

Development Plan Review

8.9 Development Plan Review

- A. Authority and Purpose: The purpose of the Development Plan Review process is to assure compatibility of new development with the surrounding community and to promote innovation and creativity in the design of the environment. A Development Plan is intended to provide information about a proposed development so the Plan Commission may make a knowledgeable decision whether or not the development meets all the requirements of this ordinance and the goals and objectives set forth in the City of Butler Comprehensive Plan.
- B. Districts and Projects Designated for Development Plan Review:
1. The approval of a Development Plan shall be required before an Improvement Location Permit is issued for developments one acre in size or larger that do not involve the subdivision of land in all zoning districts in the Butler zoning jurisdiction. This includes, but is not limited to:
 - a. Any new construction or principal use additions
 - b. New or expanded surface loading areas
 - c. New or expanded parking lots
 - d. Exterior building renovations that require a building permit
 - e. Any development within a MHC district
 2. Single-family residences, residential accessory structures, and two-family residential dwelling-units are exempt from the Development Plan requirement.
 3. Manufactured homes, when located as scattered-site residences in SFR or MFR districts are exempt from the Development Plan requirement.
 4. Buildings used exclusively for agricultural purposes are exempt from the Development Plan requirement.
 5. For residential subdivisions, a Development Plan shall be approved concurrently with the secondary (final) subdivision plat.
- C. Development Requirements: Development Plans shall demonstrate compliance with the following requirements.
1. *General Development Requirements.*
 - a. Compliance with all applicable development standards of the zoning district in which the real estate is located.
 - b. Compliance with all applicable provisions of any Overlay District in which the real estate is located.
 - c. Compliance with all applicable provisions of the Subdivision Ordinance (unless a waiver has been granted, in which case compliance with the terms and conditions of the waiver shall be required).
 - d. The proposed development shall be appropriate to the site and its surroundings.
 - e. The design and location of proposed street and highway access points shall minimize safety hazards and congestion.
 - f. The capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development.
 - g. The applicable utilities have sufficient capacity and access to provide potable water, sanitary sewer facilities, electricity, telephone, natural gas, and cable service at a satisfactory level of service to meet the needs of the proposed development.
 - h. The entrances, streets, and internal traffic circulation facilities in the proposed development are compatible with existing and planned streets and adjacent development.
 2. *Site Access and Site Circulation Development Requirements.*
 - a. All proposed site access locations shall provide for the safe and efficient movement of vehicular and pedestrian movement to and from the proposed development.
 - b. Site circulation patterns shall be designed to minimize conflicts between vehicular and pedestrian traffic, and create a safe and efficient movement of both vehicular and pedestrian traffic in and around the site.
 - c. Multifamily projects shall include internal sidewalks along all internal streets as well as sidewalks or pathways along perimeter streets.
 - d. Where site access has been officially approved by an agency other than the City of Butler, the Plan Commission shall not be required to include such approved access in the approval of the Development Plan.

