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THE HENDRICKS COUNTY QUALITY GROWTH STRATEGY

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# PLAN COMMISSION 2006 RULES OF PROCEDURE

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## **Article 1 Authority and Jurisdiction**

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### **1.01 Authority**

- A. Authority to review and approve the petitions before the Commission is found in the Indiana Code 36-7-4 series.
- B. The Commission delegates to the Plan Director/Building Commissioner the authority to review and approve plans and specifications, and to grant Improvement Location Permits.
- C. The Commission delegates to the Administrative and Plat Committee the authority to review and approve certain classes of cases before the Commission.
- D. The Plan Director/Building Commissioner may refer any matter before him or her to the Commission for review and approval.

### **1.02 Jurisdiction**

The Commission's jurisdiction consists of all of Hendricks County except for the Towns of Avon, Brownsburg, Clayton, Danville, Lizton, Pittsboro, and Plainfield.

## **Article 2 Membership, Officers, Staff, and Committees**

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### **2.01 Membership**

- A. The Commission shall consist of seven members whose memberships comply with the provisions of Indiana Code 36-7-4-208, 36-7-4-210 and 36-7-4-216.
- B. Determination of proper membership. At the first meeting of each year, the Commission shall determine whether or not each member of the Commission meets the following qualifications:
  - 1. The member is currently appointed by the relevant appointing body.
  - 2. The citizen member has knowledge of, and experience in, community affairs, and awareness of social, economic, and other problems of the area, and interest in the development of the area.
  - 3. The citizen member may not hold an elected office or any other appointed office in municipal, county, or state government except for membership on the BZA.
  - 4. The citizen member must be a resident of the jurisdictional area of the Plan Commission.

### **2.02 Officers**

- 1. At its first meeting of the year, the Commission shall elect from its members a President and a Vice President
- 2. A person receiving a majority vote of the entire membership of the Commission shall be declared elected. Each elected officer shall enter into office immediately upon being declared elected and shall serve until his or her successor is declared elected or until the officer is no longer

a member of the Commission

3. When an office becomes vacant, the Commission shall elect a successor to complete the remainder of the unexpired term at its next regular meeting.

**D. President**

1. The President shall preside at all meetings and perform the duties of a presiding officer, including the appointment of committees and ruling on all points of procedure. The President shall be a voting member in all matters.

2. The President shall sign all official documents on behalf of the Commission, or otherwise delegate this duty to the Secretary or Plan Director.

**E. Vice President**

The Vice President shall act as the President during the absence or disability of the President.

**F. President Pro Tempore**

In the absence of the President and Vice President, the Secretary shall preside over the election of a President Pro Tempore who shall act as President for the specific meeting he or she is elected.

**G. Secretary**

The Plan Director shall be permanently appointed as Secretary of the Commission. In the event of a vacancy in the position of Director, the office of Secretary shall be transferred to an Interim Director as appointed by the Commission.

**2.03 Seal**

A. The Commission adopts a seal with the caption The Seal Of the Hendricks County Plan Commission.

B. The Secretary shall employ the seal to certify all official acts of the Commission.

**2.04 Plan Director**

A. The Director shall supervise Commission staff, carry out all duties pertaining to the daily affairs of the Commission, administer and interpret the Zoning and Subdivision Control Ordinances, implement the Comprehensive Plan and any other adopted plan or policy, execute duties involving planning and growth management, and perform other activities deemed necessary by the Commission.

B. The Director shall establish personnel policies and administrative office procedures.

**2.05 Staff**

A. The Commission may hire staff necessary to discharge the duties of the Commission.

B. Staff shall be hired by the Director under direction of the Commission.

**2.06 Committees**

- A. Advisory Citizens' Committee. The Commission may establish advisory committees of citizens interested in matters of planning and zoning under Indiana Code 36-7-4-407.
- B. Executive Committee. The Commission may establish an executive committee under Indiana Code 36-7-4-408.
- C. Administrative and Plat Committee. The Commission establishes an Administrative and Plat Committee to act on certain cases on behalf of the Commission. The Committee is constituted and operates according to its Rules of Procedure adopted by the Commission. The Committee also operates under Indiana Code 36-7-4-402(d), 36-7-4-701(e), 36-7-4-1402(c), and Section 12.3(b) of the Zoning Ordinance.

