

The
AREA PLAN COMMISSION
of Tippecanoe County

APC
Ordinance Committee

Date: February 1, 2023

Time: 4:35 PM

Location: Tippecanoe County Office Building

Tippecanoe Room

20 North Third Street

Lafayette, IN

This will be an in-person meeting. Members of the public may watch the [livestream of the meeting](#) on Facebook or YouTube. Links can be found on the county website at www.tippecanoe.in.gov/apc

AGENDA

I. APPROVAL OF MINUTES FROM THE DECEMBER 7, 2022 MEETING

Documents:

[ORD 12.07.2022.PDF](#)

II. PROPOSED CHANGES TO THE PLANNED DEVELOPMENT SECTION OF THE UNIFIED ZONING ORDINANCE:

A discussion regarding a proposed amendment of minor changes to PD submittals - Ryan O'Gara

Documents:

[DRAFT PD CHANGES.PDF](#)

III. CITIZEN COMMENTS

IV. ADJOURNMENT

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
ORDINANCE COMMITTEE
MINUTES OF A PUBLIC HEARING**

DATE.....DECEMBER 07, 2022
TIME.....4:45 P.M.
PLACE..... COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

This meeting was held in-person. Members of the public could watch the livestream of the meeting at <https://www.facebook.com/TippecanoeCountyIndiana> or <https://www.youtube.com/c/TippecanoeCountyGovernment>

MEMBERS PRESENT

Larry Leverenz
Vicki Pearl
Greg Jones
Kathy Parker
Gary Schroeder
Tom Murtaugh
Jackson Bogan
Jerry Reynolds

MEMBERS ABSENT

STAFF PRESENT

David Hittle
Kathy Lind
Amanda Esposito
Austin Hammerli
Eric Burns, Atty.

Gary Schroeder called the meeting to order at 4:40 PM.

I. APPROVAL OF MINUTES

Jackson Bogan moved to approve the minutes from the July 6, 2022 public hearing. Greg Jones seconded, and the minutes, as submitted, were approved by unanimous voice vote.

II. PROPOSED CHANGES TO THE BYLAWS:

APC staff David Hittle presented a set of proposed changes to the Board of Zoning Appeals Rules of Procedure. The Rules are divided into five categories, with the first three involving the time involved between the submission of the application to the time of the public hearing.

One proposed change is the application submission date of no less than 30 days prior to the public hearing date, instead of the current 28 days. The reason for this proposed change is to account for the proposed change to the public notification timeframe. Instead of ten days prior to the hearing, the proposal is to change to 21 days for letters to be mailed and the public notice sign to be posted. This change is intended to provide more time for staff to review the case, for neighbors to ask questions, and for petitioners to interact with neighbors and APC staff.

An additional proposed change is to expand the notification range of property owners. Currently letters are mailed to all owners within one lot or 100' of the petitioner property. A common requirement used within the state is 660' or two lots. APC staff has found that the one lot or 100' requirement does not provide proper notification in some instances. The proposed change is to notify all owners within two lots or 200'.

A proposed change to Administrative Matters is to allow for an Executive Committee designee. If Determination of Variances is the only agenda item for the Executive Committee, this proposed change would prevent a public forum from taking place, but instead, administratively allow an Executive Committee designee, most likely the President, to indicate that variances for use requests are not for Variances of Use.

A proposed change to the public hearing involves the support and opposition letters. APC staff is proposing that letters will not be read aloud at the hearing, but instead will be included in the hearing packet that is mailed and published one week prior to the hearing. Letters submitted at least eight days prior to the public hearing would be published in the packet. Letters received after the packet day will be made available at the public hearing for Board member review. The language regarding who can and cannot speak at a public hearing will be removed to eliminate confusion.

Additionally, there is a proposed change to the voting process, regarding the long pause that occurs to complete the ballots. The proposal is to move to a roll call vote, aligning the vote with specific written findings of fact. An oral vote would lead to a quick determination of the case, allowing the public hearing to continue without long pauses. Then the Board would take time to complete the written findings for the official record. Eric Burns said the process could be done without a voice vote. A revised ballot layout was requested by the Board to view these proposed changes.

The durability of the posterboard signs was questioned if the proposed change requires a 21-day posting. The option to create plastic-based signs was discussed, similar to campaign signage. These signs would be created generically and would not include specific details of the hearing date, making them reusable. The sign would provide a phone number or web address to refer to for case details. The signs could be purchased by the petitioner with a deposit and then once the sign is returned to the APC office, the deposit would be reimbursed to the petitioner. Tom Murtaugh thought the Highway Department could possibly make the signs.

David Hittle withdrew the proposed changes regarding the topic of continuance of a case.

These proposed changes would also be recommended to the Area Plan Commission bylaws. There is value in having the bylaws read the same, to the extent that they can.

The Ordinance Committee would like to review the final revised forms along with the revised ballot at the January 4, 2023 meeting. These proposed changes will be presented to the Area Board of Zoning Appeals at the January 25, 2023 meeting.

III. PROPOSED ADDITIONS TO UZO REQUIREMENTS FOR AGRICULTURAL RENTAL HALLS

Amanda Esposito discussed findings and feedback regarding the impact party barns have had on neighboring properties. These concerns relate to noise, traffic, and hours of operation.

A slide was shown illustrating the approximate distance of the nearest dwelling at six current event centers. Five of the six sites are closer than 1000' to the nearest dwelling, not associated with the rental hall. The proposed change is a setback of no less than 1000' from the nearest dwelling not affiliated with the use.

The rental hall petitioners currently commit to hours of operation and no amplified music allowed outdoors. The proposal is to have these commitments become part of the ordinance, and no longer listed separately as case commitments.