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3. *Lighting Development Requirements.*
 - a. Light sources shall be located and installed in such a way that minimizes light spilling over onto contiguous properties. Lighting shall be installed so as to reflect away from adjoining properties.
 - b. Special attention shall be given to the intensity, function, and appearance of lighting to be installed. Lighting installed shall be consistent with other lighting in the surrounding area.
 4. *Building Orientation.*
 - a. Each building facade visible from a public street or oriented to an adjoining Residential District shall be a finished facade.
 - b. No loading docks shall be permitted to face a public street.
 - c. When any portion of the loading docks are visible from a public street, the loading docks shall be screened by either building walls, a solid fence, densely planted shrubbery, or an combination thereof, none of which may be less than six feet in height.
 - d. When loading docks are facing or oriented to a side or rear lot line of an adjoining Residential District, the loading docks shall be screened from view from such Residential District by either building walls, a solid fence, densely planted shrubbery, or an combination thereof, none of which may be less than six feet in height.
 - e. No outside storage shall be permitted between an established building line and the right-of-way of a public street or an adjoining Residential District.
 - f. All roof or ground mounted mechanical equipment shall be completely enclosed. Ground-mounted enclosures for mechanical equipment shall be landscaped on all sides not facing the building served.
- D. Review: The approval or disapproval of Development Plans within the Butler Zoning Jurisdiction is vested in the Butler City Plan Commission.
1. The Plan Commission may approve a Development Plan upon finding that:
 - a. The proposed development is consistent with the intent and purpose of the City of Butler Comprehensive Plan; and,
 - b. The proposed Development Plan satisfies the Development Requirements specified in Section 8.9(C).
 2. Approval of said findings may be in the form of a general statement. Disapproval of findings must specify the portion of the code with which there is not compliance.
- E. Waivers of Development Requirements:
1. In order to encourage innovative building and site designs that enhance the quality of the built environment in the City of Butler, the Plan Commission, pursuant to Indiana Code 36-7-4-1402(b)(4), may waive Development Requirements contained in Section 8.9(C-2) Site Access and Site Circulation and/or Section 8.9(C-4) Building Orientation upon making findings as specified in below in Section 8.9(F).
 2. The Plan Commission may not waive any other Development Requirements, including Section 8.9(C-1) General Development Requirements and Section 8.9(C-3) Lighting Development Requirements.
 3. If a Site Access waiver is requested, the Plan Commission may not grant such waiver unless a favorable review comment or letter regarding the site access waiver is received from the City, County or State agency having jurisdiction over access to and from the applicable street.
- F. Conditions for Waiver of Development Requirements: The Plan Commission may approve a waiver of Development Requirements only upon finding all of the following:
1. The proposed development represents an innovative use of site design / site access design / site circulation design / building orientation which will enhance the use or value of area properties.
 2. The proposed development will not be injurious to the public health, safety, morals or general welfare of the City of Butler.
 3. The strict application of the Development Requirements of Section 8.9(C) of the City of Butler Zoning Ordinance will result in a development of the real estate, which is undesirable when compared with the proposed development.
 4. The proposed development is consistent with and compatible with other development located in the area.
 5. The proposed development is consistent with the intent and purpose of the City of Butler Comprehensive Plan.

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- G. Required Information: All requests for Development Plan approval shall include the following plan documentation and supporting information:
1. *Site Plan*. A site plan indicates the nature of the proposed development. It shall be drawn to scale of not more than 1"=100' and shall include the following items:
 - a. North arrow
 - b. Graphic scale
 - c. Address of the site
 - d. Proposed name of the development
 - e. Area map insert showing the general location of the site referenced to major streets and section lines
 - f. Legal description of the site
 - g. Boundary lines of the site including all dimensions of the site
 - h. Names, centerlines, and right-of-way widths of all streets, alleys, and easements
 - i. Layout, number, dimension, and area (in square feet and acres) of all lots and out lots with building setback lines
 - j. Location and dimensions of all existing and proposed structures, including paved areas and signs
 - k. Location of all floodway, floodway fringe areas, and wetlands within the boundaries of the site
 - l. Use of each structure by labeling including approximate density or size of all proposed uses and structures on the site (e.g. parking - # of parking spaces provided, office - gross floor area)
 - m. Structures proposed for demolition should be indicated as such
 - n. Distance of all structures from front, rear, and side lot lines. (This distance is measured as a line from the point where the structure is closest to the lot line. This line is perpendicular to the lot line.)
 - o. Location and type (e.g. ground, pole, wall) of all signs on the site
 - p. Areas reserved for park, recreation, conservation, wetland, common area, lake, trails, or other similar uses
 - q. Proposed landscaping buffers or landscaped areas
 - r. Existing zoning and land use of all adjacent real estate
 - s. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Community Development Office
 2. *Building Elevations*. Building Elevations filed in connection with the submission of a Development Plan shall be drawn to scale and shall include the following items:
 - a. Address of the site
 - b. Proposed name of the development
 - c. Graphic scale
 - d. Elevations for each facade of the building
 - e. Specification of the type and color of building materials to be used for all wall, window, roof, and other architectural features
 - f. Placement, size, color and illumination details for any proposed wall sign
 - g. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Community Development Office
 3. *Site Access and Site Circulation Plan*. The Site Access and Site Circulation Plan requirements listed may be incorporated into the required Site Plan. The Site Access and Site Circulation Plan shall be drawn to scale of not more than 1"=100' and shall include the following items:
 - a. North arrow
 - b. Graphic scale
 - c. Address of site
 - d. Proposed name of the development
 - e. Names, centerlines, and right-of-way widths of all streets, alleys, and easements
 - f. Location and name of all existing and proposed public or private streets, access easements, and rights-of-way within 200 feet of the site
 - g. Location of any proposed or existing driveways onto a street or alley and its width at the lot line

