



Metropolitan Development Commission: Hearing Notice

Meeting Details:

Notice is hereby given of a public hearing to be held in person, on Wednesday, June 1, 2022 at 1:00 p.m. in the Beurt SerVaas Public Assembly Room on the Second Floor of the City-County Building, 200 East Washington Street, Indianapolis, Indiana.

Date: June 1, 2022

Time: 1:00 P.M.

Business and Policy Resolutions:

Adoption of Meeting Minutes: May 18, 2022

REAL ESTATE:

RESOLUTION NO. 2022-R-018 Authorizes DMD to enter into an agreement for services to support the planning process for the area near the 3500 block of E. Washington.

RESOLUTION NO. 2022-R-020 Authorizes DMD to convey title or an option to purchase fourteen (14) properties to Martindale-Brightwood Community Development Corporation for the prices listed on Exhibit A of the resolution in consideration of certain commitments to be made by Martindale-Brightwood Community Development Corporation for the purpose of providing affordable housing in the neighborhood.

RESOLUTION NO. 2022-R-022 Authorizes the Director to enter into an amendment to the agreement with the Indianapolis Cultural Trail, Inc., regarding placemaking services, to include additional services for the additional amount of seventy five thousand dollars (\$75,000.00).

RESOLUTION NO. 2022-R-023 Authorizes DMD to convey title or an option to purchase five (5) properties to Renew Indianapolis, Inc. for the sale prices listed on Exhibit A of the resolution in consideration of certain commitments to be made by Renew for the purpose of providing neighborhood redevelopment.

ECONOMIC DEVELOPMENT/INCENTIVES:

RESOLUTION NO. 2022-E-023 Authorizes the Director to enter into an agreement with Flanner House of Indianapolis, Inc. to cover costs of the services of a Build Back Better Project Manager and costs for predevelopment of the Carrier-Bryant site, in an amount not to exceed one hundred ninety eight thousand two hundred fifty dollars (\$198,250.00).

RESOLUTION NO. 2022-E-024 Authorizes the Director to enter into an agreement with 16 Tech to cover costs of services of a 16 Tech Intermediary position, in an amount not to exceed ninety six thousand seven hundred fifty dollars (\$96,750.00).

RESOLUTION NO. 2022-E-027 Authorizes the expenditure of two hundred seventy four thousand nine hundred five dollars (\$274,905.00) in funds from the Airport TIF Area Fund and authorizes the Director to enter into an agreement with Yard & Company for the development of an Ameriplex Parkway Extension Corridor Plan.

RESOLUTION NO. 2022-E-028 Determines the amount of incremental assessed value in each allocation area necessary to make principal and interest payments on bonds described in Section 26 of the Redevelopment Act.

RESOLUTION NO. 2022-A-021 Approves a final economic revitalization area for 863 Landmark, LLC, located at 863 Massachusetts Avenue, Council District #17, Center Township. (Recommends approval of up to ten (10) years real property tax abatement)

COMMUNITY INVESTMENTS:

RESOLUTION NO. 2022-C-006 Authorizes the Department of Metropolitan Development to enter into an agreement with Partners in Housing to provide supportive services to tenants living in permanent supportive housing in an amount not to exceed one hundred sixty five thousand dollars (\$165,000.00) from the Indianapolis Housing Trust Fund.

RESOLUTION NO. 2022-C-007 Authorizes the Department of Metropolitan Development to enter into an agreement with BWI, LLC for the purchase and installation of security equipment at Penn Place Apartments, a permanent supportive housing development in an amount not to exceed eighty five thousand dollars (\$85,000.00) from the Indianapolis Housing Trust Fund.

PLANNING DIVISION:

RESOLUTION NO. 2022-P-006 (For Public Hearing) Amends the Rules of Procedure of the Metropolitan Development Commission, Hearing Officer and Plat Committee of Marion County, Indiana. Provides for amendments required by State Law and various other amendments related to functions of the Commission.

RESOLUTION NO. 2022-P-010 Authorizes the DMD to enter into an Agreement with the Marion County Wellfield Education Corporation to provide for services to conduct general wellfield education and to register and provide targeted education for businesses that pose a potential risk to groundwater for a period of three years ending December 31, 2024 for an amount not to exceed one hundred ten thousand dollars (\$110,000.00) per year.

FINANCIAL SERVICES:

RESOLUTION NO. 2022-FS-001 Authorizes the Director to amend the current contract with Trajectory, LLC for grant writing services to add six thousand eight hundred seventy-five dollars (\$6,875) with a new DMD not to exceed amount of sixteen thousand six hundred twenty-five dollars (\$16,625).

Zoning Petitions:

See *Staff Report* posted [here](#) on our website.

Black Mountain- 3500 E. Washington
Planning-related Services
Survey Contract-JQOL

**METROPOLITAN DEVELOPMENT COMMISSION
OF
MARION COUNTY, INDIANA
Resolution No. 2022-R-018**

WHEREAS, the Department of Metropolitan Development (“DMD”), by authority of and pursuant to I.C. 36-7-15.1, engages in redevelopment activities within the Marion County Redevelopment District Area, Marion County, Indiana, including several parcels owned by DMD located in the 3500 block of E. Washington and formerly known as the “Black Mountain” site (“Site”) ; and

WHEREAS, in that capacity the Metropolitan Development Commission (“MDC”) serves as the governing body of the City of Indianapolis Redevelopment District; and

WHEREAS, the DMD received a six hundred thousand-dollar (\$600,000.00) U.S. Environmental Protection Agency (EPA) Multi- Purpose Grant-#00E02747 (“Grant”) which includes planning services for the Site in order to further redevelopment and has a planning contract in place; and

WHEREAS, over the course of planning, certain survey services outside the scope of the planning contract have become necessary to support the planning process and further redevelopment (“Services”). DMD desires to enter into an agreement for the Services as required for redevelopment and as approved by the DMD Director or Director’s designee.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The DMD is hereby authorized by the MDC to enter in to an agreement with **JQOL** for Services, as described above, in an amount not to exceed **\$11,000** to support planning at the Black Mountain site and to be paid from all available sources of funding, including the Brownfield Redevelopment Fund and EPA grant funding.
2. The Director is hereby authorized to execute the necessary documents, with such terms and provisions as may be deemed necessary or appropriate to best accomplish the objectives set forth herein and all actions heretofore taken by any such official toward the completion thereof are hereby ratified, confirmed and approved.