The commitment to the number of guests permitted is tied to their state review for capacity. The proposal is to be the lower count of either the state review findings or the petitioner's guest count on the application, but no more than 300 guests.

Additionally, there is a proposed requirement of a bufferyard between the parking area and adjacent properties, to shield headlights of vehicles on the property and to provide additional sound barrier.

The ratio of parking spaces for the property is also being revised. Currently we require one space per every four guests. The proposal is to revise this to one space per every 2.5 guests, plus one for every full-time employee.

Larry Leverenz moved to send the Proposed Additions to UZO Requirements for Agricultural Rental Halls to the Area Plan Commission with a recommendation of approval. Tom Murtaugh and Jackson Bogan seconded. Motion carried by unanimous voice vote.

IV. CITIZEN COMMENT

There were none.

V. ADJOURNMENT

Jackson Bogan moved to adjourn. The meeting adjourned at 5:40 p.m.

Respectfully Submitted,
Kristina Lamb
Recording Secretary

Reviewed By,

A handwritten signature in black ink, appearing to read "D. Hittle". The signature is written in a cursive style with a horizontal line underneath the letters.

David Hittle
Executive Director

2-28-1 INTENT: (Amend 83)

- (a) PD zoning is used to foster innovative and diverse design in land development that is still consistent with both the adopted *Comprehensive Plan* and the intent of the *Unified Zoning and Subdivision Ordinances*. To achieve this, the Commission does not apply any other provisions of this chapter or Chapter 4 below. Instead, the Commission -- through its staff -- negotiates a specific development plan with the petitioner for PD zoning and representatives of the checkpoint agencies. The combined elements of this negotiated plan - - rather than zone regulations -- then become the subject of the rezoning process. All restrictions and regulations for a specific Planned Development are thus contained within the approved and recorded plan itself, having been arrived at prior to rezoning. PD zoning may be applied to a redevelopment site, existing **development**, undeveloped land, and on contiguous or non-contiguous tracts located within the same jurisdiction.
- (b) The Commission's goal is to provide a widening variety of environmentally appropriate residential, nonresidential and mixed-use **developments** to meet the needs of this community. To help create attractive, healthful, efficient and sustainable places to live, shop and work, the Commission encourages use of PD zoning within the following contexts:
 - (1) to accommodate compatible **development** in environmentally sensitive locations;
 - (2) to enhance compatibility with surrounding land **uses**;
 - (3) to permit a harmonious variety of **uses** within a single **development**;
 - (4) to promote efficiency, sustainability and thus economy by clustering structures and/or by using shared facilities or services;
 - (5) to foster new site treatments not contemplated in other kinds of **zones**.
 - (6) to advance the policies of the *Comprehensive Plan* in innovative ways less easily achievable through other zoning districts while providing a demonstrable community benefit.

2-28-2 ORIGINATION OF PROPOSALS: (Amend 83)

- (a) A request to rezone from any other zoning classification to PD may be initiated by:
 - (1) all owners of the property in question; or
 - (2) any group of owners united in interest, acting jointly in pursuance to an agreement to carry out the proposal in separate ownership.
- (b) Because of the unified design of a planned development and because the combined elements of the negotiated plan are the substance of the **zone** itself, this ordinance requires that a request to reclassify from PD to PD shall include amongst the petitioners either:
 - (1) all owners of the property within the current planned development;

- or
- (2) the owners' association acting on behalf of a majority of property owners in the current planned development, as constituted in the recorded bylaws.
 - (c) Also, in keeping with provisions of 5-2-3 below, PD zoning is mandatory for any new **condominium** construction or **condominium** conversion.

2-28-3 CLASSIFICATION OF PLANNED DEVELOPMENTS: (Amend 83)

- (a) To identify the nature of planned developments on zoning maps, they shall be classified as one of these four **zones**:
 - (1) **PDRS (Residential Planned Development)**, in which all **buildings** and land are developed for residential **use** and those activities customarily accessory to residential **use**;
 - (2) **PDNR (Nonresidential Planned Development)**, in which no **buildings** or land are developed for residential **use**, but rather for commercial and/or industrial and/or recreational and/or some other nonresidential **use**;
 - (3) **PDMX (Mixed-Use Planned Development)**, in which **buildings** and land are developed as a mix of both residential and nonresidential **uses**; and
 - (4) **PDCC (Condominium Conversion Planned Development)**, in which the only change proposed involves either:
 - (A) the conversion to **condominium** ownership of a **development** which has received occupancy permits for all parts no less than three years prior; or
 - (B) the conversion to **condominium** ownership of an existing **building** in a CB or CBW **zone** or in a PD **zone** adjoining or surrounded by a CB or CBW zone; where there is no further division of land involved.

(b) **Change of Use Planned Developments:** For existing PD zones that have not either lapsed or been abandoned, a new PD rezone may be sought to augment and/or otherwise change the uses permitted in their PD zone while adhering to the development standards recorded in that PD zone's most recent Final Detailed Plans (as amended by minor modification, if applicable). Given that the only change being sought with this type of PD rezone is a change in the permitted uses and not the Construction Plans and Final Plat of the most recently recorded Final Detailed Plans, Change of Use Planned Developments follow a more expedited track to approval, as is specified in this section.

(c) Those PD **zones** and overlays approved prior to the adoption of this amendment shall be reclassified as one of the above four zoning categories.

2-28-4 PRE-SUBMISSION CONFERENCE: (Amend 83)

- (a) No pre-submission conference is required before submitting a rezoning request to PDCC.

