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

Purdue University is an Equal Opportunity/Equal Access institution.
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!

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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
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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