Approved as to Adequacy & Legal Form

Metropolitan Development Commission

Sheila Kinney *sek*

John J. Dillon III, President

Sheila Kinney, Asst. Corp Counsel
Date: May 24, 2022

Date: _____

**METROPOLITAN DEVELOPMENT COMMISSION
OF
MARION COUNTY, INDIANA
Resolution No. 2022-R-020**

WHEREAS, The City of Indianapolis, Department of Metropolitan Development ("DMD"), is engaging in disposition and redevelopment activities within the Marion County Redevelopment District in Marion County, Indiana ("Redevelopment District"); and

WHEREAS, pursuant to I.C. 36-7-15.1-6, the Metropolitan Development Commission ("MDC") is charged with the responsibility of promoting the use of land in the manner that best serves the interest of the City of Indianapolis ("City") and its inhabitants, both from the standpoint of human needs and economic values; and

WHEREAS, the MDC has acquired real property listed on the attached Exhibit A of this Resolution, all generally located in the Redevelopment District (collectively, the "Properties"); and

WHEREAS, in accordance with IC 36-7-15.1-15.1, the MDC may sell or grant at no cost title to real property to a qualifying corporation for the purpose of providing development that will benefit or serve low or moderate income families if such a corporation agrees to the requirements of IC 36-7-15.1-15.1(b), which include that development be completed within a specified period and meet certain additional criteria set forth therein; and

WHEREAS, Martindale-Brightwood Community Development Corporation ("MBCDC") is a qualifying corporation as defined in IC 36-7-15.1-15.1; and

WHEREAS, subject to and in consideration of certain commitments to be made by MBCDC for the purpose of providing affordable housing development that will benefit or serve low or moderate income families, DMD desires to convey title or an option to purchase title of the **Fourteen (14)** Properties to MBCDC, as a qualifying corporation, for the sale and option prices described on Exhibit A of this Resolution;

NOW, THEREFORE, BE IT RESOLVED THAT:

1.The Metropolitan Development Commission hereby authorizes the DMD to convey title or an option to purchase title of the **Fourteen (14)** Properties to MBCDC for the sales and option/maintenance prices listed on Exhibit A on terms acceptable to the DMD Director and in consideration of certain commitments to be made by MBCDC for the purpose of providing timely affordable housing development that will benefit or serve low or moderate income families.

2.The DMD Director is hereby authorized to execute the necessary documents, with such terms and provisions as may be deemed necessary or appropriate, including without limitation, commitments to be made by MBCDC, consistent with Indiana Code 36-7-15.1-15.1, to best accomplish the objectives set forth herein and all actions heretofore taken by any such official toward the completion thereof are hereby ratified, confirmed and approved, for the conveyance of said Properties in accordance with this Resolution.

Approved as to Adequacy & Legal Form

Sheila Kinney sek
Sheila Kinney, Asst. Corp Counsel

Metropolitan Development Commission

John J. Dillon III, President

Date: May 24, 2022

Date: _____

Exhibit A Property Information

Subject to property-specific documentation of plans, including period of affordability and a feasible financial plan for development, the following properties or an option to purchase property(ies) may be conveyed by DMD. Options will cost \$500 per year/per property and will be applied to the \$1500/ per-property purchase price if development is timely commenced.

1	2044 RALSTON AV	INDIANAPOLIS	IN	46218	1009597	AVE
2	2026 RALSTON AV	INDIANAPOLIS	IN	46218	1055043	AVE
3	2007 RALSTON AV	INDIANAPOLIS	IN	46218	1059339	AVE
4	2040 RALSTON AV	INDIANAPOLIS	IN	46218	1034213	AVE
5	2052 RALSTON AV	INDIANAPOLIS	IN	46218	1053815	AVE
6	2031 RALSTON AV	INDIANAPOLIS	IN	46218	1059338	AVE
7	2048 RALSTON AV	INDIANAPOLIS	IN	46218	1053939	AVE
8	2053 RALSTON AV	INDIANAPOLIS	IN	46218	1055031	AVE
9	2041 RALSTON AV	INDIANAPOLIS	IN	46218	1025350	AVE
10	2054 RALSTON AV	INDIANAPOLIS	IN	46218	1053816	AVE
11	2033 RALSTON AV	INDIANAPOLIS	IN	46218	1031245	AVE
12	2035 RALSTON AV	INDIANAPOLIS	IN	46218	1042494	AVE
13	2047 RALSTON AV	INDIANAPOLIS	IN	46218	1025349	AVE
14	2051 RALSTON AV	INDIANAPOLIS	IN	46218	1025348	AVE

**METROPOLITAN DEVELOPMENT COMMISSION
MARION COUNTY, INDIANA
RESOLUTION NO. 2022-R-022**

WHEREAS, the Metropolitan Development Commission of Marion County, Indiana (the “Commission”) serves as the Redevelopment Commission of the City of Indianapolis, Indiana (the “City”) under IC 36-7-15.1 (the “Redevelopment Act”); and

WHEREAS, in that capacity the Commission serves as the governing body of the City of Indianapolis Redevelopment District (the “District”) and the City’s Department of Metropolitan Development (“DMD”); and

WHEREAS, in 2019, DMD and DPW jointly released RFQs-13DMD-1906 for downtown placemaking partnerships; and

WHEREAS, pursuant to the authorization set forth in Resolution No. 2019-R-012, DMD entered into a joint services agreement between DMD, DPW, IMCBA, and the Indianapolis Cultural Trail, Inc., (“ICTI”) for the provision of placemaking services for the aforementioned public places; and

WHEREAS, an extension of the agreement through 2022 was authorized in Resolution No. 2021-R-021; and

WHEREAS, DMD wishes to amend the agreement to provide for additional services in an additional amount not to exceed \$75,000.00.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Development Commission of Marion County, Indiana, acting as the Redevelopment Commission of the City of Indianapolis, Indiana, as follows:

1. The Commission authorizes DMD to enter into an amendment to the joint services agreement with the Indianapolis Cultural Trail, Inc., for the provision of placemaking services for Lugar Plaza, Georgia Street, and the City-owned portions of the Downtown Canal to provide for additional services in an additional amount not to exceed \$75,000.00.
2. The Director of DMD is hereby authorized and directed to take such further actions and execute such documents as she deems necessary or advisable to effectuate the authorizations set forth in this Resolution.
3. This Resolution shall take effect immediately upon adoption by the Commission.

Approved as to legal form and adequacy:

Thomas Moore
Thomas Moore, Asst. Corp. Counsel

Date: 05/11/2022

Metropolitan Development Commission:

John J. Dillon III, President

Date: _____

**METROPOLITAN DEVELOPMENT COMMISSION
OF
MARION COUNTY, INDIANA
Resolution No. 2022-R-023**

WHEREAS, The City of Indianapolis, Department of Metropolitan Development ("DMD"), is engaging in disposition and redevelopment activities within the Marion County Redevelopment District in Marion County, Indiana ("Redevelopment District"); and

WHEREAS, pursuant to I.C. 36-7-15.1-6, the Metropolitan Development Commission ("MDC") is charged with the responsibility of promoting the use of land in the manner that best serves the interest of the City of Indianapolis ("City") and its inhabitants, both from the standpoint of human needs and economic values; and

WHEREAS, the MDC has acquired real property listed on the attached Exhibit A of this Resolution, all generally located in the Redevelopment District (collectively, the "Properties"); and

WHEREAS, in accordance with IC 36-7-15.1-15.1, the MDC may sell or grant at no cost title to real property to a qualifying corporation for the purpose of providing development that will benefit or serve low or moderate income families if such a corporation agrees to the requirements of IC 36-7-15.1-15.1(b), which include that development be completed within a specified period and meet certain additional criteria set forth therein; and

WHEREAS, Renew Indianapolis, Inc. ("Renew") is a qualifying corporation as defined in IC 36-7-15.1-15.1; and

WHEREAS, DMD desires to convey title or an option to purchase title of the **Five (5)** Properties to Renew as a qualifying corporation and for the respective sales and option/maintenance prices listed on Exhibit A of this Resolution in consideration of certain commitments to be made by Renew for the purpose of providing development that will benefit or serve low or moderate income families;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Metropolitan Development Commission hereby authorizes the DMD to convey title or an option to purchase title of the **Five (5)** Properties to Renew as described and for the sales and option/maintenance prices listed on Exhibit A in consideration of certain commitments to be made by Renew for the purpose of providing timely development that will benefit or serve low or moderate income families.