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- (b) Before submitting any of the materials required for a rezoning request to either PDRS, PDNR or PDMX, the petitioner shall arrange a meeting with staff and the appropriate **Administrative Officer**, and if outside the corporate limits of Lafayette and West Lafayette, the County Surveyor and Highway Executive Director, or their designees (Amend 15). If outside the service area of sanitary sewer, the County Health Department shall also be notified (Amend 41).
- (c) At the pre-submission conference, the petitioner shall be prepared to explain the justification for rezoning to a PD zone based on the criteria in Section 2-28-1(b) and bring, unless the proposal is a Change of Use Planned Development, a drawing or sketch of the proposed planned development that:
- (1) is at least approximately scaled;
 - (2) includes the entire tract;
 - (3) shows, in at least schematic detail, location and description of proposed **uses** and major **buildings**, neighboring buildings and uses including those on the opposite sides of all streets, layout and classification of **roads**, all entrances and exits, any environmentally sensitive areas;
 - (4) proposes treatment of environmentally sensitive areas;
 - (5) indicates phasing and a time frame for **development**.
- (d) Discussion at this meeting concerning a Planned Development that is not a Change in Use Planned Development shall include:
- (1) the intent and requirements of PD zoning;
 - (2) the petitioner's intentions and objectives regarding land **use**, **street** improvements, utilities, the interrelationship of these aspects, and similar matters (Amend 15);
 - (3) the petitioner's intentions assuring compatibility between **uses** proposed for the perimeter of the PD and surrounding land **uses** and zoning classifications;
 - (4) general availability of utilities to the site;
 - (5) the area's current zoning pattern and all elements of the *Comprehensive Plan*;
 - (6) specific materials and documents required in 2-28-5 below to be included with the submission, and a list of checkpoint agencies to be involved;
 - (7) classification of the proposed rezoning as either PDRS, PDNR or PDMX, as per 2-28-3 above; and
 - (8) a proposed schedule for the rezoning process.
- (e) Discussion at this meeting concerning a Planned Development that is a Change in Use Planned Development shall include:
- (1) The reason for the request;
 - (2) A comparison document that juxtaposes the uses currently permitted in the PD zone with those uses being proposed with the Change of Use Planned Development rezone proposal;
 - (3) An explanation of how the proposed change of use will not

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~~negatively impact the existing Planned Development and/or surrounding neighborhood including, but not limited to, traffic impacts, parking impacts, and noise.~~

~~(e)~~(f) The Administrative Officer or staff present at the pre-submission conference may request additional pre-submission conference meetings in order to seek further clarification of the project's details required by this section before clearing the proposal for draft plan submission.

~~(f)~~(g) Unless directed otherwise by the petitioner, the contents of pre-submission conferences are to remain confidential and are not to be disclosed by staff to the public until the petitioner files for a PD rezoning request with draft plan.

2-28-5 FILING REQUIREMENTS FOR A PD REZONING REQUEST WITH DRAFT PLAN: (Amend 83)

- (a) With the conclusion of the pre-submission conference stage per 2-28-4(e), or to initiate a PDCC action, the petitioner may file a rezoning request to one of the PD classifications. The last working day of each month is the deadline for a petitioner to make a complete submission intended to be heard, depending on the conclusion of the discussions required by Section 2-28-6-b, as a rezoning request no sooner than the Commission's public meeting about 1½ months later.
- (b) The initial submission, for a PD rezone petition that is not a Change of Use Planned Development submission, shall contain the following:
 - (1) a non-refundable processing fee, sufficient for up to two three draft plan meetings, as set by the Commission;
 - (2) a signed and notarized Petition to Rezone with ~~metes and bounds~~ legal description, indicating the PD classification being sought, signed by the owner or owners of all property involved, or with a notarized Affidavit of Consent of all owners attached;
 - (3) a list of names, addresses and auditor's key numbers of all property owners located adjacent to and directly across the street, alley, or railroad **right-of-way** from the property described in 2-28-5-b-2 above; an original and 16 copies of the proposed ordinance to rezone the property, using the sample format provided by the staff;
 - (4) A completed copy (both paper copy and electronic copy) of the Commission's publication, *Planned Development Submission Checklist*, the required number of drawing sets labeled Draft Plan and an electronic copy of the plans. Plans shall be organized and formatted according to the checklist's specifications and shall include a published and recorded boundary survey meeting the requirements of *IAC Title 865 Article 1 Rule 12* or its successor, plus a full and detailed site analysis and proposed **site plan**, utilities plan, landscape plan and all other items called for in that publication;

- (5) If dividing or replatting land, the required number of drawings with electronic copy of the preliminary **plat**, prepared by a Registered Land Surveyor in conformance with the requirements of Appendix B-1 below.
- (6) The required number of number of copies with electronic copy of any proposed covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to 2-28-14-a through 2-28-14-c below). These shall include a table of contents, and be written in plain language easily understood by most readers; and
- (7) signatures of all required checkpoint agencies, or post office receipts of certified mailing, indicating receipt of one set each of the items listed as (4) through (6) above.
- (8) 2 Notices of Public Hearing form.;
- (9) 2 release letters authorizing the staff to submit Notices of Public Hearing to the designated newspapers;
- (10) A completed Notice to Interested Parties form.

