

**Amendments to the Rules of Procedure of the
Metropolitan Development Commission
Of Marion County, Indiana**

Resolution No. 08-P-001, 2008

BE IT RESOLVED by the Metropolitan Development Commission of Marion County, Indiana, that the Rules of Procedure of the Metropolitan Development Commission of Marion County, Indiana be amended as follows:

SECTION I. Article I, Section 1 and 2 are amended by the addition of the language that is underscored, to read as follows:

ARTICLE I - GENERAL RULES

- 1. DEFINITIONS** - As used in these Rules of Procedure, the following terms shall have the following meanings:
- A. "Administrator" shall mean the Administrator of Division of Planning of the Department of Metropolitan Development, or his/her designated representative(s).
 - B. "Business day" shall mean a day when the officers of the Metropolitan Development Commission are open to the public for the transaction of business for the entire period of its normal operating hours and shall exclude any day on which such offices are not open to the public for the transaction of business or any day when such offices are open for less than normal operating hours.
 - C. "Clerk" shall mean the clerk of the City-County Council of the City of Indianapolis / Marion County, Indiana.
 - D. "Commitment" shall be as prescribed in IC 36-7-4.
 - E. "Committee" shall be a committee composed of at least three members of the Metropolitan Development Commission to conduct any public hearing required to be held by the Commission. Any such committee shall be appointed by the President of the Metropolitan Development Commission and shall conduct any public hearing designated by the Commission or by the President of the Commission.
 - F. "Companion Petition" shall mean any combination of petitions authorized by I.C. 36-7-4-403.5. Petitions in excluded cities may not be companion petitions.
 - G. "Condition" shall be as prescribed in IC 36-7-4.
 - H. "Covenant" shall be as prescribed in IC 36-7-4.
 - I. "Division" shall mean the Division of Planning of the Department of Metropolitan Development.
 - J. "Hearing Examiner" shall mean a person designated by the Commission to conduct any hearing required to be held by the Commission and shall include the Indianapolis Historic Preservation Commission (IHPC) when the IHPC is conducting hearings for the Commission regarding property located in historic preservation areas established pursuant to I.C. 36-7-11.1. Only one person may be designated as a Hearing Examiner to conduct a particular hearing; however, the Commission may designate more than one Hearing Examiner to conduct different hearings. The Commission (or the President of the Commission in an emergency) shall designate the cases to be heard by the Hearing Examiner. If the Hearing Examiner is unable to hear an assigned case because of sickness, absence, disqualification or any other cause, the President of the Commission, or in his or her absence the vice-president of the Commission, may designate any other person to act as a Hearing Examiner. Two specific Hearing Examiners include the 'Regional Center Hearing Examiner' and the 'Speedway Hearing Examiner'. Regional Center Hearing Examiner shall be an employee or contracted employee of the City of Indianapolis appointed by the Commission with specific knowledge and experience in urban design. The Commission shall appoint a member of the Speedway Redevelopment Commission to act as the Speedway Hearing Examiner.

*Establishes
the 2 new
Hearing
Examiners:
RC and
Speedway.*

Amounts taken
from RC
Guidelines
draft 11/9/07

K. “High Impact Project” shall mean a project that is: new construction valued at a construction cost value exceeding one million dollars; remodeling or modification of existing development valued at a construction cost value exceeding \$500,000.00; proposing the construction of floor area exceeding 10,000 gross square feet; proposing an area of surface parking exceeding 20,000 gross square feet; or demolition of historic structure as determined by the Administrator.

2. MAKE-UP OF THE COMMISSION - The Commission is made up of nine appointed members, as follows:

This added
language mimics
State Statute IC
36-7-4-207(d)
added for
convenience for
the appointing
bodies.

- Four members, of whom no more than two (2) may be of the same political party, appointed by the Mayor of the City of Indianapolis.
- Three members, of whom no more than two (2) may be of the same political party, appointed by the City-County Council of Indianapolis and Marion County.
- Two members, who must be of different political parties, appointed by the County Commissioners of Marion County.

SECTION II. Article IV, Section 1 is amended by the addition of the language that is underscored, to read as follows:

ARTICLE IV - DOCKETING OF PETITIONS

1. DOCKETING BY ADMINISTRATOR - Each petition filed in proper form shall be numbered and docketed by the Administrator within ten (10) days after a petition has been filed for hearing either before the Hearing Examiner or Committee or the Commission. However, the Commission may, by resolution, adopt any method of assignment of cases it deems appropriate.