2. The DMD Director is hereby authorized to execute the necessary documents, with such terms and provisions as may be deemed necessary or appropriate, including without limitation, commitments to be made by Renew Indianapolis, Inc., consistent with Indiana Code 36-7-15.1-15.1, to best accomplish the objectives set forth herein and all actions heretofore taken by any such official toward the completion thereof are hereby ratified, confirmed and approved, for the conveyance of said Properties in accordance with this Resolution.

Approved as to Adequacy & Legal Form

Sheila Kinney sek
Sheila Kinney, Asst. Corp Counsel

Metropolitan Development Commission

John J. Dillon III, President

Date: May 24, 2022

Date: _____

Exhibit A Property Information

Parcel	Street Address	Zip Code	Application Type	Property Type	City's Sale Price	Renew's Sale Price	Total	Buyer Name
1075096	1310 W 26TH ST	46208	Homestead	Vacant Lot	\$4,400	\$3,600	\$8,000	Allan Pingul
1077139	1005 W 25TH ST	46208	Standard	Vacant Lot	\$1,925	\$1,575	\$3,500	JESSE SUAREZ
1010025	126 N COLORADO AVE	46201	Standard	Residential Dwelling	\$7,012.50	\$5,737.50	\$12,750	Christopher Jenkins
1053041	3704 ADAMS ST	46218	Standard **Development Waiver**	Vacant Lot	\$1,925	\$1,575	\$3,500	Susan Baroncini-Moe
1091459	4406 E NEW YORK ST	46201	Standard	Residential Dwelling	\$33,000	\$27,000	\$60,000	Aaron Skillingstad

NOTE:

Homestead - Applicants will use this property as their primary residence.

Standard - Applicants intend to rent or sell the property after completing the proposed project (rehab or new construction).

Future Development Lot (FDL) - Vacant Properties in city inventory; no requirement to build.

Affordable Housing Price - Applicant is using public or grant funds to provide housing for 80% AMI or below. Property price is reduced.

†This denotes a back-up offer, should the primary applicant fail to close

****This denotes a development waiver. Development waivers are applied for and granted for lots that have not sold for an extensive period of time or if development would be geographically difficult.****

***This denotes a 12-Month Purchase Option. Renew/ DMD will hold the property for 12 months or until buyer is ready to exercise their option**

**METROPOLITAN DEVELOPMENT COMMISSION
MARION COUNTY, INDIANA
RESOLUTION NO. 2022-E-023**

WHEREAS, the Metropolitan Development Commission of Marion County (the “Commission”) is authorized to approve the employment of all persons engaged by contract to render professional or consulting services for the Department of Metropolitan Development (“DMD”); and

WHEREAS, DMD is currently engaged in redevelopment of the former Carrier-Bryant site, with Flanner House of Indianapolis, Inc.; and

WHEREAS, DMD has obtained a grant from the Economic Development Administration as part of the Build Back Better Central Indiana Initiative to fund these services; and

WHEREAS, DMD has identified Flanner House of Indianapolis, Inc. as a contractor with the capacity to create a position for project management.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Development Commission of Marion County as follows:

1. The Commission hereby authorizes the Director to enter into an agreement with Flanner House of Indianapolis, Inc. to cover costs of the services of a Build Back Better Project Manager and costs for predevelopment of the Carrier-Bryant site, in an amount not to exceed \$198,250.00.
2. The Director is hereby authorized and directed to take such further actions and execute such documents as she deems necessary or advisable to effectuate the authorizations set forth in this Resolution.
3. This Resolution shall take effect immediately upon adoption by the Commission.

Approved as to Legal Form and Adequacy:



Katelyn Campbell, Asst. Corp. Counsel

Metropolitan Development Commission:

John J. Dillon III, President

Date: 5/25/2022

Date: _____

**METROPOLITAN DEVELOPMENT COMMISSION
MARION COUNTY, INDIANA
RESOLUTION NO. 2022-E-024**

WHEREAS, the Metropolitan Development Commission of Marion County (the “Commission”) is authorized to approve the employment of all persons engaged by contract to render professional or consulting services for the Department of Metropolitan Development (“DMD”); and

WHEREAS, DMD is currently engaged in regional cluster strategy development with 16 Tech Community Corporation; and

WHEREAS, DMD has obtained a grant from the Economic Development Administration as part of the Build Back Better Central Indiana Initiative to fund these services; and

WHEREAS, DMD has identified 16 Tech Community Corporation as a contractor with the capacity to create a position for partner coordination and program development support.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Development Commission of Marion County as follows:

1. The Commission hereby authorizes DMD to enter into an agreement with 16 Tech Community Corporation to cover the cost of services of a 16 Tech Intermediary position for partner coordination and program development support, in an amount not to exceed \$96,750.
2. The Director is hereby authorized and directed to take such further actions and execute such documents as she deems necessary or advisable to effectuate the authorizations set forth in this Resolution.
3. This Resolution shall take effect immediately upon adoption by the Commission.

Approved as to Legal Form and Adequacy:



Katelyn Campbell, Asst. Corp. Counsel

Metropolitan Development Commission:

John J. Dillon III, President

Date: 5/25/2022

Date: _____

**METROPOLITAN DEVELOPMENT COMMISSION
MARION COUNTY, INDIANA
RESOLUTION NO. 2022-E-027**

**RESOLUTION APPROPRIATING EXPENDITURE
OF TAX INCREMENT FINANCE REVENUE FUNDS**

WHEREAS, the Metropolitan Development Commission of Marion County, Indiana (the "Commission") serves as the Redevelopment Commission of the City of Indianapolis, Indiana (the "City") under IC 36-7-15.1 (the "Redevelopment Act"); and

WHEREAS, in that capacity the Commission serves as the governing body of the City of Indianapolis Redevelopment District (the "District"); and

WHEREAS, the Redevelopment Act permits the Commission to designate allocation areas in the District for the purposes of capturing and allocating property taxes commonly known as tax increment finance revenues ("TIF Revenues"); and

WHEREAS, the Commission has previously established the consolidated Airport Economic Development Project Area (the "Airport Project Area"), has designated the Airport Project Area as an allocation area (the "Airport TIF Area") for the purposes of capturing TIF Revenues, has created an allocation fund (the "Airport TIF Area Fund") for the Airport Project Area into which the TIF Revenues are deposited, and has approved the Airport Economic Development Area plan, (the "Airport Plan"); and

WHEREAS, the Department of Metropolitan Development ("DMD") wishes to engage Yard & Company to develop an Ameriplex Parkway Extension Corridor Plan within the Airport Project Area; and

WHEREAS, IC 36-7-15.1-26 authorizes the Redevelopment Commission to reimburse the Consolidated City for reasonable expenditures associated with local public improvements.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Development Commission of Marion County, Indiana acting as the Redevelopment Commission of the City of Indianapolis, Indiana, as follows:

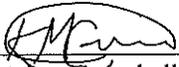
1. That the Commission hereby authorizes the disbursement of \$274,905.00 in funds from the Airport TIF Area Fund and authorizes the Director of DMD to enter into an agreement with Yard & Company for the development of an Ameriplex Parkway Extension Corridor Plan utilizing said funds.
2. The City Controller is hereby authorized to disburse moneys from the Airport TIF Area Fund for the purposes provided for in this Resolution.
3. The Director is hereby authorized and directed to take such further actions and execute such documents as she deems necessary or advisable to effectuate the authorizations set forth in this Resolution.
4. This Resolution shall take effect immediately upon adoption by the Commission.

METROPOLITAN DEVELOPMENT COMMISSION OF
MARION COUNTY, INDIANA, acting as the
Redevelopment Commission of the City of Indianapolis,
Indiana

John J. Dillon III, President

Date

Approved as to Legal Form
and Adequacy this 25th day
of May, 2022.