(c) The initial submission, for a Change of Use Planned Development submission, shall contain the following:

- (1) a non-refundable processing fee, -as set by the Commission;
- (2) a signed and notarized Petition to Rezone with legal description, indicating the PD classification being sought, signed by the owner or owners of all property involved, or with a notarized Affidavit of Consent of all owners attached;
- (3) a list of names, addresses and auditor's key numbers of all property owners located adjacent to and directly across the street, alley, or railroad **right-of-way** from the property described in 2-28-5-b-2 above; an original and 16 copies of the proposed ordinance to rezone the property, using the sample format provided by the staff;
- (4) a document providing recordation information for the most recent Final Detailed Plans for the site (including all minor modifications, if applicable), a list of the proposed uses for the site, and a statement tying the list of the proposed uses to the most recent recorded Final Detailed Plans (including all minor modification, if applicable);
- (5) signatures of all required checkpoint agencies, or post office receipts of certified mailing, indicating receipt of one set each of the items listed as (2) and (4) through (6) above;
- (6) 2 Notices of Public Hearing form.;
- (7) 2 release letters authorizing the staff to submit Notices of Public Hearing to the designated newspapers;
- (8) A completed Notice to Interested Parties form.

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(d) Checkpoint agencies to be provided with sets of plans and other

documents will have been determined at the pre-submission meeting stage. They include those agencies having jurisdiction in areas potentially affected by the petitioner's proposed **development**. The list may be drawn from the agencies listed in the Bylaws of the Area Plan Commission. For a PDCC rezoning and a Change of Use Planned Development rezoning, upon request of the petitioner, the staff will provide a list of checkpoint agencies to be provided with sets of plans and documents (Amend 15 & 84).

~~If the petitioner fails to meet the filing requirements of 2-28-5 above within 6 months of the last pre-submission meeting date, the petitioner shall schedule a new pre-submission meeting, as per 2-28-4, in order to continue the project.~~

2-28-6 REQUIRED REVIEW (DRAFT PLAN) MEETING: (Amend 83)

- (a) The Commission's staff shall determine if the petitioner's submission is complete within five business days of the day after the submission deadline. If it is, written notices shall be sent to the petitioner, the petitioner's representatives, the checkpoint agencies and the staff, scheduling a Draft Plan Meeting to be held typically on or before the third Wednesday of that month. If the submission is found to be incomplete within the time frame specified by this section, the staff shall provide the petitioner, within ten-five business days, a written statement detailing its deficiencies, ~~regarding items in 2-28-5-b above. A Draft Plan Meeting shall be scheduled by staff once all deficiencies have been remedied. The last day of that month will then be the next filing deadline for a complete submission.~~
- (b) At the Draft Plan Meeting, the staff and checkpoint agency representatives will have an opportunity to require reasonable changes to the Draft Plan submission and discuss them with the petitioner and petitioner's representatives. Checkpoint agencies may provide written comments to the **Executive Director**, or the director's designee, instead of being present. Additional draft plan meetings may be required by the staff and/or checkpoint agencies in order to complete the discussions of the required changes and recommended revisions to the Draft Plan submission.
- ~~(b) Per Section 2-28-5, the processing fee is sufficient for up to two three draft plan meetings. In the event that additional draft plan meetings are required by staff and the checkpoint agencies, or by the petitioner pursuant to Section 2-28-7 b, to complete the discussions required in Section 2-28-6 b, an additional non-refundable processing fee set at half the specified amount shall be required which shall be sufficient for up to two three additional draft plan meetings.~~
- ~~(b) Additional draft plan meetings shall be scheduled only after the processing fee has been received by the Commission.~~
- ~~(b) With the conclusion of the discussions required by Section 2-28-6 b or in the petition receiving a determination of completeness by the APC~~

~~Executive Committee per Section 2-28-7-b, the petition shall be cleared by APC staff to submit Preliminary Plans, and twenty-two days before the next available APC public hearing, the following items shall be submitted to complete the filing requirements for a PD rezoning request with draft plan:~~

- ~~2 Notices of Public Hearing, each with a metes and bounds or other proper legal description and the common address or location of the property;~~
- ~~1) 2 release letters authorizing the staff to submit Notices of Public Hearing to the designated newspapers;~~
- ~~1) A completed Notice to Interested Parties form.~~

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2-28-7 PRELIMINARY PLAN APPLICATION REQUIREMENTS: (Amend 51 & 83)

- (a) Following the Draft Plan Meeting stage, the petitioner shall submit a Preliminary Plan no later than ~~two business days before~~ the last Wednesday of the month preceding the intended public hearing. The Commission's staff will notify the petitioner within five business days as to whether the Preliminary Plan application is complete. During this ~~five business~~~~five-business~~ day review period, staff shall determine if the comments raised during the negotiation have been addressed and whether minor corrections can be made, if possible and needed, before the case is heard in order for the Preliminary Plan application to be complete. A complete Preliminary Plan application shall contain the following: (Amend 51)
 - (1) Unless directed otherwise by APC staff, ~~73~~ sets of drawings and electronic copy, labeled Preliminary Plan, containing all the elements of the Draft Plan reflecting changes resulting from the Draft Plan Meeting stage, including all reasonable changes requested by the staff and checkpoint agencies;
 - (2) Unless directed otherwise by APC staff, if dividing land, ~~73~~ copies and electronic copy of the preliminary *plat*, prepared by a Registered Land Surveyor as per Appendix B-1 below, included within the Preliminary Plans; and
 - (3) Unless directed otherwise by APC staff, ~~73~~ copies and electronic copy of any covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to 2-28-14-a through 2-28-14-c below). These shall include a table of contents, and be written in plain language easily understood by most readers.
 - (4) a non-refundable processing fee as set by the Commission;
- ~~(b) If the Commission's staff determines that the Preliminary Plan is incomplete because it fails to include all reasonable changes requested by the staff and checkpoint agencies during the Draft Plan Meeting stage and the petitioner disagrees with this determination, the staff is free to recommend either denial or amendment in their report. and the petitioner disagrees with this determination, the petitioner may appeal~~