- A. The Administrator may limit the number of new petitions docketed for the Hearing Examiner.
- B. Petitions rezoning to the D-P District shall be scheduled for initial hearing before the Metropolitan Development Commission (not before the Hearing Examiner).
- C. Regional Center Approval Petitions that include a High Impact Project shall be docketed directly before the Regional Center Hearing Examiner.
- D. Petitions that include property within or proposed to be within a SZ District shall be docketed directly before the Speedway Hearing Examiner.
- E. Petitions that affect only property within the corporate boundaries of an excluded city, the legislative body of the excluded city may decide that the legislative body act as the Hearing Examiner and hold the public hearing. Upon filing of a petition, the Administrator shall refer the petition to the legislative body of the excluded city. At the legislative body's first regular meeting after receiving a referred petition, the legislative body shall decide whether the legislative body will hold the public hearing. Within thirty (30) days after making the decision to hold the hearing, the legislative body shall hold the hearing. The legislative body shall then make a recommendation on the petition to the Commission. If at the end of the thirty (30) day period for the public hearing, the petition receives no recommendation by the legislative body, or if the legislative body determines not to hold a public hearing, the petition shall be docketed before the Hearing Examiner.

This added
language
mimics State
Statute. It is
added to
explain the
Excluded City
process.

SECTION III. Article V, Section 5, subsections C, D and E are amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

C. NOTICE ON SUBJECT PROPERTY - Notice for all rezoning, variance, special exception, plat, vacation, PK-2 approval, SZ-1 approval, SZ-2 approval, and HD-2 approval petitions, and all companion petitions allowed under the provisions of I.C. 36-7-4-403.5, on a form prescribed by the Commission, shall be posted at least twenty-three (23) days before the date of hearing. Said notice shall be located in a conspicuous place on the subject property along each public street frontage, except Interstate highways. Such notice shall not be located within any public right-of-way. Said notice shall remain posted until resolution of the petition. The Administrator may require a nominal,

refundable deposit for said notice. Deposit shall be refunded upon return of said notice.

Added title so that it is easier to find in the Rules.

D. COMMISSION-SPONSORED PETITIONS - The requirements of Sections 1(b) and (c) of Article V shall not be applicable to petitions initiated by the Commission. The Commission shall determine the requirements, if any, for notice on such petitions.

DE. ADDITIONAL NOTICE FOR TALL STRUCTURES AND DEVELOPMENT IN NOISE SENSITIVE AREAS - The petitioner applying for a petition involving a structure regulated under IC 8-21-10 shall provide evidence to the Commission that notice was delivered to any public use airport located within the distance described in IC 8-21-10-3 of the structure regulated under IC 8-21-10 not less than sixty (60) days before the initial hearing of the petition. Said notice shall include the direction to send comments to the attention of the Commission.

SECTION IV. Article VI, Section 1 is amended by the addition of the language that is underscored, to read as follows:

ARTICLE VI - PUBLIC HEARINGS

1. TIME AND PLACE OF PUBLIC HEARINGS - Regular meetings and public hearings of the Metropolitan Development Commission shall be held in the City-County Building, Indianapolis, Indiana, at 1:00 o'clock P.M. on the 1st and 3rd Wednesday of each month. If the regular meeting day falls on a Legal Holiday, such meeting shall be held on the following day that is not a legal holiday.

Public hearings of the Hearing Examiner normally shall be held in the City-County Building, Indianapolis, Indiana, at 1:00 o'clock P.M. on the Thursday of the week following the regular meeting of the Commission. Additional public hearings of the Hearing Examiner may be scheduled at the discretion of the Administrator. If scheduled, said hearing shall be held in the City-County Building, Indianapolis, Indiana, at 1:00 o'clock P.M. on the remaining Thursdays.

Added to establish the hearing schedule for the 2 new Hearing Examiners.

Public Hearings of the Regional Center Hearing Examiner are scheduled at the discretion of the Administrator. If scheduled, said hearing normally shall be held in the City-County Building, Indianapolis, Indiana, at 10:00 o'clock A.M. on the Thursday of the week following the regular meeting of the Commission.

Public Hearings of the Speedway Hearing Examiner are scheduled at the discretion of the Administrator. If scheduled, said hearing normally shall be held in the Town Hall, Speedway, Indiana, at 6:00 o'clock P.M. on the first or third Thursday of the month.

SECTION V. Article VII, Section 3, subsection C is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

C. ADMINISTRATOR'S APPROVAL - In those petitions where the Commission, Hearing Examiner, or Committee grants a rezoning, variance, special exception, approval, plat or vacation (as noted in Article III) subject to a condition or written commitment which stipulates the review and approval of a final plan by the Administrator, the Administrator shall have the following authority and shall follow the following procedures in the review process:

- (1) Administrator's approval of final plans shall be obtained prior to applying for an Improvement Location Permit. It is suggested that the Administrator be consulted early in the design stage of the project in order that any needed changes can easily be incorporated in to final plans. (This suggestion is not to be interpreted as a requirement for approval.)
- (2) The scope of review of a final plan by the Administrator may include, but not be limited to, one or more of the following development aspects:
 - a. site layout;
 - b. building location, configuration and appearance (i.e. elevations);
 - c. parking location, count, and configuration;

- d. interior traffic flow;
- e. ingress and egress to the development
- f. sign location, size and design;
- g. extent, placement, and specifications for landscaping, and landscape screening;
- h. fencing, fence location, height, materials, and elevations;
- i. pedestrian connectivity and public transit accessibility; and
- ij. an illumination or lighting plan.

