



THE WHY AND HOW OF PLANNING AND ZONING

What Have We Gotten Into Now?

Quarterly Land Use Update

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Got Questions?

Please use Chat Box to ask questions at a break and at the end of this session

Welcome to the Program

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What is planning?

- *Webster's New Collegiate Dictionary:*
 - **Plan** (the noun): "a method for achieving an end.... A goal A detailed formulation of a program of action.... an orderly arrangement of parts of an overall design or objective"
 - **Plan** (the verb): "to devise or project the realization or achievement of To arrange the parts of.... To have in mind or intend"

What is planning?

*Multiple choice -- raise your hand, and
Site hosts can enter the majority vote:*

Planning is:

- a) A process
- b) A product
- c) **Both**

Super Bowl Party Example

- Plan together, decide what is needed
- Send 3 people to a store for 10 items
 - A – verbally tell one what to get
 - B – give one a written list
 - C – give one a list, but send them hungry
- Who will get back with the right stuff?
- Communities with plans succeed too!

What is Community Planning?

- A process for getting to a desired future by deciding in advance what to do, when, how, and especially where to do it
- Community decisions about where things should be located, instead of everything being decided individually
- A necessary step before zoning

Philosophy of Planning

- One of the reasons communities plan is to ensure that the needs of the whole community are considered, not just benefits to individuals.
- Community planning is based upon a concept of the public interest.
- Some flexibility in the use of individual land is given up in exchange for creating a community in which the interests of all are considered.

Why Planning & Zoning?

- Recognition of unsafe pairing of land uses, such as industry and housing, as everyone made individual decisions
- Individuals deciding to do things on their land with negative impacts on neighbors
- Conflict of individual rights?

Why Not Planning & Zoning?

- Property rights concerns – can't you do whatever you want with your land?
- Living independently versus coming together in communities, with neighbors
- Consider freedom to swing your arm in an open field versus in a crowded room

Potential Land Use Concerns

- Poll Question – which if any of these land uses should not be decided by individual landowners?
 - Junkyard
 - Landfill
 - Strip club
 - House
 - Small family farm
 - Large animal feedlot

Government Planning Purpose

- IC 36-7-4-201
- Purpose of this chapter is to encourage (government) units to improve the health, safety, convenience and welfare of their citizens, and to plan for the future development of their communities to the end that: (5 specifics follow)

Government Planning Purpose

- Highway system be carefully planned
- New communities grow with adequate public way, utility, health, educational, and recreational facilities
- The needs of agriculture, forestry, industry, and business be recognized in future growth (continued)

Government Planning Purpose

- Residential areas provide healthful surroundings for family life
- The growth of the community is commensurate with and promotive of the efficient and economical use of public funds.

Government Planning Purpose

- Poll question – do you agree that these 5 areas are worthwhile reasons for a governmental planning process?
 - Yes
 - No
 - Not sure

What is Zoning?

- Optional tool to implement a plan
- Zoning with no plan makes no sense, because it's a tool to implement a plan
- Zoning comes from “Police Powers” of government, based on protecting all citizens by limiting what any one citizen can do with his/her land
- Powers are limited to public purposes

Why we have Zoning

- The principle objective of zoning was to ensure that commercial and industrial development was segregated from residential areas.

What Allows Zoning To Function

Zoning has the power to regulate activity by private persons for the health, safety, morals and general welfare of the public. That power is delegated to the state by the federal system, and local governments only have that power when it is delegated by the state ("enabling legislation"). The U.S. Supreme Court has upheld zoning as a valid use of police power.

Indiana Zoning

Indiana's enabling legislation says when a legislative body adopts a zoning ordinance, it shall be for the purposes of:

- securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
- lessening or avoiding congestion in public ways;
- promoting the public health, safety, comfort, morals, convenience, and general welfare; and
- otherwise accomplishing the purposes of the law

How it Works

- The text of the zoning ordinance specifies the permitted uses (and special exceptions, with conditions) and developmental standards (building size regulations, setbacks, parking standards, etc.) for each zoning district
- Indiana law requires a map, showing the districts into which the jurisdiction is divided.

Uses within Zoning Districts

- Permitted uses (by right)
 - Automatically allowed
 - Requires no process
- Special Exception uses
 - Anticipated, but not automatic
 - Requires a review for specific locations
 - May be OK in some locations, not others

Who Controls Zoning?