Katelyn Campbell,
Assistant Corporation Counsel

Approved as the Availability of Funding



Ken Clark, Controller

5/26/22

Date

METROPOLITAN DEVELOPMENT COMMISSION
OF MARION COUNTY, INDIANA

Determination of Need for Capturing Incremental Assessed Values
and for Tax Increment Replacement in Certain Tax Increment Finance Allocation Areas
and Flood Control Improvement Districts

Resolution No. 2022 – E – 028

WHEREAS, the Metropolitan Development Commission of Marion County, Indiana (the "Commission") serves as the Redevelopment Commission of the City of Indianapolis, Indiana (the "City") under IC 36-7-15.1 (the "Redevelopment Act") and IC 36-7-15.6 (the "Flood Control Improvement Districts Act"); and

WHEREAS, in that capacity the Commission serves as the governing body of the City of Indianapolis Redevelopment District (the "District") and of all Flood Control Improvement Districts ("FCIDs"); and

WHEREAS, the Redevelopment Act permits the Commission to create allocation areas in the District for the purposes of capturing and allocating property taxes commonly known as "tax increment"; and

WHEREAS, the Flood Control Improvement Districts Act permits the Commission to create FCIDs for the purposes of capturing and allocating property taxes for flood control works; and

WHEREAS, the Commission previously has created Allocation Areas within the City that have been identified in Exhibit A and Exhibit B hereto (collectively, the "Allocation Areas") for purposes of capturing tax increment revenues (the "TIF Revenues") pursuant to Sections 26 and 26.2 of the Redevelopment Act; and

WHEREAS, the Commission previously has created FCIDs in the City, which are also identified in Exhibit A and Exhibit B hereto for purposes of capturing tax increment revenues (the "FCID Revenues") pursuant to Sections 13 and 20 of the Flood Control Improvement Districts Act; and

WHEREAS, under Section 26(b)(4) of the Redevelopment Act and Section 13(d) of the Flood Control Improvement Districts, Act, the Commission is required to make certain determinations relating to its need to capture TIF Revenues and FCID Revenues for the following budget year; and

WHEREAS, IC 6-1.1-21.2 (the "TIF Replacement Act") requires the Commission, as the governing body of the District, to determine each year whether any of the Allocation Areas created by the Commission have suffered a loss of tax increment revenues as a result of laws enacted by the Indiana General Assembly or actions taken by the Indiana Department of Local Government Finance after the establishment of the allocation area, and to calculate the "tax increment replacement amount" in the manner set forth in the TIF Replacement Act; and

WHEREAS, Section 12(f) of the TIF Replacement Act authorizes the Commission to fund a portion of the tax increment replacement amount for the Consolidated Allocation Area from property taxes on personal property (as defined in IC 6-1.1-1-11), and the Commission now desires to authorize certain actions relating thereto;

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Development Commission of Marion County, Indiana, acting as the Redevelopment Commission of the City of Indianapolis, Indiana, as follows:

1. Pursuant to Section 26(b)(4) of the Redevelopment Act and Section 13(d) of the Flood Control Improvement Districts Act, the Commission hereby determines that, for budget year 2023, all of the incremental assessed value of taxable property in each of the Allocation Areas and FCIDs set forth in Exhibit A is needed to produce TIF Revenues necessary to make, when due, principal and interest payments on bonds issued pursuant Section 26(b)(3) of the Redevelopment Act, plus the amount necessary for other purposes described in Section 26(b)(3) of the Redevelopment Act. The Commission therefore determines that there is no excess assessed value in any of the Allocation Areas set forth in Exhibit A that may be released to the respective taxing units in the manner prescribed in Section 26(b)(1) of the Redevelopment Act. If, based on subsequent information, the City Controller determines that all or a portion of such assessed values for the Allocation Areas set forth in Exhibit A may be released to the taxing units, the City Controller is hereby authorized on behalf of the Commission to modify the determinations made herein and provide for such release.

2. Pursuant to Section 26(b)(4) of the Redevelopment Act and Section 13(d) of the Flood Control Improvement Districts Act, the Commission hereby determines that, for budget year 2023, none of the incremental assessed value of taxable property in each of the Allocation Areas and FCIDs set forth in Exhibit B is needed to produce TIF Revenues necessary to make, when due, principal and interest payments on bonds issued pursuant Section 26(b)(3) of the Redevelopment Act, or for other purposes described in Section 26(b)(3) of the Redevelopment Act. The Commission therefore determines that all of the assessed value in the Allocation Areas set forth in Exhibit B may be released to the respective taxing units in the manner prescribed in Section 26(b)(1) of the Redevelopment Act.

3. Any officer or agent of the Commission or the Department of Metropolitan Development ("DMD") is hereby authorized to provide written notice of the determinations made in Sections 1 and 2 herein to the Marion County Auditor, the Indianapolis-Marion County City-County Council, and each taxing unit that is wholly or partly located within each of the Allocation Areas, in the manner set forth in Section 26(b)(4)(B) of the Redevelopment Act and Section 13(d)(2) of the Flood Control Improvement Districts Act.

4. The Commission hereby designates the City Controller as its agent to calculate and determine the tax increment replacement amount (if any) for all allocation areas and FCIDs created by the Commission, and with respect to the Consolidated Allocation Area, to determine the portion of the tax increment replacement amount (if any) to be funded from personal property taxes, and all prior actions and determinations made by the City Controller related thereto are hereby ratified and confirmed by the Commission. The determinations made by the City Controller shall be final and conclusive and shall serve as the determinations required of the Commission under Section 12 of the TIF Replacement Act.

5. The City Controller and other officers and agents of the Commission or of the Department of Metropolitan Development are authorized to take such further actions and execute such documents as deemed necessary or appropriate to carry out the authorizations set forth in this Resolution.

6. This resolution shall take effect immediately upon its adoption by the Commission.

ADOPTED AND APPROVED at a meeting of the Metropolitan Development Commission of Marion County, Indiana, held on June 1, 2022, at the City-County Building, 2nd floor, Public Assembly Room (Room 230), Indianapolis, Indiana.

METROPOLITAN
DEVELOPMENT COMMISSION
OF MARION COUNTY, INDIANA,
acting as the Redevelopment
Commission of the City of
Indianapolis, Indiana

Approved as to legal form and adequacy:

Metropolitan Development Commission:

By: 
Katelyn Campbell, Asst. Corp. Counsel

By: _____
John J. Dillon III, President

Date: 5/26/2022

Date: _____

Approved as to the availability of funding:

By: 
Ken Clark, City Controller

EXHIBIT A
TO
RESOLUTION NO. 2022-E-026

List of Allocation Areas and FCIDs for which all incremental assessed value will be needed for obligations of the Redevelopment District during 2023:

1. Consolidated Redevelopment Allocation Area
2. Harding Street Redevelopment Allocation Area
3. Airport Industrial Economic Development Expansion Allocation Area and Airport Development Zone Allocation Area
4. Barrington Redevelopment Allocation Area
5. Fall Creek/Citizens Consolidated Redevelopment Area - Consolidated Fall Creek Allocation Area
6. UNWA Redevelopment Allocation Area
7. Glendale Redevelopment Allocation Area
8. Martindale- Brightwood Industrial Development Allocation Area
9. Fall Creek/Citizens Consolidated HoTIF East Allocation Area
10. Near Eastside Redevelopment Project Area, including Near Eastside Housing Tax Increment Financing Area
11. Martindale Industrial Redevelopment Area
12. 86th Street and Zionsville Road Economic Development Allocation Area
13. Naval Air Warfare Center Economic Development Allocation Area
14. Avondale Meadows Allocation Area
15. North Midtown Allocation Area
16. Meridian Redevelopment Allocation Area
17. Central State Allocation Area
18. Penn Center Allocation Area
19. Ardmore Allocation Area
20. 96th Street/Castleton Economic Development Allocation Area
21. Jackson Fountain Square Allocation Area

