pitch: All Dwellings shall have a minimum pitch of 6:12 on the primary roof

structure. Ancillary roofs (including but not limited to porches, garage extensions, overhangs, sunrooms, and third-car garages with separate roof structures) shall be exempt from this provision.

7. Overhangs: All Dwellings shall have a minimum roof overhang of eight (8") inches on all sides.
8. Shingles: All Dwellings shall have dimensional or architectural grade shingles.
9. Siding: Siding materials may include but are not limited to masonry, wood, fiber cement board, stucco, shakes, board and batten, E.I.F.S, and vinyl (minimum thickness of 0.044 inches).
10. Lighting: All Dwellings shall have at least one (1) dawn to dusk coach light.
11. Windows: All Dwellings within shall have a minimum of two (2) windows on the front and rear facades, with all elevations having eight (8) windows cumulatively. Double windows shall count as two (2) windows.
12. Garages: All dwellings shall have an attached two-car garage.
13. Driveways: All dwellings shall have concrete driveways.
14. Landscaping. All dwellings shall be landscaped with a minimum of one (1) deciduous tree, and four (4) shrubs planted in the front yard of the primary structure. All homes on corner lots shall also include a minimum of one (1) deciduous tree in the side yard facing the side street.
15. Sod and Seedings: All dwellings shall have sod installed for the primary front yard. Dwellings built on Corner Lots shall have sod installed on all sides having Street frontage.

Section 6. Subdivision of Land. The standards of the Town of Thorntown's Zoning Ordinance shall apply to the development of the Real Estate, except as otherwise modified or enhanced by this Ordinance.

Section 7. Effective Date. This Ordinance shall be in full force and effect on the effective date of Ordinance 2023-01 Annexing Territory to the Town of Thorntown, Indiana.

PASSED AND ADOPTED THIS _____ day of _____, 20__.

THORNTOWN TOWN COUNCIL

Voting For

Voting Against

Abstain

Sara Fairfield

Sara Fairfield

Sara Fairfield

Bruce Burtner

Bruce Burtner

Bruce Burtner

Shawn McClintock

Shawn McClintock

Shawn McClintock

Larry Truitt

Larry Truitt

Larry Truitt

David Williams

David Williams

David Williams

ATTEST:

Koren Gray, Clerk-Treasurer

EXHIBIT A
LEGAL DESCRIPTION

8201 W SR 47, 8205 W SR 47

06-13-34-000-001.001-014, 06-09-03-000-012.000-014

The following described real estate situated in Boone County, State of Indiana:

A part of the Southeast Quarter of the Southeast Quarter of Section 3, Township 19

TRACTS II & III: A part of the Southeast Quarter of Section 34, Township 20 North and a part of the Northeast Quarter of Section 3, Township 19 North, all in Range 2 West, Sugar Creek Township, Boone County, Indiana, described as follows:

Commencing at a capped rebar marking the northeast corner of said Section 3; thence North 89 degrees 16 minutes 58 seconds West 1040.09 feet along the north line of said Section 3 to a 5/8 inch diameter reinforcing steel bar with a yellow plastic cap marked "C.N. Starr/RLS#0159" (hereinafter called a capped rebar set) marking the point of beginning of this description, said point being located at the base of a power pole (west side); thence South 0 degrees 29 minutes 52 seconds West 977.71 feet along the west boundaries of Royal Crossing Subdivision, Westwood Addition Section 2 and Westwood Addition-Part One to a capped rebar set; thence South 89 degrees 47 minutes 35 seconds West 1008.47 feet to a capped rebar set; thence North 0 degrees 29 minutes 52 seconds East 1522.16 feet crossing into said Section 34 to a capped rebar set; thence south 89 degrees 13 minutes 56 seconds East 901.87 feet to a capped rebar set; thence North 0 degrees 34 minutes 42 seconds East 330.00 feet to a cotton gin spike set on the approximate centerline and in the asphalt surface of State Road No. 47; thence South 89 degrees 13 minutes 56 seconds East 100.00 feet along said center line to a cotton gin spike; thence South 0 degrees 34 minutes 42 seconds West 330.00 feet to a capped rebar set; thence South 89 degrees 13 minutes 56 seconds East 6.59 feet to a capped rebar set on the west line of said Royal Crossing Subdivision; thence South 0 degrees 29 minutes 52 seconds West 534.58 feet along said west line to the point of beginning.

Containing 35.883 acres, of which 22.739 acres are in said Section 3 and 13.144 acres are in said Section 34.

8401 W SR 47

06-13-34-000-033.000-014

The following described real estate situated in Boone County, State of Indiana:

Part of the Southwest Quarter of the Southeast Quarter of Section 34, Township 20 North, Range 2 West, of the second Principal Meridian, more particularly described as follows:

Commencing at a point 13 chains, more or less, north of the southwest corner of the Southwest quarter of the Southeast quarter of said Section 34, said point being in the center line of State Road Number 47 (formerly the Thorntown and Darlington Turnpike or Gravel Road); thence east along said center line Six Hundred Eleven and sixteen hundredths (611.16) feet; thence South Eight hundred seventy-nine (879.00) feet; thence West Six Hundred Eleven and sixteen hundredths (611.16) feet; thence North Eight hundred seventy-nine (879.00) feet to the place of beginning.

Containing 12.33 acres, more or less.

200 Oak Street, 201 Oak Street, 203 Oak Street, 204 Oak Street

06-13-34-000-002.006-015, 06-13-34-000-002.005-015, 06-13-34-000-002.004-015,

06-13-34-000-002.003-015

Lots 1, 2, 3 & 4 in Royal Crossing, a subdivision in Boone County, Indiana, as per plat thereof recorded March 29, 1996 in Plat Book 9, pages 22-23, as Instrument No. 9602673, in the Office of the Recorder of Boone County, Indiana

8405 W SR 47

06-09-03-000-013.000-014

The following described real estate situated in Boone County Indiana:

A part of the Northwest Quarter of the Northeast Quarter of Section 3, Township 19 North, Range 2 West of the Second Principal Meridian, more particularly described as follows:

WESTFALL PLACE PUD

Commencing at a point 858 feet, more or less, north of the southwest corner of the southwest quarter of the southeast quarter of said Section 34, said point being in the center line of State Road Number 47 (formerly the Thorntown and Darlington Turnpike or Gravel Road); thence East along said center line 611.16 feet; thence south 1,844.04 feet; thence West 612.48 chains to a point in the west line of the Northwest Quarter of the Northeast Quarter of said Section 3; thence north along said west line and the west line of the Southwest Quarter of the Southeast Quarter of said Section 34, 1853.28 feet chains to the place of beginning.

Containing 26 acres, more or less.

EXCEPT THEREFROM: Part of the Southwest Quarter of the Southeast Quarter of Section 34, Township 20 North, Range 2 West, of the second Principal Meridian, more particularly described as follows:

Commencing at a point 13 chains, more or less, north of the southwest corner of the Southwest quarter of the Southeast quarter of said Section 34, said point being in the center line of State Road Number 47 (formerly the Thorntown and Darlington Turnpike or Gravel Road); thence east along said center line Six Hundred Eleven and sixteen hundredths (611.16) feet; thence South Eight hundred seventy-nine (879.00) feet; thence West Six hundred Eleven and sixteen hundredths (611.16) feet; thence North Eight hundred seventy-nine (879.00) feet to the place of beginning.

Containing 12.33 acres, more or less.

Containing after said exception 13.67 acres, more or less.

EXHIBIT B CONCEPT PLAN



EXHIBIT C
ARCHITECTURAL CHARACTER