- Poll Question – who should make final zoning decisions for a community?
 - Individuals
 - Powerful businesses
 - Appointed plan commissions
 - Local elected officials
 - State legislators

Planning and Zoning

- Planning and Zoning are optional for local governments, but if adopted they must be done according to state regulations
- Indiana code sets out requirements
- IC 36-7-4-xxx
- Note – don't fear the state code – you can read and understand it!

Question on “Why” Planning?

- This is most of the “WHY” part of the program, so let’s pause for questions
- Please have your site host enter your questions in the Chat Box now
- Then we will move on into “How” we do planning in Indiana local governments

Who are the Players?

- Legislative Bodies
 - County Commissioners*
 - City/Town Councils
- Fiscal Bodies
- Planning Director and/or Staff
- Plan Commission
- Board of Zoning Appeals (BZA)

Legislative Bodies

- *Role – Law Making*
- Power to adopt Comprehensive Plan
- Power to adopt Zoning Ordinance
- Power to adopt Subdivision Regulations
- Power to amend ordinances & maps
- Appoint citizen members, and one may serve as a Plan Commission member
- Appoint members of BZA

Fiscal Bodies

- *Role – Financial Support*
- Appropriate funds for operation
 - County Council
 - City/Town Council
- Appoint citizen members, and one may serve as a Plan Commission member
- Appoint one member of BZA

Planning Director and/or Staff

- *Role – Administration of the Law*
- Administers zoning ordinance
- Interprets zoning ordinance
- Keep records and maps
- Staff for Plan Commission and BZA
- Appointment – depends on current law

Plan Commission

- *Role – Advisory & Law Administration*
- Prepare Comprehensive Plan
- Prepare Zoning Ordinance
- Prepare Subdivision Ordinance
- Approve/Deny Subdivisions
- Make Recommendations on Proposed Changes to Zone Maps, Ordinance Text, and Comprehensive Plan

Board of Zoning Appeals - BZA

- *Role – Quasi Judicial*
- Hear Appeals of Administrative Decisions
- Approve/Deny Special Exceptions and/or Contingent/Conditional Uses
- Approve/Deny Variances
 - Variance of Standards/Use Variance

Are You Confused Yet?

- Many players in planning/zoning teams
 - All are public officials
 - Each has a job to do
 - Each should only do their own job
- Teamwork is critical to success
 - Public debate strengthens government
 - Public bickering will destroy public trust

Focus on Plan Commissions

- What were you told when asked to serve?
 - It will be fun and won't take much time
 - You may get to stay up all night
 - You can win friends and influence people
 - You won't get sued very often
 - You will have a chance to serve and make a difference in the future of our community
 - It's a great place to start a political career

Plan Commission – Main Types

- Advisory Plan Commission
 - County
 - City or Town
- Area Plan Commission
 - Must include county and at least one municipality
 - Includes rural and urban representation
- Metropolitan

What is the Plan Commission?

- An independent commission
- Mainly private citizens
- Appointed by elected officials
- No legislative authority
- Little administrative authority
- Advisor to governing bodies
- Elected officials have final authority

How Does Plan Comm. Work?

- It is a part of local government
- Members are public officials, and they should behave as such
- Reference – Purdue Extension Publication ID-235, “What is the Plan Commission and How Does it Work?”

Plan Commission Details 1

- Open Door Law
 - Chance meetings
 - Site visits
- Public meetings vs. public hearings
 - Formalize public hearing time
 - Reference – Purdue Extension Publication ID-232, “Plan Commission Public Hearings: A Plan Commissioner’s Guide”

Plan Commission Details 2

- Motions – taking official action
 - Majority vote of full board
 - Choices for recommendations
 - Approval
 - Denial
 - No recommendation
 - Types of motions – positive, approved
 - Effect of defeated motions?