22. Duke Headquarters Allocation Area
23. Ford Plant Allocation Area
24. Goodwill Riverview Allocation Area
25. Infosys Allocation Area
26. West Washington Street Gateway Allocation Area
27. PR Mallory North Allocation Area
28. PR Mallory South Allocation Area
29. 3500 Allocation Area
30. 421 N Penn Allocation Area
31. South Meridian Allocation Area
32. Block 20 Allocation Area
33. Park & North Allocation Area
34. Sherman Park Allocation Area
35. Twin Aire Allocation Area
36. White River – Indianapolis North Flood Control Improvement District
37. White River – Rocky Ripple Flood Control Improvement District
38. Glendale II Allocation Area
39. Hillside HoTIF Allocation Area
40. Stutz 1 Allocation Area
41. Indy Innovation Apartments Allocation Area
42. State Ditch-Mar Hill Flood Control Improvement District
43. King Cole Allocation Area
44. Shortee’s Real Street Allocation Area

EXHIBIT
B
TO
RESOLUTION NO. 2022-E-026

List of Allocation Areas and FCIDS for which none of the incremental assessed value listed will be needed for obligations of the Redevelopment District during 2023:

None

METROPOLITAN DEVELOPMENT COMMISSION OF

MARION COUNTY, INDIANA

FINAL ECONOMIC REVITALIZATION AREA RESOLUTION

RESOLUTION NO. 2022-A-021

REAL PROPERTY TAX ABATEMENT

**863 Landmark LLC
863 Massachusetts Avenue**

WHEREAS, I.C. 6-1.1-12.1 allows a partial abatement of property taxes attributable to "redevelopment or rehabilitation" activities (hereinafter "Project") in "Economic Revitalization Areas"; and

WHEREAS, I.C. 6-1.1-12.1 empowers the Metropolitan Development Commission (hereinafter "Commission") to designate Economic Revitalization Areas and determine the length of the abatement period and annual abatement schedule during the term of the abatement for such property by following a procedure involving adoption of a preliminary resolution, provision of public notice, conducting of a public hearing, and adoption of a resolution confirming the preliminary resolution or a modified version of the preliminary resolution; and

WHEREAS, the Commission has established in Resolution No. 01-A-041, 2001, certain standards and procedures for the designation of Economic Revitalization Areas for the partial abatement of property taxes attributable to redevelopment or rehabilitation activities; and

WHEREAS, I.C. 6-1.1-12.1 empowers the Commission, at the time an Economic Revitalization Area is designated, to limit the dollar amount of the deduction that will be allowed with respect to a project; and

WHEREAS, I.C. 6-1.1-12.1 requires an applicant for Economic Revitalization Area designation to provide a statement of benefits and requires the Commission, before it makes a decision to designate such an area as an Economic Revitalization Area, to determine that the Project can be reasonably expected to yield the benefits identified in the statement of benefits and determine that the totality of benefits arising from the Project is sufficient to justify Economic Revitalization Area designation; and

WHEREAS, a business (hereinafter "Applicant") named in the attachment to this Resolution, which is incorporated herein by reference, has an ownership interest in the geographical area (hereinafter "Subject Real Estate") described in such attachment; and

WHEREAS, the Applicant has requested the Subject Real Estate be designated as an Economic Revitalization Area for the purpose of achieving property tax savings in connection with the Project set forth in the attachment to this Resolution and occurring on the Subject Real Estate; and

WHEREAS, during a preliminary hearing at 1:00 p.m. on Wednesday, May 18, 2022, the Commission received evidence about whether the Subject Real Estate should be designated as an Economic Revitalization Area and recommended the appropriate length of the abatement period for such Area, and the Commission adopted **Preliminary Resolution No. 2021-A-018**, preliminarily designating the

Subject Real Estate as an Economic Revitalization Area for an abatement period of up to ten (10) years (“Preliminary Resolution”); and

WHEREAS, pursuant to Commission Resolution No. 01-A-041, 2001, the Applicant and the City have entered into a Memorandum of Agreement which shall be utilized to measure compliance with the proposed Project described in the attachment to this Resolution; and

WHEREAS, proper legal notices were published indicating the adoption of such Preliminary Resolution and stating when and where such final public hearing would be held.

NOW, THEREFORE, IT IS RESOLVED:

1. The Commission now amends, confirms, adopts and approves such Preliminary Resolution and thereby finds and establishes the area as an Economic Revitalization Area subject to the conditions that designation as an Economic Revitalization Area allows the abatement of property taxes only relative to the Project and the effectiveness of the designation can be terminated by action of the Commission if:
 - A. The Applicant is unable to secure approval of the necessary variance or rezoning petition, or Indianapolis Historic Preservation Commission Certificate of Appropriateness, to provide for the proposed development.
 - B. Construction on the Subject Real Estate is not in substantial conformance with the Project description contained in the final resolutions as supplemented by information in the application, site plan and elevations; or
 - C. Construction of the Project is not initiated within one (1) year of the date a final resolution designating the Subject Real Estate as an Economic Revitalization Area is adopted.
2. The Economic Revitalization Area designation terminates two (2) years after the date a final resolution is adopted; however, relative to redevelopment or rehabilitation completed before the end of the two (2) year period, this termination does not limit the period of time the Applicant or successor owner is entitled to receive a partial abatement of property taxes to a period of less than ten (10) years.
3. In the event the investment period, as identified on the Statement of Benefits form, covers more than one assessment cycle, it is the intention of the Commission that the Marion County Auditor shall treat each year of partial assessment as the first year of the abatement deduction schedule outlined in this abatement resolution. Each new increment of assessment that occurs during the approved investment period will trigger its own deduction schedule, ensuring that the Applicant is eligible to receive the full, intended abatement savings associated with its forecasted investment, provided that the Applicant timely files with Marion County a separate deduction application (State Forms CF-1 and 322/RE) for each new increment of assessment for which it seeks an abatement deduction.
4. This Economic Revitalization Area designation is limited to allowing the partial abatement of property taxes attributable to redevelopment or rehabilitation activities: **This designation does not allow abatement of property taxes for installation of new manufacturing equipment under I.C.**

6-1.1-12.1-4.5. Pursuant to IC 6-1.1-12.1-2 (i), the Commission hereby limits the dollar amount of the deduction that will be allowed, with respect to redevelopment in the ERA, to those respective tax savings attributable to rehabilitation of the existing approximately 40,000 square feet building.