**Article 3 Meetings**

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**3.01 Time, Place of Public Hearings**

Regular sessions of the Commission designated as public hearings shall be held the second Tuesday of each month at the Hendricks County Government Center. If the second Tuesday is a County-recognized holiday, the hearing shall be held on a different date published in the Commission's adopted meeting schedule.

**3.02 Applicability**

These Rules apply to all meetings (including public hearings) required by state law, the Zoning Ordinance, the Subdivision Control Ordinance, or to any other special or regular meeting of the Commission.

**3.03 Meetings Open To Public**

Except for executive sessions as permitted by law, all regular and special meetings of the Commission shall be open to the public in compliance with the Indiana Open Door Law, Indiana Code 5-14-1-1.5-1 et. seq.

**3.04 General Rules**

- A. No action is official unless authorized by a majority of the entire membership of the Commission at a properly called meeting.
- B. All meetings at which official action is taken shall be open to the general public.
- C. An agenda shall list all items to be considered by the Commission at a regular or special meeting.
- D. An agenda shall be distributed to members of the Commission in a manner acceptable to them at least three days before any regular meeting. The agenda shall be available for public inspection at the Planning and Building Department at least two days before any regular meeting.

**3.05 Quorum and Voting**

- A. A quorum is a majority of the entire membership of the Commission.
- B. Voting shall be by voice or by a show of hands, unless an alternative method is deemed appropriate by the Commission.
- C. A record of the vote shall be kept in the minutes.

**3.06 Regular Meetings**

- A. The Commission shall conduct its regular meetings according to a yearly schedule adopted no later than the last meeting of the previous year.
- B. If it is impossible to conduct a meeting at its regularly scheduled time, the President may set an alternative time, date, or place. The President may also cancel the meeting upon unanimous consent of the Commission in compliance with Indiana Code 5-14-1.5.
- C. The order of business at a regular meeting shall be established by the Commission.

**3.07 Public Hearings and Notice**

- A. The Commission may conduct a public hearing as part of any meeting, or at any other place or time if proper notice is given.
- B. In addition to those required by law, the Commission may hold public hearings when it decides that hearings will be in the public interest.
- C. Notice of public hearings shall comply with Indiana Code 5-3-1.
- D. If the Secretary determines that the application meets all requirements for sub-mission, a date shall be set for its public hearing. Notice by publication and additional written notice shall be made as follows:
  - 1. Notice by publication. The Secretary shall publish a notice one time at least ten days prior to the public hearing in two newspapers of general circulation in Hendricks County. The notice shall contain the following information:
    - a. Date and place of the meeting.
    - b. Name of the applicant.
    - c. Reason for the public hearing.
    - d. Name of Township; and Section, Township, and Range numbers.
    - e. Key and Parcel Number
    - f. That the proposal is on file and available for inspection at the Planning and Building Department.
    - g. The general location of the property described in the application.
    - h. That comments regarding the proposal may be made in writing and filed with the Planning and Building Department. The comments must be received prior to the public hearing in order to be considered by the Commission.
  - 2. Additional written notice for all cases excluding text amendments. This provision covers zoning map amendments, primary plats, primary development plans, waivers, and any other case where additional written notice is deemed necessary by the Plan Commission.

Upon a form acceptable to the Commission, the applicant shall provide additional written notice by registered, certified, or first class mail at least ten calendar days prior to the public hearing. The persons

so notified shall be the owners of all adjoining parcels of land in Hendricks County to a depth of two ownerships within 660 feet of the perimeter of the subject property except as qualified in these Rules. The owners' name and mailing address are determined according to the most recent bound volumes of the real estate tax assessment list on file in the office of the County Assessors.

a. For purposes of giving notice as required by this section, the land described in the application shall be deemed to include any adjoining or adjacent land owned by the applicant, with the exception however, that if the applicant is a railway, or other utility, the land described in the application shall not be deemed to include the entire right-of-way, but shall be limited to the particular parcel involved.

b. Any land separated from land described in the application by streets, alleys, easements, channel waters, or any other natural or artificial barrier, shall be deemed to be adjoining or adjacent to that described in the application. If the property described in the application abuts or includes a county line, the applicant shall secure the names and addresses of property owners from the appropriate county office.

c. The written notice shall include the following information:

i. The general location of the property and a general description of the land as stated in the application.

ii. That the proposal is on file and may be examined at the office of the Planning and Building Department.

iii. That the addressee may file written comments concerning the proposal with the Planning and Building Department. The comments must be received prior to the public hearing in order to be considered by the Commission.