Plan Commission Details 3

- For a petition to change zoning, which motion would you prefer?
 - I move we deny
 - I move we recommend denial
 - I move we recommend denial because this guy isn't from here and we don't know him
 - I move we recommend denial because the petitioner failed to show that increased traffic will not create a pedestrian hazard

Plan Commission Details 4

- Consensus on procedural items
- Voting processes
 - No secret ballot
 - Paper ballot with decisions announced
 - Roll call – but change order of voting
 - Voice vote, with split decisions followed up with roll call vote

Plan Commission Details 5

- Rules of Procedure or By-Laws
- Get to know yours!
- Should spell out many details
- Attendance of members
- Conflicts of interest
- Ex parte communication
- Behavior of all participants

Plan Commission Details 6

- You must live by your ordinance
- BUT – You can propose changes!
- Amendments are not that hard to do
- Be responsive to changing conditions

Plan Commission Site Visits

- Things to look for on a site visit:
- Soils
- Topography
- Access to site
- Visual Aspects
- Energy Aspects
- Natural, Cultural & Historic Features

Reading Maps and Plats

- Let staff help in reading maps and plats
- Don't hold it upside down in a meeting!
- Know enough about your ordinance to realize if something is not right
- In reviewing during a meeting, avoid any appearance of a "private" meeting by keeping the public informed

Board of Zoning Appeals 1

- NOT the same as Plan Commission
- Shared members help communication
- No members are elected officials
- Not just recommendations – BZA makes final decisions!
- Decisions appealed directly to court
- Ex parte communications illegal

Board of Zoning Appeals 2

- IC 36-7-4-900 series
- Why were they created?
- Hear appeals to administrative decisions
 - Safety valve against abuse of power
 - Decisions made by peers

Board of Zoning Appeals 3

- Ordinance specifies special exceptions and/or contingent/conditional uses
- Variance of standards
- Variance of use – not in Area Plan
- BZA must decide all such petitions

BZA – Special Exceptions

- A use anticipated in a district, but requiring special review for approval
- Finding of Facts
- Approval of all points required
- If all points approved, must be approved
- Conditions can be added

BZA – Variance of Standards

- Physical rules, such as height, area, setbacks
- Any BZA may approve variances to development standards
- Determination in writing
- 3 criteria must be considered
 - Practical difficulties

BZA – Variance of Use

- Only Advisory Plan Commissions
- Some see this as backdoor rezoning
- 5 criteria must be considered
 - Unnecessary hardship
- Discretionary decision of board
- Approval for specific use
- Conditions can be added

Power of Planning & Zoning

- “You can’t tell me what I can and can’t do with my land.”
- Government can do this, but it can only be done with due process, and can only be done for public purposes

Unique Laws for Individuals

- It is very unusual to make or amend a law for individuals or small groups
- Rezoning can be viewed as changing the law to fit an individual request

More Information Sources

- The Nitty Gritty Work of Plan Commissions Workshops
- APA, Indiana Chapter (IPA)
 - “Blue Book” – legal reference
 - Conferences – State & Regional
 - Citizen Planner Training Manual

IPA Citizen Planner Manual

- 1. Plan Commission Basics
- 2. BZA Basics
- 3. Avoiding Pitfalls
- 4. Communications
- 5. Rules of Procedure
- 6. Ethics

IPA Citizen Planner Manual

- 7. Comprehensive Plans
- 8. Zoning Ordinance
- 9. Subdivision Control Ordinance
- 10. Site Plan Review
- Web site www.indianaplanning.org
Click Education, then Citizen Planner

Resources for Understanding

- Greg Dale has presented information on previous Land Use Updates, related to Ethical and Defensible Decision Making
 - That and other programs are available on the Purdue Land Use Team web site:
www.ces.purdue.edu/landuse/video.html

Greg Dale's Decision Checklist

- Notice
- Opportunity to be heard
- Full Disclosure
- Unbiased Decisions
- Timely Decisions
- Complete Records
- Clear Rules

Evaluation

- Please complete formal evaluation at conclusion of the program
- Please offer suggestions on program operation and future topics to hosts

Future Programs

- 2011 Quarterly Land Use Update Sessions are at 7:00p.m. EST
- March 7 – Cost of Services Study Results by Dr. Larry DeBoer, Purdue
- June 16 –
- September 8 –

Future Programs

- Poll Question – would you like for us to develop an “advanced” session for the June 16 Quarterly Land Use Update?
 - Yes
 - No
 - Not Sure

Other Possible Programs

- Jan. 29 – Washington County Plan Commission Workshop – call asap for information at 812/883-2995
- April 15 – APA Indiana Chapter Spring Conference, Ft. Harrison, Indianapolis
- Nitty Gritty – Possible Level I & Level II in July at Farm Bureau, Indianapolis



Questions?

Please use Chat Box

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