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- h. Depictions of all travel lanes, turning movements, vehicle storage areas, parking areas, and tapers, including dimensions, at all driveways
 - i. All improvements to the street system on-site and off-site
 - j. Measurement of curb radius and/or taper
 - k. Location and dimensions of primary vehicular ways in and around the proposed development
 - l. Location of any proposed or existing sidewalk
 - m. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Community Development Office
4. *Utility Plan.* The Utility Plan shall be drawn to a scale of not more than 1"=100' and shall include the following items:
- a. Location of all existing and proposed utility easements
 - b. Location and size of all existing and proposed utility components including, but not limited to: sanitary sewer components, water components, storm water components, electric, gas, telephone, and cable
 - c. Location and illumination capacity of all lights.
 - d. Names of legal ditches and streams in or adjacent to the site
 - e. Contours sufficient to illustrate storm water runoff
 - f. Storm water drainage plan including estimated runoff
5. *Traffic Impact Study.*
- a. A Traffic Impact Study shall be required when a proposed development will meet or exceed the warrants of the INDOT Traffic Impact Study Guidelines (i.e., (i) 150 or more dwelling units; (ii) 15,000 square feet or more of retail space; (iii) 35,000 or more square feet of office space; (iv) 70,000 square feet or more square feet of industrial space; (v) 30,000 square feet or more of educational space; (vi) 120 or more occupied rooms; (vii) 46,000 or more square feet of medical space; or, (viii) any mixed use development which generates 100 or more peak hour trips in the peak direction).
 - b. A registered professional engineer shall prepare and certify the Traffic Impact Study. The Traffic Impact Study shall evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to commencement, the applicant shall meet with the Community Development Office and the Street Superintendent to determine an appropriate scope for the Traffic Impact Study.
6. *Statement of Development Build-Out.* Applicant shall indicate, either on the submitted Site Plan or in writing, a statement of:
- a. The order of development of the major infrastructure elements of the project
 - b. Project phase boundaries, if any
 - c. The order and content of each phase
 - d. An estimate of the time frame for build-out of the project
7. *Green Space Provisions.* Applicant shall indicate, either on the submitted Site Plan or in writing, along with any necessary explanatory materials or graphics, a statement of the nature and extent of all existing and proposed green space and landscaping on the real estate showing how the proposed landscaping meets or exceeds the Zoning Code requirements detailed in Section 6.19 and 6.20.
8. *WP-OL District Requirements.* If the proposed development is in the WP-OL District, the petitioner shall submit the following:
- a. A narrative report of the proposed site, including:
 - i. A narrative description of the site including any existing uses, setbacks, available sewage disposal facilities, and a brief history of the site (including any former uses, historical environmental concerns, abandoned wells, underground storage tanks, septic systems, etc.);
 - ii. Description of the proposed operations, including chemical/products used or generated, chemical/product storage area descriptions, waste generation quantities, equipment cleaning/maintenance procedures
 - iii. Methods and locations of receiving, handling, storing and shipping chemicals/products and wastes
 - iv. Spill or release response measures and reporting
 - v. Description of slopes near containment vessels and waste storage areas