Added language to reflect the new changes in the ordinance.

(3) In exercising discretion to approve or disapprove a final plan, the Administrator shall use the following standard:

- a. If the condition or written commitment indicates that the applicable development aspects will comply with certain written standards (e.g. Architectural Graphics Standards) or a development example (e.g., a development project in existence in Marion County), the Administrator will be guided by the standard expressed by the written document or example.
- b. If a standard is not provided under a., the Administrator will be guided by the comments prepared and presented in the staff report, statements made at the hearing by the petitioner, remonstrators and other interested parties and comments made by decision makers during the course of the hearing.
- c. If a standard is not provided under a., and if comments and statements mentioned in b. do not provide an adequate standard, the Administrator shall consider what is "good professional practice under the circumstances". In determining what is good professional practice under the circumstances, the Administrator will be guided by the characteristics of similar development of superior quality in Marion County.

The standard applied by the Administrator is not confined to the standard that can be inferred from the development standard of the applicable zoning district and may include standards described in plans and/or testimony presented at the public hearing and agreed to in principle by the petitioner.

(4) If the Administrator does not approve a plan submitted by the petitioner, and no alternative plan acceptable to both parties can be agreed upon, the petitioner shall have the right to appeal such action of the Administrator. Such an appeal shall be filed as an approval petition for a modification of commitments (rezoning), or a modification of conditions (variance grant) to approve a specific development plan. This appeal must be filed within 23 days from the date of the denial.

Deleted to allow CP to collect at the time of review.

~~The review fee for "Administrator's Approval" shall be assessed, and payment due, at the time of issuance of an Improvement Location Permit.~~

This added language to clarify the time constraints and which process to follow.

(5) Any interested party shall have the right to appeal such action of the Administrator. Such an appeal shall be filed as an approval petition for a modification of commitments (rezoning), or a modification of conditions (variance grant) to approve a specific development plan. This appeal must be filed within 23 days from the date of the decision by the Administrator.

SECTION VI. Article VII, Section 4 is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

4. FILING OF REQUEST FOR APPEAL - Any interested party, including the Administrator, may file a request for an appeal of the recommendation as certified to the Commission by the Hearing Examiner or Committee. Said request for appeal shall simply state that the party requests a hearing by the Commission. Appeals shall be filed in the offices of the Commission as follows:

Changed to be consistent with the method that other dates are expressed (in calendar days).

| | |
|---|---|
| Rezoning, approval or companion variance petition: | Five (5) business <u>Seven (7)</u> days following the hearing. |
| Plat or vacation petition as a companion petition allowed by I.C. 36-7-4-403.5: | Ten (10) days following Hearing Examiner or Committee decision. |
| Variance petition as a companion petition allowed by I.C. 36-7-4-403.5: | Five (5) days following Hearing Examiner or Committee decision. |

SECTION VII. Article VIII, Section 5, subsection D is amended by the addition of the language that is underscored, to read as follows:

ARTICLE VIII - FINAL DISPOSITION OF PETITIONS

D. WITHDRAWAL OF PETITIONS PENDING BEFORE THE CITY-COUNTY COUNCIL
– Petitions may be withdrawn by the petitioner after the Commission approves the petition and before the City-County Council votes.

This added language to clarify whether this can happen.

SECTION VII. Article XV is amended to read as follows:

ARTICLE XV -- ADOPTION

The foregoing amendments to the RULES OF PROCEDURE OF THE METROPOLITAN DEVELOPMENT COMMISSION OF MARION COUNTY, INDIANA, are hereby adopted by the affirmative vote of the undersigned members of said Commission, this ____ day of _____, 2008. The effective date of this RULES OF PROCEDURE OF THE METROPOLITAN DEVELOPMENT COMMISSION OF MARION COUNTY, INDIANA, shall be immediate.

Randy Snyder, President

Dorothy J. Jones, Vice President

Tom Morales, Vice-Secretary

Diana Hamilton, Commissioner

J. Scott Keller, Commissioner

Lisa Kobe, Commissioner

Tim Ping, Commissioner

John Suter, Commissioner

METROPOLITAN DEVLEOPMENT COMMISSION
OF MARION COUNTY, INDIANA

ATTEST: _____
James J. Curtis, Sr., Secretary
Metropolitan Development Commission
of Marion County, Indiana

APPROVED AS TO LEGAL FORM
AND ADEQUACY this _____
day of August, 2008

Stephen Neff, Assistant Corporation Counsel