

ORDINANCE NO. 80-79-4

AMENDMENT OF ORDINANCE 80

ZONING PLAN

WHEREAS the Plan Commission of the Town of Winona Lake, Indiana, has after public hearing, submitted to the Board of Trustees of the Town of Winona Lake, Indiana, recommendation dated recommending modification of the Zoning Plan of the Town of Winona Lake, Ordinance No. 80, passed May 25, 1966, as amended, and

WHEREAS the Board of Trustees have reviewed the recommendation of the Plan Commission of the Town of Winona Lake, Indiana, and

WHEREAS the Board of Trustees of the Town of Winona Lake, Indiana find that the recommendations proposed by the Plan Commission will improve the present health, safety, convenience and welfare of the Citizens of the Town, and is in the best interest of the furtherance of the Master Plan and orderly development of the Town of Winona Lake, Indiana;

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WINONA LAKE, INDIANA, AS FOLLOWS:

1. That Article IV, NONCONFORMING USE SPECIFICATIONS, Sections 1, 2 and 4 should be amended to read as follows:

Section 1: DEFINITION AND CONTINUANCE. There are hereby declared to be four (4) types of nonconforming uses within the application of this ordinance, all being within the definition of nonconforming use at Article X, Specifications A of this Ordinance, and within the application of this Ordinance, to wit:

- 1-A nonconforming use in a conforming structure;
- 2-A nonconforming use in a nonconforming structure;
- 3-A nonconforming use not involving a structure;
- 4-A nonconforming structure.

The lawful use of a building or premises, existing at the time of the passage of Ordinance 80, may be continued although such use does not conform to all the provisions of this ordinance except as hereinafter provided.

Section 2. CHANGE. A Type 1, Type 2, or Type 3 use may be changed to another nonconforming use of the same or greater restrictions, provided no structural changes are made in any building involved in the use. Whenever any nonconforming use has been changed to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a use permitted only in a District of lesser restrictions. Whenever one or more of the four types of nonconforming uses have been changed to a conforming use, those types of uses which have become conforming shall not thereafter be changed to a nonconforming use.

Section 4. ERECTION AND REERECTION OF BUILDINGS. No building shall be erected upon any premises devoted to a nonconforming use, and no building located upon any such premises, which has been damaged by fire or other causes to the extent of more than seventy five percent (75%) of its appraised valuation, shall be repaired or rebuilt, except in conformity with the regulations of this ordinance. A nonconforming structure or a building devoted to any other nonconforming use, which has been damaged by fire or other causes to the extent of less than seventy five percent (75%) of its appraised valuation must be reconstructed within a period not to exceed twelve (12) months from date of damage in order to continue as a nonconforming structure or any other type of nonconforming use, provided however that the foregoing time restrictions may be extended, or valuation restriction may be increased, upon approval by the Board of Zoning Appeals for a good cause shown. Application for any such extension of time restriction or increase of valuation restriction, shall be in writing, and shall set forth specifically the reason for such request, signed by the interested party or his agent and shall be made directly to the Board of Zoning Appeals. Good cause shall be deemed shown if it is established that:

1. If it is established that denial of the extension will work unreasonable hardship on the petitioner; and
2. The petitioner and his predecessors have been diligent in attempting to comply with the provisions of this subsection; and

3. That the nonconforming use will not in any substantial manner adversely affect the Zone District.

2. That Article IV, Section Eight.(8) of Ordinance No. 80 be repealed.

3. That Article IV, Section Nine (9) be modified by deleting the last sentence, so that said section shall read as follows:

NONCONFORMING USE CREATED BY AMENDMENT. These provisions shall apply in the same manner to a use which may become a nonconforming use due to a later amendment of this ordinance. Nonconformingly use due to a later amendment of this ordinance.

4. That Article V, Section 2A be amended by inserting the word "land" after the adjective word "unplatted," so that said Section 2A reads as follows:

Within the Jurisdictional Area of the Winona Lake Plan Commission no structure, improvement or use of land may be altered, changed, placed, erected, or located on platted or unplatted land unless the structure, improvement or use, and

its location, conform with the Master Plan and ordinances of the Town, and an improvement location permit for structure, improvement or use has been issued; provided, however, that no such permit shall be required for the erection or alteration of buildings, except dwelling houses, used exclusively for agricultural purposes on a tract of land containing at least five acres.

5. That Article V. Section 2C be amended to read as follows

Every application for an Improvement Location Permit shall be accompanied where applicable by a site plan, drawn to scale, showing the location of the structure, improvement or use to be altered, changed, placed, erected, or located, the dimensions of the lot, the size of yards and open spaces existing and proposed streets and alleys adjoining or within the lot, the manner in which the location is to be improved, THE MANNER IN WHICH SURFACE WATER AND STORM WATER DRAINAGE SHALL BE HANDLED, and the contract price or cost estimate of the proposed improvement. Application for an Improvement Location Permit for new construction of a single family residence shall be accompanied by a fee of Twenty dollars (\$20); application for an accessory building, alteration of an existing building or a change in use only shall be accompanied by a fee of five dollars (\$5.00). All other applications shall be accompanied by a fee of Twenty dollars (\$20) plus one dollar (\$1.00) for each one thousand dollars (\$1,000) valuation in excess of ten thousand dollars (\$10,000). In all cases where state law requires plans bearing approval of the Administrative Building Council of the State of Indiana, an application for an Improvement Location Permit shall be accompanied by a certificate of compliance issued by said Administrative Building Council.