### 3. Affidavit of written notice

a. The applicant shall furnish evidence of compliance with Section 3.07(D)(2) of these Rules by filing an affidavit with the Secretary at least ten days prior to the public hearing. If the tenth day should fall on a week-end or legal holiday, the affidavit may be filed the first day following which is not a weekend day or legal holiday.

b. The affidavit shall list the owners of all parcels of ground within the notification boundary to whom notice was sent.

4. Purpose of written notice. Written notice is not required by state law. It serves to supplement the legally required public notice for persons in the vicinity of a proposal before the Commission. Written notice shall be considered helpful in disseminating information, but not necessary to meet legally required public notice. Having complied with the provisions of Section 3.07(D)(2) and (3) of these Rules, the applicant shall be considered to have met the intent of written notice and adequate notice to have been served.

5. Text amendments. For amendments to the text of the Zoning Ordinance and Subdivision Control Ordinance, public notice as required by I.C. 5-3-1 shall be deemed sufficient notice and no additional notice, written or otherwise, shall be required.

### E. Supplemental forms of notice

1. The Commission may authorize supplemental forms of notice deemed necessary by the Commission to improve the dissemination of information regarding its activities.
2. These supplemental forms of notice are not required by law and shall be considered helpful in disseminating information but not necessary to meet legally required public notice.

### **3.08 Special Meetings**

- A. Special meetings of the Commission may be called by the President or by two members of the Commission upon written request to the Secretary.
- B. The Secretary shall send a written notice fixing the time and place of the meeting to all members at least three days before the meeting.
- C. Written notice is not required if:
  1. The date, time, and place are fixed at a regular meeting; and
  2. All members are present at that regular meeting.
- D. The order of business shall be established by the Commission.

## **Article 4 Application and Case Numbers**

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### **4.01 Applications**

- A. Application shall be made on forms provided at the Planning and Building Department.
- B. The applicant shall meet all the application submission requirements of the Zoning Ordinance and Subdivision Control Ordinance. Staff may require additional information if the proposal warrants it.
- C. The Secretary shall review the application and determine whether or not it is complete and accurate. If complete and accurate, the Secretary shall set a date for the application's hearing. If not complete and/or accurate, the Secretary may return the application to the applicant and not set a date for the application's hearing.
- D. All application fees are due at the time of application and are not refundable once a hearing date for the application is set.
- E. The deadline for filing an application is 3:30 p.m. on the date established as a filing deadline on the Commission's hearing schedule.
- F. The Secretary may limit the number of proposals to be heard at a regularly scheduled meeting if adjournment at a reasonable time would not be possible otherwise. The President shall be informed when this occurs. Those proposals not scheduled may be heard at a special meeting.

### **4.02 Case Numbers**

- A. Each case heard by the Commission shall have a case number assigned to it.



- B. The case number shall be in a form established by the Commission.

## **Article 5 Conduct of Hearings**

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### **5.01 Conduct**

- A. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of courtesy.
- B. The President shall preserve order and may warn any person present that particular conduct is a breach of courtesy. If a Commission member persists in this conduct following a warning, the Commission may vote to censure the offending member. If any other person persists in this conduct following a warning, the President may order that person expelled from the meeting.
- C. Every person appearing before the Commission shall abide by the directions of the President.
- D. The President shall determine the admissibility of any evidence.

### **5.02 Presentations**

- A. Applicant.
  - 1. The applicant or the applicant's representative must appear before the Commission for the case to be heard.
  - 2. The applicant shall first present the facts and arguments in support of the case.
  - 3. The burden shall be on the applicant to supply all information necessary for a clear understanding of the proposal.
  - 4. Information to be displayed to the Commission shall be in an electronic format suitable for video Production on the Commission's Production system.
  - 5. The Commission and staff may interject during the applicant's presentation with comments or questions.
- B. Public comments
  - 1. Following the applicant's presentation, comments from the public shall be taken.
  - 2. Any person may appear in person or by representative to participate in a discussion of an item before the Commission.
  - 3. Any person wishing to speak must register with the Secretary and state their name and address.
  - 4. Comments shall be directed to the Commission and not to the applicant or any other person.
  - 5. The Commission and staff may query any person speaking to clarify that person's position.