~~this determination to the APC Executive Committee and request a public hearing for a Completeness Determination by the APC Executive Committee relative to the Preliminary Plan. At such public hearing, the petitioner and the Commission's staff, and any checkpoint agencies which desire to participate, shall each present a summary of the discussions outlined in Section 2-28-6-b and be available to answer questions from the APC Executive Committee. The APC Executive Committee shall then determine and render a decision as to whether the changes required by the staff and checkpoint agencies required by Section 2-28-7-a-1 have been sufficiently included in the Preliminary Plan application. The APC Executive Committee is making no determination as to the appropriateness of the changes. If the APC Executive Committee finds the Preliminary Plan Application to be complete, the application shall proceed to a full APC public hearing in accordance with Section 2-28-8. If the APC Executive Committee finds the Preliminary Plan Application to be incomplete the petitioner may request additional Draft Plan Meetings in accordance with Section 2-28-6-c or withdraw the application. To initiate an appeal and request a Completeness Determination public hearing before the APC Executive Committee the petitioner shall:~~

- ~~(0) Request in writing, on forms provided by the Commission, a Completeness Determination Public Hearing.~~
- ~~(0) Submit, with the completed form, a non-refundable processing fee as set by the Commission.~~
- ~~(e)(b) If the petitioner fails to submit a complete Preliminary Plan application requirement within 6 months after the date of the petition's last Draft Plan Meetings submission, the rezoning petition shall be void. If the petitioner wishes to continue with the project, a new pre-submission meeting, as per 2-28-4 above, must be scheduled.~~

~~If the petitioner fails to meet the Preliminary Plan application requirement within 6 months of the date of the last Draft Plan Meeting, and does not apply for a Completeness Determination with the APC Executive Committee per 2-28-7-b above, his rezoning petition shall be void. If the petitioner wishes to continue with the project, he shall schedule a new pre-submission meeting must be scheduled, as per 2-28-4 above.~~

2-28-8 PRELIMINARY PLAN HEARING AND DISPOSITION: (Amend 83)

- (a) The petition and Preliminary Plan shall then be heard by the Commission as a petition for zoning ordinance amendment, subject to the procedures that apply to such an amendment. Upon hearing the request, the Commission may recommend approval, amendment, or disapproval-denial of the Preliminary Plan, or may vote no recommendation pursuant to **APC** bylaws.
- (b) The Commission may impose reasonable conditions with its recommendation. These conditions shall only involve the inclusion of

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additional items unrelated to the project's design. Such items include, but are not limited to, being granted additional approval by another governmental agency such as the Drainage Board, or obtaining permission to attach to an existing utility.

- (c) If the Commission requires changes to, including but not limited to, the in-design, regarding the proposed site, utilities or landscape plans, then the Commission shall vote to recommend amendment. Should this happen, the petitioner may resubmit a second Preliminary Plan, ~~as per 2-28-7 above,~~ for a later rehearing by the Commission. Such rehearings shall count against the allowed number of continuances for a rezone petition. If all continuances are used and the Preliminary Plans still have not met the Commission's required amendments, the Commission may vote to either continue or dismiss the rezone petition.
- (d) If the Commission recommends approval, ~~disapproval-denial~~ or no recommendation, the required sets of Preliminary Plans (including drawings, **plats** and covenants) shall be stamped with that recommendation and signed by the President and Secretary of the Commission. The distribution of these sets shall be as follows:
 - (1) 1 set, ~~including an electronic copy of the signed plans,~~ shall be permanently retained in the office of the Commission;
 - (2) 1 set shall be returned to the petitioner;
 - ~~(3) 4 sets shall be distributed by the staff, with 1 set going to each of the appropriate, gas, electric, telephone and cable television utilities; and~~
 - ~~(4)~~(3) 1 set shall be certified to the appropriate legislative body for adoption as a **Planned Development Zone** pursuant to the laws governing zoning ordinance amendments.
~~Additional sets, as required by staff for distribution to additional utility providers of public agencies, shall be distributed accordingly.~~
- (e) The legislative body may adopt or defeat the certified Preliminary Planned Development, but shall not amend it. If it is adopted by the legislative body, the petitioner may prepare Final Detailed Plans.
- ~~(d)~~

2-28-9 APPROVAL OF FINAL DETAILED PLANS FOR PDCC ZONES: (Am. 83)

- (a) Unless seeking final approval of a **Change in Use Planned Development PDCC rezone.** Following rezoning to PDCC by the legislative body, the petitioner may submit Final Detailed Plans. The petitioner cannot file required **condominium** documents with the County Recorder, until the staff approves these Final Detailed Plans.
- (b) A complete PDCC Final Detailed Plans submission shall contain the following:
 - (1) evidence that any conditions imposed by the Commission at the time of its hearing have been met;
 - (2) unless directed otherwise by the Commission's staff, a minimum of

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~~85~~ sets of drawings and electronic copy, labeled Final Detailed Plans -- **Condominium** Conversion, identical in content to the Approved Preliminary Plan (within the context of the imposed conditions), reviewed and signed by the appropriate **Administrative Officer**. ~~The number of sets shall be determined by the staff;~~ and

- (3) unless directed otherwise by the Commission's staff, a minimum of ~~85~~ signed copies and electronic copy of any covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to 2-28-14-a through 2-28-14-c below). These shall include a table of contents, and be written in plain language easily understood by most readers. ~~The number of copies shall be determined by the staff.~~

~~(c) (e)~~ The staff shall review these Final Detailed Plans generally within 5 working days of the petitioner's submission. If the staff finds they comply with 2-28-9-b above, the staff shall approve them by attaching a certificate of approval, signed and dated by the **Executive Director**, stating its finding of compliance. If the staff finds them incomplete as per 2-28-9-b above, the staff shall notify the petitioner of the deficiencies. After this certificate is attached, the submission may then be recorded with APC staff. ~~‡~~The petitioner shall not submit an alternate or revised set of Final Detailed Plans for the same legal description, except under the circumstance described in 2-28-11-c below.

