

## **SECTION 500: RULES OF PROCEDURE**

All actions of the Plan Commission and Board of Zoning Appeals are governed by their respective Rules of Procedure of the Commission and Board adopted pursuant to IC 36-7-4-401 and IC 36-7-4-916 and Indiana law.

## **SECTION 501: EXCEPTIONS AND USES**

- A. The Board of Zoning Appeals may only consider those applications for Special Exception, Special Use, Contingent Use, or Conditional Use (hereinafter collectively referred to as exceptions and uses) listed in the applicable zoning district for the lot upon which the exception or use is proposed.
- B. A proposed exception or use can only be granted by the Board of Zoning Appeals upon an affirmative finding on the following criteria:
  - 1. The proposed exception or use will not be injurious to, or alter the normal and orderly development of, permitted uses of property within the general vicinity;
  - 2. The proposed exception or use is serviced by adequate access roads, ingress and egress points, and traffic flow and control mechanisms;
  - 3. The establishment, maintenance, or operation of the proposed exception or use will not be injurious to the public health, safety, or general welfare; and
  - 4. The proposed exception or use is not inconsistent with the Comprehensive Plan.

## **SECTION 502: WRITTEN COMMITMENT**

- A. The Commission or County Commissioners may require or permit the owner of real property to make a written commitment concerning the use or development of a property when reviewing a proposal to amend the zone maps.
  - 1. If the commitment is required by the Commission, or if the owner of the real property permits the written commitment to be made prior to a recommendation being made by the Commission, the commitment shall be included in the certified recommendation to the County Commissioners. The County Commissioners may approve, amend and then approve, or disapprove the recommendation of the Commission. If the recommendation is disapproved, the commitment shall be void.
  - 2. The written commitment shall be:
    - a. prepared by the Commission or County Commissioners;
    - b. signed by the property owner(s) in the manner provided on the approved form of commitment;
    - c. signed by the President of the Board of County Commissioners; and
    - d. recorded in the Huntington County Recorder's Office. The commitment shall be recorded prior to the final decision of the Board of Commissioners.

3. A written commitment regarding a proposal to amend the zone maps takes effect upon the final approval of the proposal by the Board of Commissioners.
- B. The terms of a commitment made as a part of a proposal to amend the zone maps can only be modified as follows:
1. An application for modification of a commitment may be filed by the owner of the property which is subject to the commitment. The application shall be signed by the property owner.
  2. The Commission shall hold a public hearing on the request after notice is provided in the same manner as in the initial request to those interested parties who were notified of the initial proposal. At the conclusion of the hearing, the Commission shall make a recommendation on the modified commitment to the County Commissioners. The County Commissioners may approve, amend and then approve, or disapprove the recommendation. If the modified commitment is disapproved, the modified commitment shall be void.
  3. A written modification is effective upon final approval of all necessary administrative or legislative bodies.
- C. The Commission may require or permit the owner of real property to make a written commitment concerning the use or development of a property when reviewing a proposal for Development Plan approval.
1. The commitment shall be:
    - a. prepared by the Commission;
    - b. signed by the property owner(s) in the manner provided on the approved form of commitment;
    - c. signed by the President of the Commission; and
    - d. recorded in the Huntington County Recorder's Office. The commitment shall be recorded prior to the final approval of the Commission.
  2. A written commitment made regarding a Development Plan takes effect upon final approval of the Development Plan.
- D. The terms of the commitment made as a part of a proposal for Development Plan approval can only be modified as follows:
1. An application for modification of a commitment may be filed by the owner of the property which is subject to the commitment.
  2. The Commission shall hold a public hearing on the request after notice is provided in the same manner as in the initial request to those interested parties who were notified of the initial proposal. At the conclusion of the hearing, the Commission shall approve, amend and then approve, or disapprove the modified commitment. If the modified commitment is disapproved, the modified commitment shall be void.
  3. A written modification is effective upon final approval of the Commission.
- E. A commitment made under this Section automatically terminates if:
1. the proposal to amend the zone map is not approved by the Board of County Commissioners;
  2. the Development Plan is not approved;
  3. the zone map applicable to the parcel upon which the commitment is made is changed;

4. the parcel upon which the commitment is made is designated as a planned unit development district.
- F. A commitment may be enforced by the Director, Commission, or County Commissioners in any manner provided by law or equity.

**SECTION 503: CONDITIONS OF APPROVAL**

- A. The Board of Zoning Appeals may impose reasonable conditions as a part of its approval.
- B. The Board of Zoning Appeals, when reviewing a request for a Special Exception or Variance, may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel. Written commitments shall be prepared and executed in accordance with the Rules of Procedure of the Board.
- C. The Board of Zoning Appeals may amend or remove a condition of approval only upon an affirmative finding on the following criteria:
  1. There has been a change in circumstances regarding the subject property, and/or property within the general vicinity, since the date the condition was placed, that makes the condition no longer appropriate or necessary.
  2. There has been a change in circumstances, since the date the condition was placed, regarding the ordinances, rules, or regulations, as they now apply to the subject property.