C. Rebuttal

1. The applicant shall have time for rebuttal and to answer questions raised by the public.
2. The applicant shall direct comments to the Commission and not to any person.

D. Public portion of the hearing closed

1. Once all testimony is taken, the public portion of the hearing is closed.
2. No further testimony will be taken once the public portion of the hearing is closed.
3. After the public portion of a hearing is closed, the Commission may address questions or comments to the applicant or other persons if, in the Commission's opinion, the information is necessary to make an in-formed decision.
4. The Commission may discuss the proposal with staff or among its members for any length of time deemed necessary.

E. Conclusion of the public hearing

The President shall conclude the public hearing and call for a motion on the item before the commission.

**5.03 Time Limits**

A. Discussion of any item shall be limited as follows:

1. The petitioner shall have 15 minutes to present his or her case.
2. Remonstrators and those in support.
  - a. Remonstrators and those in support shall have 3 minutes per person for the presentation of evidence in opposition or support.
3. The petitioner shall then have five minutes for rebuttal and to answer questions raised by the public.

B. No limit shall be placed on the amount of time the Commission takes to discuss a proposal.

C. The Commission may grant additional time for discussion if it deems it necessary to make an informed decision. The additional time should be allocated equally between the applicant and the public.

**5.04 Continuance**

A. The Commission may continue the hearing of any case subject to the following provisions:

1. Applicant. The applicant may request and be granted a continuance if the Commission deems it necessary to make an informed decision.
2. The Commission. The Commission may on its own continue any item from one meeting to another.
3. Director of the Plan Commission. The Director may administratively approve an initial

continuance re-quest subject to Section 5.04(B)(1)(a) of these Rules.

4. Staff. Staff may recommend continuance of any item, subject to Commission approval.

B. Procedure for applicant-initiated continuances

1. Initial applicant-initiated continuance request

a. Administrative continuance

i. A request for an administrative continuance shall be filed with the Director of the Plan Commission no less than five calendar days prior to the Commission's hearing.

ii. A request for administrative continuance shall be made in writing. It shall describe in adequate detail the need for the continuance.

iii. The Director of the Plan Commission shall evaluate the request and determine if it meets the requirements for granting an administrative continuance, and then grant or deny it.

iv. The President shall be notified of any administrative continuances prior to the hearing.

b. Requesting a continuance at a public hearing

i. An applicant may request a continuance directly from the Commission at a public hearing.

ii. Unless expressly authorized otherwise by the Commission, the continuance shall be until the next regularly scheduled hearing of the Commission.

2. Subsequent applicant-initiated continuance requests

Any continuance request after the initial request shall be made by the applicant directly to the Commission at a public hearing.

3. Maximum number and total time of applicant-initiated continuances

a. The maximum number of applicant initiated continuances granted any particular agenda item shall be limited to three.

b. In no case shall a particular agenda item be continued by an applicant more than 90 days total time.

c. The Commission may agree to applicant-initiated continuances in excess of the maximum number permitted, or for more than the total time permitted, or both, if the Commission finds that unusual circumstances warrant it.

C. Applicant's continuance fee

A fee of \$100 shall be collected by the Planning and Building Department for each applicant-initiated continuance granted after the initial one. This fee is in addition to any other fee that is required.

D. Dismissal of continued items

1. Any agenda item that is unable to proceed to hearing and which has already received the maximum number of continuances and which has not received a further continuance may have that item dismissed by affirmative vote of the Commission.
2. Any agenda item that is unable to proceed to hearing and which has already been continued the maximum number of days and which has not received a further continuance may have that item dismissed by affirmative vote of the Commission.
3. A dismissal by the Commission does not constitute a denial of the agenda item.
4. Any item dismissed under Section 5.04(D)(1) or 5.04(D)(2) of these Rules shall be eligible for rehearing as a new case with a new case number only after a new application is submitted and all applicable fees have been paid

E. Withdrawal or denial of continued items

Nothing in these Rules prevents the Commission from accepting a withdrawal of, or denying, an agenda item subject to Section 5.04 in lieu of a dismissal if the Commission deems it appropriate under the circumstances.