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- b. A Site Plan including:
 - i. A vicinity map (USGS quadrangle preferred);
 - ii. A site map (drawn to scale) depicting:
 - All existing and proposed structures
 - Paved and non-paved areas
 - Utility lines (inside and outside structures) including sanitary sewers, storm sewers, storm retention ditches/basins/french drains/dry wells, etc. (both proposed and existing)
 - Floor drain locations and outlets
 - Chemical/product storage locations
 - Waste storage locations
 - Liquid transfer areas
 - Site surface water bodies (streams, rivers, ponds)
 - Underground storage tanks (and associated piping)
 - Above ground storage tanks (and associated piping)
 - Slope and contours of finished grade at Two-foot intervals
 - c. Proposed containment area detail drawings, including area, heights, materials, specifications, if applicable.
- H. Procedures: Application for Development Plan approval by the Plan Commission shall follow the following procedures.
1. *Pre-Filing Conference*.
 - a. A pre-filing conference with the Community Development Office is required prior to the filing of any Development Plan for public hearing before the Plan Commission. The petitioner shall provide a preliminary plan capable of depicting the proposed development. The Community Development Office shall review the proposed plan and provide comments back to the applicant.
 - b. Notwithstanding anything contained in this Ordinance to the contrary, neither the Community Development Office's conceptual review of the plan nor the comments to the applicant relating thereto shall be considered a denial, approval, or decision concerning the proposed Development Plan.
 2. *Eligible Petitioners*. Development Plans may be initiated by the submission of a development plan accompanied by an application signed by the owners of the land involved in the development, or the owner's authorized agent. If an authorized agent files an application, a signed and notarized consent form from the owner must accompany the application.
 3. *Filing of Forms*. All Development Plans for public hearing by the Plan Commission shall be accompanied by an "Application for Approval ~ Development Plan" form provided by the Community Development Office. Unless otherwise instructed, five copies of the Application for Approval, Site Plans, Site Access and Site Circulation Plans, Building Elevations, Utility Plans, and all other relevant supporting documentation shall be submitted to the Plan Commission.
 4. *Filing Deadline*. All Development Plans shall be filed at least 28 days prior to the public meeting at which they are first to be considered by the Plan Commission.
 5. *Filing Fees*.
 - a. The applicant shall pay all applicable fees at the time of filing the Development Plan.
 - b. Current fees are specified in the City of Butler Fee Schedule.
 6. *Agenda Placement*. All Development Plans, which are determined to be complete and in proper form by the Community Development Office, shall be numbered and placed on the first Plan Commission Agenda that occurs 28 days after the Development Plan was submitted in its entirety.
 7. *Investigation of Petitions*.
 - a. Upon assignment of a number and hearing date, the Fire Department, Police Department, Department of Public Works, DeKalb County Surveyor's Drainage Office, Utility Departments and other applicable agencies will be notified of the proposed Development Plan and asked to review and comment.

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- b. The Community Development Office may submit a written report to the Plan Commission stating any facts concerning the physical characteristics of the area involved in the Development Plan, the surrounding land use, public facilities available to service the area, or other pertinent facts. The written report may also contain opinions of the Community Development Office concerning the Development Plan and information from the other agencies that have reviewed the Development Plan. A copy of such report shall be made available to the applicant and all remonstrators of record, if any.
8. *Public Notice.* The following public notice standards apply for Development Plan approval.
- a. The following options for notification are acceptable.
 1. The applicant shall notify all interested parties of the public hearing by certified mail, return receipt requested. Certified mailings shall have a postmark a minimum of 21 days before the date of the public hearing.
 2. The applicant shall notify all interested parties by personally delivering the notice and obtaining the signature of each interested party at least 10 days prior to the date of public hearing. The signature must be of the interested party.
 - b. The petitioner shall publish a legal notice of the hearing in the Butler Bulletin a minimum of ten days before the public hearing. The petitioner is responsible for making the newspapers publishing deadline and the publication cost.
 - c. The applicant must present a copy of public notice, proof of publication, and copies of certified mail receipts or signatures to the Community Development Office at least three days prior to the date of public hearing as proof of fulfilling due and proper notice requirements.
9. *Conduct of Public Hearings.*
- a. In order to provide all interested parties with a fair hearing, applicant and remonstrators shall be afforded a reasonable amount of time for the presentation of evidence, statements and arguments at the public hearing. The order of the presentation of evidence, statements, and arguments shall be as follows:
 - i. The Community Development Office shall be given time to introduce the matter being considered and for the presentation of evidence or statements regarding the application being considered.
 - ii. Applicant shall be allotted a reasonable time to present evidence, statements and arguments in support of the applicant being considered.
 - iii. Plan Commission members shall be afforded the opportunity to ask questions about the applications of either the Community Development Office or the applicant.
 - iv. Members of the public interested in the application, whether for or against the application, shall be allotted a reasonable time to present evidence, statements and arguments related to the application being considered.
 - v. The applicant shall have a reasonable opportunity for rebuttal, which shall include only evidence, statements and argument in rebuttal of or in response to comments of the Community Development Office, the Plan Commission or members of the public, and a brief closing statement.
 - vi. Rules of evidence will not be strictly followed.
 - b. At the conclusion of remarks by any party, the Plan Commission shall have the opportunity to ask questions pertaining to the evidence, statements, and argument presented.
 - c. The presiding officer shall have authority to cut off repetitious and irrelevant testimony, but shall make reasonable efforts to allow equal time for applicant and remonstrators.
 - d. All persons appearing at a public hearing shall act in an orderly and courteous manner. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges extended by the Plan Commission and shall be dealt with by the presiding officer as is deemed fair and proper.
- I. Signature for Findings: All findings specified in Section 8.9(D) for the approval of a Development Plan shall be in writing and signed by the President of the Plan Commission in the case of a determination by the Plan Commission, and retained as a part of the permanent record.