6. That Article V, Section Two (2) of said Ordinance be further amended by adding the following additional subsections to be letter E, F, and G, which subsections should read as follows:

E. Failure by the owner of the real estate or his agent to make application and receive an improvement location permit shall be deemed a violation of this ordinance.

F. Any person, persons, corporation, or entity who commences construction work prior to the issuance of an improvement location permit shall be deemed in violation of this ordinance.

G. The Building Commissioner shall issue a stopwork order in all cases where he determines a violation of this ordinance exists and any person who continues to proceed with work in violation of the stopwork order shall be deemed in violation of this ordinance.

7. That Article V, ADMINISTRATION should be amended by adding a section four (4) to read as follows:

Section 4. CERTIFICATE OF USE.

A. Any owner of any premises which is used for the following specifications B residential uses:

1. Two-family dwelling.
2. Group house and garden apartments.
3. Apartment House.

4. Single Family dwelling rental
see Ordinance 19-11-3

must obtain from the Building Commissioner a certificate of use for each such premises from the Building Commissioner in order to continue such use of the premises. Such certificate of use shall be valid only for the owner of such premises to whom such certificate of use is issued, and only for the particular use for which such certificate was issued. Any successor in ownership of said premises must obtain a certificate of use for said premises before said premises may be used for such uses. It shall be a violation of this ordinance for any owner of any premises to use any premises for any of the foregoing purposes without a certificate of use having been issued to such owner or to such owner's agent, and each day's violation shall constitute a separate violation of this ordinance.

B. A Certificate of Use shall state the name of the owner of the premises, the date upon which the Certificate is issued, the use for which said certificate is issued, whether there are any restrictions or limitations upon the use, and shall be signed by the Building Commissioner.

C. The Building Commissioner shall issue a Certificate of Use to every applicant who is the owner of a premises, which premises may be used for such use under the terms of this ordinance upon receipt of \$15.00 for each building structure. A Certificate of Use shall not be issued for any premises where the use for which such Certificate is requested, is not permitted under the terms of this ordinance for the premises for which such Certificate is requested. Prior to the issuance of a Certificate of Use, the Building Commissioner shall have the authority to enter upon and inspect any premises, building, or structure for which a certificate has been requested.

D. Notwithstanding the foregoing provisions, each owner of a premises for which a Certificate of Use is required, shall have a grace period of thirty (30) days from the date of the passage of this ordinance, in which to obtain a certificate of Use, thereafter, such owners shall be in violation of this ordinance if such owners have not obtained a Certificate of Use.

E. A Certificate of Use is not transferrable.

8. That Article X, SPECIFICATIONS. A, Definitions (25)

Jurisdictional Area, should be modified by placing a period after Winona Lake, Indiana, so that said section will read as follows:

25. JURISDICTIONAL AREA: For Planning and Zoning, the area incorporated in the Town of Winona Lake, Indiana.

9. That Article X MOBILE DWELLING UNIT: GENERAL PROVISIONS AND CONDITIONAL EXCEPTIONS APPLICABLE TO MOBILE DWELLING UNITS:

Section Four (4) should be modified to read as follows:

4. Removal of the wheels of any house trailer, except temporarily for repairs, or the permanent blocking of any house trailer whether situated in a camp or elsewhere shall be construed to automatically constitute the trailer to be a permanent place of abode, for which the owner of such house trailer must first obtain an improvement location permit, and such trailer shall then be subject to the restrictions of all laws and ordinances applicable to such dwellings.

10. That Article X, SPECIFICATIONS B, GENERAL PROVISIONS AND CONDITIONAL EXCEPTIONS: CONDITIONAL EXCEPTIONS, FRONT YARD:

Section 1 should be modified to read as follows:

FRONT YARD: Section 1. Where Twenty five percent (25%) or more of the lots in a block are occupied by buildings, the average set back of such buildings determines the dimension of the front yard in the block, but the maximum yard need not exceed forty (40) feet "RA" and "RB" district or twenty five (25) feet in other districts in the incorporated area.

11. That Article X, SPECIFICATIONS C, FRONT YARD: should be modified by deleting "none required," and inserting the requirement of fifteen (15) feet, so that said subsection should read as follows:

FRONT YARD: 15 feet.

12. That Article VIII, Section 2 should be amended to read as follows:

Section 2, PENALTIES. Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply therewith or with any of the requirements thereof or who shall alter the use of land or build, reconstruct, or structurally alter any building without first securing an Improvement Location Permit, or who shall build, reconstruct, or structurally alter any building in violation of any detailed statement or plan submitted and approved thereunder, or who shall occupy such altered land use or new or structurally altered building prior to securing a Certificate of Occupancy, or who shall violate any of the other terms of this Ordinance, for each and every violation, shall be fined in an amount not less than \$10 and not more than \$300.

13. That this ordinance shall upon its adoption be in full force and effect ten (10) days after its publication as required by law.

Passed and adopted this 8th day of May, 197

Thomas J. Wharton

Warren E. Zeller

David A. Williams

Christine Pratt

Attest:

Robert T. Burley
Robert Burley

Clerk-Treasurer

Town of Winona Lake, Indiana