~~(d) For **Change in Use Planned Development PDCC** rezones, after the rezone has been approved by the legislative body, the petitioner may seek Final Detailed Plan approval from APC before recording the submission. A complete **Change in Use Planned Development** submission shall contain the following:~~

- ~~(1) evidence that any conditions imposed by the Commission at the time of its hearing have been met;~~
~~(2) unless directed otherwise by the Commission's staff, a minimum of 5 sets of drawings and electronic copy, identical in content to the Approved Preliminary Plan (within the context of the imposed conditions), reviewed and signed by the appropriate **Administrative Officer**,~~

~~If the staff finds the submission to be in compliance, the staff shall approve them by attaching a certificate of approval, signed and dated by the **Executive Director**, stating its finding of compliance. The submission may then be recorded with APC staff. If the staff finds them incomplete, the staff shall notify the petitioner of the deficiencies.~~

2-28-10 APPROVAL OF FINAL DETAILED PLANS FOR PDRS, PDNR AND PDMX ZONES: (Amend 83)

(a) Unless seeking final approval of a **Change in Use Planned Development rezone**, following rezoning to PDRS, PDNR or PDMX,

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the petitioner may file Final Detailed Plans. The petitioner can neither seek **improvement location permits** nor begin any **development** (including earth moving) activity until the Commission approves these Final Detailed Plans and the petitioner records them (Amend 15). To be complete, Final Detailed Plans shall have already been approved and signed by the appropriate **Administrative Officer**, any applicable sanitary sewer and water provider, public or private; and if outside the Cities of Lafayette and West Lafayette, the Director of the County Highway Department, and the County Surveyor on behalf of the County Drainage Board. Final Detailed Plans may only be submitted in phases if a development phase plan was negotiated at the Draft Plan stage.

- (b) A complete PDRS, PDNR or PDMX Final Detailed Plans submission shall contain the following:
- (1) Evidence that any conditions imposed by the Commission at the time of its hearing have been met. If Final Detailed Plans for only part of the project are being submitted, per the negotiated and approved development phase plan, only those conditions bearing on that part need be met;
 - (2) Unless directed otherwise by the Commission's staff, 495 sets of drawings and electronic copy, labeled Final Detailed Plans, consisting of full Construction Plans, prepared in conformance with the requirements of Appendix B-2 below, including all public improvements to be installed by the developer, plus all the elements of the Approved Preliminary Plan (placed at the end of the Final Detailed Plans set as an appendix).
 - (3) Unless directed otherwise by the Commission's staff, 495 signed copies and electronic copy of any covenants and horizontal property ownership and owners' association documents (including amendment provisions that conform to 2-28-14-a through 2-28-14-c below). These shall include a table of contents, and be written in plain language to be easily understood by most readers; and
 - (4) a release from the mortgage company, if any, covering the necessary **right-of-way**, where **right-of-way** is to be dedicated.
 - (5) If one or more lots are being created, the petitioner shall provide, unless directed otherwise by the Commission's staff, 495 copies and electronic copy of the signed final **plat**, prepared by a Registered Land Surveyor in conformance with Appendix B-3 below, with a Planned Development Dedication Certificate appended. The final **plat** copies shall be included within the Final Detailed Plans set. The final **plat** cannot be recorded separately from the other elements of Final Detailed Plans unless a record-by-date for the submission of the Final **Plat** was agreed to during the draft plan negotiations and included in the project's narrative. **No improvement location permit** shall be issued until the Final Detailed Plans are approved as per 2-28-10-d below, and recorded as per 2-28-11.

- (c) If public improvements or improvements for common usage are to be installed by the petitioner, he or she shall either:
- (1) complete the improvements upon approval of the Final Detailed Plans, or
 - (2) provide surety to the Area Plan Commission for these improvements (either post a performance bond, submit a certified check, submit an irrevocable letter of credit or submit a certificate of deposit per Appendix B-4 below) prior to approval of the Final Detailed Plans. No **improvement location permit** shall be issued until surety has been provided (Amend 15).

Improvements for common usage include landscaping, recreational components and all other facilities either located in common areas or designated for common **use**, and shall be included in the first phase per any negotiated and approved phase plan .

- (d) If the Commission finds the submission of Final Detailed Plans to conform to the Approved Preliminary Plan as adopted by the legislative body at the time of rezoning, the Commission shall adopt a resolution. After this resolution is adopted, the petitioner shall not submit an alternate or revised set of Final Detailed Plans for the same legal description, except under the circumstance described in 2-28-11-c below.
- (e) The adopted resolution shall be signed and dated by the President and Secretary of the Commission, and a copy shall be attached to the front of each set of approved Final Detailed Plans.
- (f) Adoption of a resolution shall neither constitute nor imply a participating jurisdiction's acceptance of any **street, easement** or park shown in Final Detailed Plans. Acceptance is only that of real property itself. The Commission may require notes to this effect.