5. The Commission has determined that the Project can be reasonably expected to yield the benefits identified in the attached "statement of benefits" and the "statement of benefits" is sufficient to justify the partial abatement of property taxes requested, based on the following findings:
 - A. The estimate of the value of the proposed Project is reasonable for projects of that nature.
 - B. The estimate of the number of individuals who will be employed or whose employment will be retained can reasonably be expected to result from the proposed Project.
 - C. The estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can reasonably be expected to result from the proposed Project.
 - D. Other benefits about which information was requested are benefits which can reasonably be expected to result from the proposed Project.
 - E. The "Totality of Benefits" is sufficient to justify the deduction.
6. Under the authority of I.C. 6-1.1-12.1, the Commission directs the Department of Metropolitan Development to survey projects receiving Economic Revitalization Area designation for compliance with job creation/retention figures, salaries associated with these figures, Workforce Support Commitments and investment figures contained in the applicant's approved Final Economic Revitalization Area Resolution, the Memorandum of Agreement executed by and between the applicant and the City, and/or the statement of benefits form. The Commission may reduce the dollar amount, or rescind the deduction in its entirety, and/or require repayment of all or a portion of the deductions received by the applicant for failure to achieve the benefits identified in the Memorandum of Agreement and/or "statement of benefits", or for failure to respond to the mandatory survey.
7. The Commission directs the Department of Metropolitan Development to survey the Project described in the attachment to this Resolution annually for at least fourteen (14) years. The dates of the initial fourteen (14) surveys shall be on or about the following dates: 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, and 2036
8. The Subject Real Estate and Project area are approved for an abatement period of **up to ten (10) years.**

9. The real property tax abatement shall utilize the following abatement schedule:

REAL PROPERTY TAX ABATEMENT

YEAR OF DEDUCTION	PERCENTAGE
1 st	100%
2 nd	90%
3 rd	80%
4 th	75%
5 th	75%
6 th	75%
7 th	75%
8 th	75%
9 th	75%
10 th	75%

9. A copy of this Resolution shall be filed with the Marion County Auditor.

[Remainder intentionally left blank, signatures to follow]

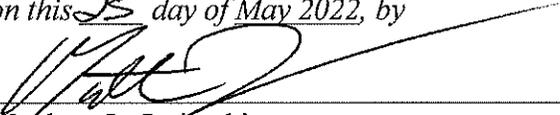
METROPOLITAN DEVELOPMENT COMMISSION

John J. Dillon III, President

Lena Hackett, Secretary

Date

*Approved as to Legal Form and Adequacy
on this 25 day of May 2022, by*



Matthew L. Jezlorski,
Assistant Corporate Counsel

STAFF ANALYSIS
REAL PROPERTY TAX ABATEMENT

Area Surrounding Subject Real Estate: The site is located at the northwest end of the Massachusetts Avenue corridor where it is cut off by I-65 N/I-70 E, across from the new Bottleworks District commercial development. It is also in the Chatham-Arch/Massachusetts Avenue Historic Preservation District and the Regional Center, requiring additional approvals for new development.

Current Zoning:.....CBD-2

New Jobs Created:40

Jobs Retained:None.

Estimated Cost of proposed project: \$12,500,000.00

The Applicant will be converting the existing Center Township Trustee Building offices to a mixed-use building, with offices on floors two through five and retail/restaurant use(s) on the first floor and new rooftop deck.

Since 1975, the building has been owned and occupied by the Center Township Trustee's Office and has therefore been exempt from property taxes in Marion County. Private ownership and operation of the building will increase the tax base and diversify the use of the building for more than just government offices in an area that includes a recently constructed and repurposed commercial/mixed-use development.

Along with the new tax income, 863 Landmark LLC is committing to forty (40) new jobs at an average wage rate of \$25.00 per hour. Their Inclusivity Plan is customized to include a \$32,653.65 donation to the Indianapolis Housing to Recovery Fund. Established in 2019, the Housing to Recovery Fund seeks to address the issue of homelessness in the Indianapolis community and provides support to those experiencing homelessness using a performance-based contracting model with very specific benchmarks for success involving multiple organizations dedicated to preventing and assisting the homeless.

Staff believes this project does comply with the requirements of Metropolitan Development Commission Resolution No. 01-A-041, 2001 concerning the granting of property tax abatement.

RECOMMENDATION: Staff recommends approval of ten (10) years real property tax abatement.

TOTALITY OF BENEFITS

PETITIONER: **863 Landmark, LLC**

INVESTMENT: Staff estimates that the proposed investment of \$12,500,000.00 should result in an increase to the tax base of approximately \$2,769,200.00 of assessed value. Staff estimates that over the ten (10) year real property tax abatement period the petitioner will realize savings of up to \$653,079.13 (a 32.2% savings). During the abatement period, the petitioner is expected to pay an estimated \$1,374,375.30 in real property taxes on the project. As a government office, the property is currently tax exempt. After the tax abatement expires, the petitioner can be expected to pay an estimated \$202,745.44 in real property taxes annually on the new improvements.

EMPLOYMENT: The petitioner estimates that this project will create at least forty (40) positions at a wage of \$25.00/hr. Staff finds these figures to be reasonable for a project of this nature.

OTHER BENEFITS: Staff believes this project is significant for Center Township in terms of new taxes and potential job creation and retention. Furthermore, staff believes the petitioner's project will lead to continued future investment and development in Marion County.

STAFF COMMENT: Staff believes the "Totality of Benefits" arising from the project are sufficient to justify the granting of the tax abatement.

PROJECT SUMMARY

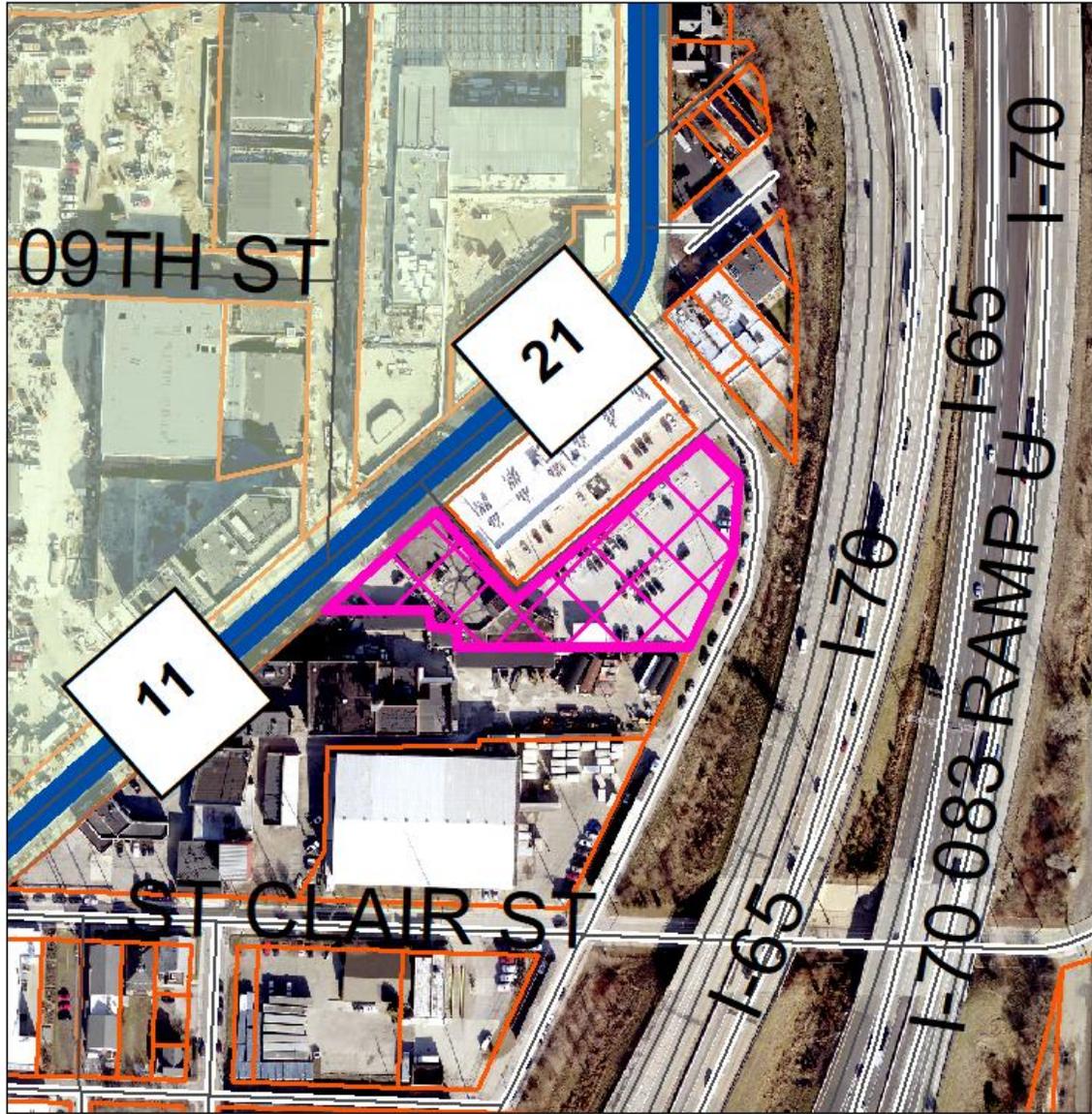
Applicant: 863 Landmark, LLC
Subject Real Estate: 863 Massachusetts Avenue
Center Township Parcel Number: 1026527