F. Re-notification

1. For any continuance, the Commission may require re-notification of property owners within the written notification boundary established under these Rules if doing so serves the public interest.
2. Any continuance granted for more than 60 days shall require re-notification of property owners within the written notification boundary established under these Rules.

**5.05 Hearing Limited to a Reasonable Length of Time**

The Commission may cease hearing new cases after 10:30 p.m.. Cases not heard shall be placed at the beginning of the agenda of the next regular session of the Commission.

## **Article 6 Final Disposition of Cases**

### **6.01 Action By The Commission**

- A. Zoning map amendments, text changes to the Zoning and Subdivision Control Ordinances, and replacement ordinances. Action by the Commission shall be in the form of a recommendation on the proposal to the Board of Commissioners. The proposal may be voted on as submitted or as modified by the Commission. Modifications to the proposal as submitted shall be made part of the motion. The following recommendations are possible:
1. Recommend adoption of the proposal.
  2. Recommend the proposal not be adopted.
  3. Make no recommendation.
- B. Plats, development plans, vacations, appeals of decisions of the Administrative and Plat Committee, any other

action not requiring adoption by the Board of Commissioners. Action by the Commission shall be in the form of an approval or denial. The proposal may be voted on as submitted or as modified by the Commission. Modifications to the proposal as submitted shall be made part of the motion.

C. Committee reports, staff reports, staff recommendations. Action by the Commission shall take an appropriate form:

1. Vote to approve or deny.
2. Establish a sense of the Commission.
3. Take information without any action.

D. Adverse decisions

1. Commission decision. An application receiving a recommendation from the Commission to not adopt or to deny shall not be heard again until six months after the date of the decision by the Commission.

2. Board of Commissioners decision. An application transmitted by the Commission and receiving a denial from the Board of Commissioners shall not be heard again by the Commission until six months after the date of the decision by the Board of Commissioners.

3. A proposal that is subject to an adverse decision may be considered for hearing before six months if it is substantially changed from the original. Before the proposal can be placed again on the docket, the Plan Director shall determine if a change sufficient enough to warrant hearing before six months has been made to the proposal.

## **6.02 Findings Of Fact**

Where appropriate, the Commission shall set forth its determinations, recommendations, and conditions of approval in written findings of fact.

## **6.03 Dismissal**

A. The Commission may dismiss a case for lack of representation or lack of jurisdiction when an applicant fails to appear at two consecutive meetings.

B. A case so dismissed shall not be heard again until six months after the date of the decision by the Commission.

C. A proposal so dismissed may be considered for hearing before six months if it is substantially changed from the original. To qualify for a hearing before six months, the Plan Director shall determine if a change sufficient enough to warrant hearing before six months has been made to the proposal.

## **6.04 Withdrawal**

A. An applicant may withdraw a case by requesting it in writing no less than five days prior to the hearing. A withdrawal so made shall be removed from the Commission agenda by the Secretary. The President shall be notified of the withdrawal prior to the hearing.

B. An applicant may appear at a hearing and request the case be withdrawn.

- C. An applicant may not withdraw a case after a vote has been ordered by the President.
- D. A case that is withdrawn shall not be heard again until three months after the date of the decision by the Commission.
- E. A proposal that is withdrawn may be considered for hearing before three months if it is substantially changed from the original. Before the withdrawn proposal can be placed again on the docket, the Plan Director shall determine if a change sufficient enough to warrant hearing before three months has been made to the proposal.

## **Article 7 Miscellaneous**

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### **7.01 Amendments To These Rules**

- A. Amendments to these Rules may be made by the Commission at any regular or special meeting upon the affirmative vote by a majority of the members.
- B. The suspension of any rule may be ordered at any meeting by an affirmative vote of three-quarters of the members present.

### **7.02 Remanding Cases**

- A. Unless specified otherwise by the Commission, review and hearing authority shall be given to the Administrative and Plat Committee in all authorized cases.
- B. The types of cases the Administrative and Plat Committee is authorized to re-view and hear for the Commission shall be specified in the Committee's Rules of Procedure.

## **Effective Date**

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These rules adopted the 8th day of November, 2005.

## **Amendments**

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13 Mar 07: 5.03(A)(2)(b) deleted.  
8 April 08: 3.07(D)(2) amended, 3.07(D)(5) added.  
23 August 11: 2.01(A) amended 2.01(B) added.