(e) For **Change in Use Planned Development PDRS, PDNR, and PDMX** rezones, after the rezone has been approved by the legislative body, the petitioner may seek Final Detailed Plan approval from APC before recording the submission. A complete **Change in Use Planned Development** submission shall contain the following:

- (1) evidence that any conditions imposed by the Commission at the time of its hearing have been met;
- (2) unless directed otherwise by the Commission's staff, a minimum of 5 sets of drawings and electronic copy, identical in content to the Approved Preliminary Plan (within the context of the imposed conditions), reviewed and signed by the appropriate **Administrative Officer**

If the staff finds the submission to be in compliance, the staff shall approve them by attaching a certificate of approval, signed and dated by the **Executive Director**, stating its finding of compliance. The submission may then be recorded with APC staff. If the staff finds them incomplete, the staff shall notify the petitioner of the deficiencies.

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2-28-11 RECORDING APPROVED FINAL DETAILED PLANS: (Amend 83)

- (a) Before performing any **development**, construction or earth moving activity, or applying for **improvement location permits**, or filing any required **condominium** documents, the petitioner shall record approved Final Detailed Plans in the Office of the County Recorder.
- (b) The staff shall accompany the petitioner in the recording process. Final Detailed Plans shall first be stamped and dated at the County Auditor's office, with one set of plans given the County Auditor, along with any additional items required by that office. The remaining sets of Final Detailed Plans shall then be stamped, numbered and recorded at the County Recorder's office, and then distributed by the petitioner. The staff shall provide the petitioner a list of agencies to which the petitioner shall distribute sets of approved and recorded plans. The petitioner shall keep at least one set.
- (c) If the petitioner fails to record Final Detailed Plans for all or any part of the entire project within 30 days of the date of their approval, that approval expires. In order to continue, the petitioner then shall resubmit Final Detailed Plans for approval, ~~as per 2-28-9 or 2-28-10 above.~~
- (d) Any construction that does not fully comply with recorded Final Detailed Plans will be subject to appropriate enforcement action as provided for in 6-3-1 below.

2-28-12 AMENDING RECORDED FINAL DETAILED PLANS (Minor Modifications): (Amend 83)

- (a) A property owner may wish to propose changes to a PDRS, PDNR or PDMX project after Final Detailed Plans have been recorded. If these proposed changes are acceptable to the **Administrative Officer** and subsequently determined to conform to the Approved Preliminary Planned Development as adopted by the legislative body, and to constitute a minor modification only, then the changes shall be recorded as an Amended Final Detailed Plan, ~~as per 2-28-11 above.~~
 - (1) This written determination of conformance and minor modification shall be made and signed by the appropriate **Administrative Officer**, and attached to each copy of the Amended Final Detailed Plans before recording with APC staff.
 - (2) A minor modification cannot include: any increase in residential **density**; ~~any decrease in residential density of 10% or more~~; any increase in **building** dimension or change in **building** location other than within the defined **building envelope**; any change in landscaping other than increases, ~~as determined appropriate by the administrative officer~~, in the amounts of approved landscaping, (substitution of species or redesign with the same materials is allowed); any increase in the size of the signage approved with the Preliminary Plan; any change in type of land **use**; any change in

the alignment or intersection of **streets**; or any change in restrictive covenants, or horizontal property ownership and owners' association documents regarding these items (Amend 15).

- (3) Submission requirements and a timetable for seeking a determination of conformance and minor modification shall be set by each **Administrative Officer**. Amended Final Detailed Plans with minor modification shall be submitted to the APC once a determination of conformance from the **Administrative Officer** is received. Prior to recordation, APC staff will review the submission to ensure the submission meets all the requirements of this section. Any discrepancies with this section that are identified by APC staff shall be brought to the attention of the **Administrative Officer** who will work with the APC staff to resolve the discrepancies and coordinate with the petitioner to correct the submission prior to recordation.
- (4) Changes beyond the scope of minor modification require rezoning.
- (5) As the steward of a planned development project approved by the legislative body, the **Administrative Officer** is not compelled to approve a minor modification proposal simply because it meets the basic requirements of this section. Rather, in determining whether to accept a proposal that meets the basic requirements of this section, the Administrative Officer should consider whether the proposed changes bring the project into even greater conformance with the Commission's goals outlined in [this section, Section 2-28-4](#).
- (6) Changes made to a planned development project as a result of a public infrastructure project or other similar public development project shall be permissible, subject to the approval of the **Administrative Officer**. The public agency responsible for the changes shall submit, on behalf of the planned development owner, the necessary plans and documentation detailing the changes to the planned development.
- ~~(5) As determined by the Administrative Officer, additions and enhancements to a planned development that do not from its approved architectural, site, landscaping, and programmatic elements found in the approved and recorded Final Detailed Plans may be considered for approval by the Administrative Officer. At the Administrative Officer's discretion, such approval may either take the form of a minor modification to the Final Detailed Plans (to make it a formal addition to the original approval) or a simple administrative approval (which would allow the owner the flexibility to remove any approved additions and enhancements at their discretion).~~
- (e)(b) For any newly constructed **condominium** project or attached **zero-lot-line (ZLL)** project, the property owners shall provide exact measurements locating **buildings** and common **lot lines** after

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foundations have been put in place. The revised **plat** reflecting exact locations needs to be approved and signed by the appropriate **Administrative Officer** as Amended Final Detailed Plans and recorded as per 2-28-11 above prior to the issuance of a Certificate of Occupancy.