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J. Amendments:

1. *Amendments Proposed at a Public Hearing.*

- a. The applicant may propose amendments to Development Plans which are recommended by the Plan Commission or the Community Development Office at any time prior to a vote on the Development Plan Approval. If, in the sole discretion of the Plan Commission, the proposed amendment is of such a nature that additional time is needed for review, the Plan Commission may continue the hearing to the next meeting of the Plan Commission.
- b. The Plan Commission, in its sole discretion, may assign a continued Development Plan to a committee or Community Development Office of the Plan Commission for further review and evaluation prior to the next meeting of the Plan Commission.
- c. If amendments are presented by the applicant and agreed to by the Plan Commission at the public hearing, revised plans indicating all amendments, as approved by the Plan Commission, shall be filed with the Community Development Office within 30 days of the Plan Commission hearing or such approval will become null and void.

2. *Amendments to Approved Development Plans.*

- a. Minor amendments to Development Plans which have already received approval from the Plan Commission and which do not involve an increase in height, area, bulk or intensity of land uses; the designation of additional land uses; the reduction in perimeter yards; the addition of driveways or access points; or reduction in the amount of parking may be authorized by the Community Development Office without a public hearing, if the requested minor amendments do not adversely impact the purpose or intent of the overall development.
- b. Such minor amendments authorized by the Community Development Office shall be reported, in writing, to the Plan Commission at the next regular meeting of the Plan Commission.
- c. If the Community Development Office determines that the proposed minor modification is of such a nature as to adversely impact the purpose or intent of the overall development, or if the proposed modification includes an increase in intensity of any land use or if the proposed modification includes the designation of an additional land use(s), the applicant shall be required to file a new application for Development Plan approval.
- d. Any decision of the Community Development Office regarding the amendment of Development Plan may be appealed by any interested party to the Plan Commission within 30 days of such determination.

K. Duration: Substantial completion of the proposed development shall occur within one year of the date of Development Plan approval by the Plan Commission. A longer time frame may be granted by the Plan Commission on larger projects. The Community Development Office may grant a onetime extension of up to one year in duration to obtain substantial completion. If substantial completion has not occurred within one year of the date of approval, or by the end of the one year extension period, the developer shall present a Special Request before the Plan Commission for an extension of time in which to achieve substantial completion. If an extension of time is not requested or denied by either the Community Development Office or the Plan Commission, the prior Development Plan approval shall be deemed null and void. All work must stop and any further development of the site shall require the approval of a new Development Plan in compliance with the terms and provisions of the City of Butler Zoning Ordinance in effect at the time of filing of the new Development Plan.

L. Issuance of Permits: Prior to the issuance of an Improvement Location Permit for any development where a Development Plan is required, the following matters shall be accomplished:

1. The Plan Commission shall approve of the Development Plan in accordance with this Ordinance and the City of Butler Comprehensive Plan.
2. The applicant shall have recorded in the Office of the DeKalb County Recorder the utility easements, rights-of-way, plats, deed restrictions, or any other legal instruments required, and in the form approved by the Commission.