



WELCOME TO THE PLAN COMMISSION AND/OR BZA

What Have I Gotten Myself Into?

Quarterly Land Use Update

January 27, 2010



Questions?

Please use Chat Box feature to ask questions

Welcome to the Program

- Mark Spelbring, Extension Educator,
Parke Co. Plan Commission Member
- Dave Osborne, Extension Educator,
Ripley Co. Plan Commission Member
- Jeff Bergman, Planning Director
Columbus/Bartholomew County

Video Seminar Series Sponsors

- Purdue Cooperative Extension Service
Land Use Team
- Indiana Planning Association
- Indiana Farm Bureau, Inc.
- Ball State University, College of
Architecture and Planning

Seminar Series Endorsed by

- Indiana Association of Cities & Towns
- Association of Indiana Counties
- Indiana Rural Development Council
- Metropolitan Indianapolis Board of Realtors

What is 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

Super Bowl Party Example

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

What is Zoning?

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

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!

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 may be one member of Plan Commission
- Appoint members of BZA

Fiscal Bodies

- *Role – Financial Support*
- Appropriate funds for operation
 - County Council
 - City/Town Council
- May appoint citizen members, may be one member of Plan Commission
- 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
- Approve/Deny Contingent/Conditional Use
- 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

Learn the Language

- Ag District, Comprehensive Plan, Eminent Domain, Non-Conforming Use, Petitioner, Remonstrator, Special Exception, Takings, Urban Growth Boundary, Variance
- Reference – Purdue Extension Publication ID-228, The ABC's of P & Z – A Planning & Zoning Glossary
- <http://www.ces.purdue.edu/extmedia/agecon.htm#30>

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 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:
- Soil
- Topography
- Access
- Visual Aspects
- Energy Aspects
- Natural, Cultural & Historic Features

Reading Maps and Plats

- Use Staff help 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, work to avoid appearance of “private” meeting by keeping the public informed

Board of Zoning Appeals 1

- NOT same as Plan Commission
- Shared members enhance 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
- Ordinance specifies contingent and/or 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
- Indiana Planning Association
 - “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

- Quarterly Land Use Update Sessions for 2010 will be held at 7:00p.m. EST
- March 1 –
- June 17 –
- September 10 –



Questions?

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