2-28-13 LAPSED AND ABANDONED PLANNED DEVELOPMENTS: (Amend 83)

- (a) An intended **condominium** conversion has **lapsed** if ~~52~~ years have passed since the date on which rezoning to PDCC was granted, and no Final Detailed Plans have been approved and recorded ~~as per 2-28-9 and 2-28-11 above~~. Following such **lapse**, the Commission ~~shall~~ **may** initiate a petition to rezone the property ~~to its most recent non-planned development classification~~.
- (b) A planned development has been **abandoned** if ~~52~~ years have passed since the date on which rezoning to PDRS, PDNR or PDMX was granted, and no Final Detailed Plans have been approved and recorded for the project or any part or phase of it ~~as per 2-28-10 and 2-28-11 above~~; or
- ~~(c)~~ ~~Parts or phases of a planned development, for planned developments less than 20 acres in size, have been **abandoned** if 10 years have passed since the date on which rezoning to PDRS, PDNR or PDMX was granted, and only Final Detailed Plans for other parts or phases have been approved and recorded as per 2-28-10 and 2-28-11 above.~~
- ~~(d)~~(c) Parts or phases of a planned development, ~~for planned developments equal to or greater than 20 acres in size,~~ have been **abandoned** if 15 years have passed since the date on which rezoning to PDRS, PDNR or PDMX was granted, and only Final Detailed Plans for other parts or phases have been approved and recorded ~~as per 2-28-10 and 2-28-11 above~~.
- ~~(e)~~(d) Prior to the effective date of a planned development becoming **abandoned** ~~per Sections 2-28-13-c and 2-28-13-d~~ the project's owner may request an extension of the approval of the Final Detailed Plans from the Commission or Executive Committee only after receiving a satisfactory endorsement from the Commission's staff and the **Administrative Officer** in consultation with the **Checkpoint Agencies**. The project's owner shall be responsible for organizing the meeting between the Commission's staff and the **Administrative Officer** ~~and paying the applicable fee (the same fee charged for a minor modification)~~. In the meeting, the project's owner shall present their request and explain why the extension is necessary in order to complete the project. The Commission's staff and **Administrative Officer** shall either jointly agree to the request as presented, recommend an alternative satisfactory to the project's owner or recommend against an extension.
 - (1) If the Commission's staff and the **Administrative Officer** jointly recommend against an extension the project's original

abandonment date shall remain in effect. Notice of the recommendation against shall be sent in writing to the Commission and presented by the Commission's staff as an administrative matter during the Commission's next public hearing.

- (2) If the Commission's staff and **Administrative Officer** jointly recommend in favor of an extension, such endorsement shall be forwarded as new business to the Commission or Executive Committee's next public hearing and shall contain a new effective date for the planned development's abandonment. The new abandonment date ~~cannot exceed~~ shall be 5 years from the date of the Commission or Executive Committee public hearing on which the project's extension approval will be heard.

~~(2) Once approved, the project's owner cannot seek additional Final Detailed Plan approval extensions.~~

~~(g)(e)~~ An **Administrative Officer** cannot issue an **improvement location permit** for an **abandoned** planned development or an **abandoned** part or phase of a planned development. An **abandoned** planned development or **abandoned** part or phase shall be rezoned ~~(and if to a PD classification, comply with 2-28-11 above)~~ before the property's owner once more becomes eligible to receive an **improvement location permit** at that location.

~~(g)~~ The Commission or any legislative body retains the authority to initiate at their discretion a rezone of a PD-zoned property once such property has either **lapsed** or been **abandoned**, ~~or is found to be conforming to a non-PD zone per Section 2-28-13-h.~~ Neither the Commission nor any legislative body shall initiate a petition to rezone any PD-zoned property until it has either **lapsed** or been **abandoned** or been found to be conforming to a non-PD zone per Section 2-28-13-h.

~~(g)~~ Applying only to a PD that is partially or completely constructed, if a PD that has not **lapsed** or been **abandoned** is found to be fully conforming, as determined by the **Administrative Officer**, to a non-PD zone as a result of a change to the **Unified Zoning Ordinance**, a rezone of the PD to the conforming non-PD zone may be sought. Such rezone petition must be accompanied by a written determination from the **Administrative Officer** detailing how the PD fully conforms to the non-PD zone being sought.

~~(g)~~ A petitioner, that is not the Commission or any legislative body, may initiate a rezone of a PD-zoned property to new PD zone regardless if the PD has **lapsed** or been **abandoned**. This petitioner may also initiate a rezone of PD-zoned property to a non-PD zone if the PD was never constructed, the PD has **lapsed** or been **abandoned**, or if the partially or completely constructed PD is found to be conforming to a non-PD zone per Section 2-28-13-h.

2-28-14 COVENANTS AND MAINTENANCE:

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- (a) To assure property owners that all aspects of a planned development remain in conformance with plans adopted by the legislative body at the time of rezoning, restrictive covenants and any horizontal property ownership and owner's association documents can only be changed through the procedures detailed in 2-28-12 above.
- (b) These changes may be initiated only by a majority of property owners within the planned development. Multiple owners of a single property shall be considered a single owner. The developer shall be considered a single owner until all property is sold.
- (c) The **Administrative Officer** may determine that these changes constitute a minor modification if they meet the requirements of 2-28-12-a-2 above. Changes to these documents which would alter design aspects of the project, or which are determined by the **Administrative Officer** to be beyond the scope of minor modification require rezoning. Covenants and any horizontal property ownership and owner's association documents must reflect the provisions of this section.
- (d) A planned development containing common facilities shall be provided with an owners' association or other private organization responsible to and controlled by the property owners. This organization's purpose is to ensure adequate operation and maintenance of these common facilities, which may include, but are not limited to private **streets**, common areas, landscaping, and amenities such as a clubhouse, pool or tennis courts. Recorded legal assurances shall be provided which show this organization to be self-perpetuating.
- (e) All **streets** and roadways not dedicated to nor accepted by a public agency, and all other common facilities not dedicated to the public, shall be operated and maintained at no expense to any governmental unit.