863 Landmark LLC, a subsidiary of Landmark Properties, Inc., purchased the former Center Township Trustee Building located at 863 Massachusetts Avenue in April 2022 with plans to convert the office building into a mixed-use building. The project will include removal and replacement of exterior storefront/architectural features as well as a new rooftop deck. High-end office space is planned for the second to fifth floors with the first floor, basement, and rooftop being reserved for a retail/restaurant tenant.

As an historic building, certain structural and architectural considerations must be taken into account to allow for new retail and/or restaurant uses within the building, which will affect the overall costs of the project. The existing, approximately 40,000-square foot office building was constructed in 1917 and is located within the Chatham-Arch & Massachusetts Avenue Historic Preservation District, which will require design approval from the Indianapolis Historic Preservation Commission.

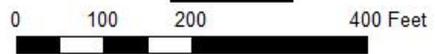
The Applicant has committed to creating forty (40) new jobs at an average wage rate of \$25.00 spread across the new office, retail, and/or restaurant tenants by December 31, 2024. In order to satisfy the workforce support requirement, Applicant will make a donation to the Indianapolis Housing to Recovery Fund in the amount of \$32,653.65. This fund's main goal is to provide supportive 400 housing/apartment units for those experiencing homelessness with a wrap-around services and set of performance goals to decrease chronic homelessness in the City of Indianapolis.

863 Landmark LLC
863 Massachusetts Avenue



Legend

-  TIF Allocation Areas
-  IndyGo Transit Routes
-  Project Site



Produced by: DMD REED May 10, 2022

Community Investments
Housing Trust Fund
Housing Services

METROPOLITAN DEVELOPMENT COMMISSION

OF

MARION COUNTY, INDIANA

Resolution No. 2022-C-006

WHEREAS, I.C. 36-7-15.1-35.5 authorizes the Metropolitan Development /commission (“MDC”), acting as the redevelopment commission for the Consolidated City of Indianapolis, to establish a supplemental housing program and a housing trust fund; and

WHEREAS, MDC resolution 02-B-002 establishes the Supplemental Housing Program and the Indianapolis Low Income Housing Trust Fund (“Trust Fund”); and

WHEREAS, I.C. 36-7-15.1-35.5(i) establishes the housing trust fund advisory committee (Committee”); and

WHEREAS, the Department of Metropolitan Development (“DMD”) has funds available in the Indianapolis Low Income Housing Trust Fund; and

WHEREAS, the Housing Trust Fund Advisory Committee recommends Indianapolis Low Income Housing Trust funds be awarded to Partners in Housing, to provide supportive services to tenants living in permanent supportive housing, in an amount not to exceed One Hundred Sixty-Five Thousand Dollars 00/100 (\$165,000.00); and

WHEREAS, the DMD and the grantee wish to enter into a new contract;

NOW, THEREFORE, BE IT RESOLVED:

1. The Director of the DMD is hereby authorized by the MDC to enter into a grant agreement with Partners in Housing in an amount not to exceed One Hundred Sixty-Five Thousand Dollars 00/100 (\$165,000.00).
2. The Director of the Department of Metropolitan Development is hereby authorized to execute the necessary documents in accordance with this Resolution.

THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY

Approved as to legal form and adequacy:

By: 
Matt Jeziorski, Asst. Corp. Counsel

Date: 5/24/2022

Metropolitan Development Commission:

By: _____
John J. Dillon III, President

Date: _____

Community Investments
Housing Trust Fund
Housing Services

METROPOLITAN DEVELOPMENT COMMISSION

OF

MARION COUNTY, INDIANA

Resolution No. 2022-C-007

WHEREAS, I.C. 36-7-15.1-35.5 authorizes the Metropolitan Development /commission (“MDC”), acting as the redevelopment commission for the Consolidated City of Indianapolis, to establish a supplemental housing program and a housing trust fund; and

WHEREAS, MDC resolution 02-B-002 establishes the Supplemental Housing Program and the Indianapolis Low Income Housing Trust Fund (“Trust Fund”); and

WHEREAS, I.C. 36-7-15.1-35.5(i) establishes the housing trust fund advisory committee (Committee”); and

WHEREAS, the Department of Metropolitan Development (“DMD”) has funds available in the Indianapolis Low Income Housing Trust Fund; and

WHEREAS, the Housing Trust Fund Advisory Committee recommends Indianapolis Low Income Housing Trust funds be awarded to BWI, LLC for the purchase and installation of security equipment at Penn Place Apartments, a permanent supportive housing development, in an amount not to exceed Eighty-Five Thousand Dollars 00/100 (\$85,000.00); and

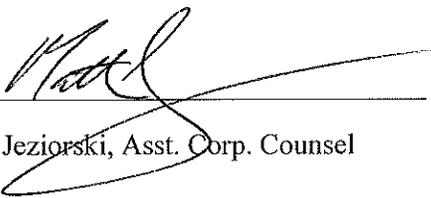
WHEREAS, the DMD and the grantee wish to enter into a new contract;

NOW, THEREFORE, BE IT RESOLVED:

1. The Director of the DMD is hereby authorized by the MDC to enter into a grant agreement with BWI, LLC in an amount not to exceed Eighty-Five Thousand Dollars 00/100 (\$85,000.00).
2. The Director of the Department of Metropolitan Development is hereby authorized to execute the necessary documents in accordance with this Resolution.

THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY

Approved as to legal form and adequacy:

By: 
Matt Jeziorski, Asst. Corp. Counsel

Date: 5/24/2022

Metropolitan Development Commission:

By: _____
John J. Dillon III, President

Date: _____



HEARING OFFICER

of the

Metropolitan Board of Zoning Appeals of
Marion County, Indiana

RULES OF PROCEDURE

ADOPTED:	November 6, 1986	
REVISED:	August 17, 1988	(88-R-68)
	October 3, 1990	(90-R-45)
	September 2, 1992	(92-R-41)
	June 5, 1996	<i>(Fee amendments)</i>
	December 1, 2005	<i>(Fees, Continuances, City-County Councillors)</i>
	December 2, 2009	<i>(2009-P-6; Fees, Modification petitions, Councillors rebuttal)</i>
	June 4, 2014	(2014-P-007)
	May 4, 2022	(2022-P-006)

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RULES OF PROCEDURE

ARTICLE I -GENERAL RULES

- 1. HEARING OFFICER** - A person (who may be an employee of the City of Indianapolis) nominated by the Director of the Department of the Metropolitan Development and appointed by the Metropolitan Development Commission to exercise some of the powers of a Metropolitan Board of Zoning Appeals. With respect to the matter presented, the Hearing Officer shall act as the Metropolitan Board of Zoning Appeals.

- 2. TERRITORIAL JURISDICTION** - The Hearing Officer shall have jurisdiction throughout Marion County, Indiana --except within the territorial limits of any excluded city that has created a board of zoning appeals pursuant to the provisions of I.C. 36-7-4-901 (g).

- 3. POWERS OF THE HEARING OFFICER** - The Hearing Officer has the power to:
 - A. Approve or deny variances from the development standards (such as height, bulk or area)of the zoning ordinance.
 - B. Approve or deny special exceptions of the zoning ordinance.
 - C. Approve or deny modifications to conditions of a variance grant previously approved by the Hearing Officer, or modifications to an approved site and development plan previously approved by the Hearing Officer.
 - D. Approve or deny variances of use of the zoning ordinance, only under thefollowing circumstances:
 - (1) The request is for the expansion of a use currently existing on the property, and
 - (2) The proposed use is consistent with the recommendations of the Comprehensive Plan, as determined by the Administrator. The Administrator will use the "recommended land use map" from the most recently adopted neighborhood or comprehensive plan for purposes of this section.

- 4. CATEGORIES OF PETITIONS AND REQUESTS** - The Hearing Officer may take action relative to the following matters:
 - A. Use Variance Petitions -A variance for a use or structure that is not permitted in the zoning district as permitted by 36-7-4-923 (a).
 - B. Development Standards Variance Petitions -A departure from the provisions of a zoning ordinance relating to frontage, yard, area, coverage, setback, height, size, parking, loading or other requirements of the applicable zoning district.
 - C. Special Exception Petitions -A special exception to the standard terms, regulations and requirements of zoning district.
 - D. Approval Petitions - Approvals involving the waiver of the waiting periods before refileing after an adverse decision or the dismissal or withdrawal of a petition.
 - E. Modification Petitions - Petitions involving the modification or termination of conditions and the modification of an approved site and development plan of a variance or special exception petition. The Hearing Officer may not modify or terminate any commitment.
 - F. Continuances and other Special Requests.

5. HEARING OFFICER TO DECIDE POINTS OF ORDER - The Hearing Officer, subject to these rules, shall decide all points of order or procedure. All requests for continuances and special requests for modification of notice requirements shall be considered at the beginning of each public hearing. All other special requests shall be considered at the end of each public hearing.

6. COMPUTATION OF TIME - In computing any period of time under these Rules of Procedure, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the computed period is to be included unless it is:

- (1) a Saturday;
- (2) a Sunday;
- (3) a legal holiday under a state statute; or
- (4) a day that the office in which the act is to be done is closed during regular business hours.

A period runs until the end of the next day after a day described in subsection (a)(1) through (a)(4). If the period required or allowed is less than seven (7) days, intermediate Saturdays, Sundays, state holidays, and days on which the office in which the act is to be done is closed during regular business hours are excluded from the calculation.

ARTICLE II - FILING OF PETITIONS

1. WHO MAY FILE - No variance, special exception, modification or approval petition shall be accepted for filing unless signed by the owner of the subject parcel or his or her duly appointed agent or representative.

Any authorization to sign the petition or otherwise act on the owner's behalf with respect to the variance, special exception or approval request shall be in writing, signed by the owner and submitted at the time of filing the petition.

For purposes of this section owner is defined to include:

- A. The person(s) who holds either fee simple title to the property or a life tenant in possession as disclosed in the most recent records of the township assessor;
- B. A contract vendee;
- C. A long-term lessee (but only if the lease is recorded among the records of the County Recorder and has at least twenty-five (25) years remaining before its expiration date at the time of filing the petition).

2. FILING REQUIRED AT LEAST NINETEEN (19) DAYS PRIOR TO HEARING - All petitions to the Hearing Officer shall be scheduled for hearing in accordance with the notice requirements of these Rules of Procedures.

3. FILING ON BOARD'S FORMS REQUIRED - All petitions to the Hearing Officer shall be made on forms to be supplied by the Board of Zoning Appeals and shall include one copy of the applicable petition, one copy of the legal description of the subject property, and three copies of the exhibits, materials and information required by and specified on said forms. The Department of Metropolitan Development may require electronic filing of application materials. Any communication purporting to be a petition not on forms furnished by the Board or not containing the information called for on said forms, shall be regarded as a mere notice of intention to petition and shall be of no force or effect until it is filed in the form required.

4. REQUIRED FINDINGS OF FACT - At the time of filing a petition, proposed detailed written findings of fact shall be filed. The Hearing Officer must adopt Findings of Fact in a decision to

approve or deny a variance or special exception petition, including any modification petition to modify conditions, site plans or other development plans.

Any other interested party may file proposed findings of fact at any time prior to the hearing, or in initial testimony at a hearing.

5. SPECIFYING OF REQUEST REQUIRED - All variance, special exception, modification and approval petitions must specify the ordinance(s) and development, performance or other standards and regulations, conditions or approvals sought by the petitioner to be modified or approved. A mere recitation in the petition that development is, or will be "per plan filed" is insufficient to modify any standards or regulations of the applicable ordinance(s) that are not expressly referred to in the petition.

6. FILING FEES

- A. **FEE SCHEDULE** - In order to compensate for the expense of advertising and processing, a fee shall be paid by the applicant at the time of filing in accordance with the fee scheduled adopted by and delineated in the Metropolitan Board of Zoning Appeals' Rules of Procedure, Article II, 6.
- B. **REFUND FOR SINGLE- AND TWO-FAMILY VARIANCE OF USE PETITIONS** – The Administrator, upon request, may refund to the applicant up to \$280.00 of a paid filing fee for a granted variance of use for an individual single- or two-family dwelling use that was not appealed to a Division of the Metropolitan Board of Zoning Appeals.
- C. **WAIVER FOR GOOD CAUSE** - The Hearing Officer may at any time **for good cause** shown, or upon the Hearing Officer's own motion, waive or modify the applicable filing fee to not less than fifty (\$50.00) dollars, and transfer a filing fee.
- D. **REFUND OF FEES OF WITHDRAWN OR TRANSFERRED PETITIONS** - The Administrator of the Division of Planning may, upon request and for good cause shown, refund the applicable filing fee if the petition is withdrawn prior to the publishing or mailing of any public notice. The Administrator may, upon request and for good cause shown, refund all except one hundred (\$100.00) dollars of the applicable filing fee if the petition is withdrawn prior to any public hearing. The request shall be in writing and received within 90 days of withdrawal.
- The Administrator may, upon request and for good cause shown, transfer the applicable filing fee of the petition if the transfer occurs prior to any public hearing. The request shall be in writing and received within 90 days of the transfer.
- E. **DEPARTMENTAL FEE WAIVER** – For all departments of the City of Indianapolis, all fees outlined above shall be waived for projects in which:
- (1) a department is the applicant or petitioner and the project will be located on property owned by the department or the City of Indianapolis; or
 - (2) the Department of Metropolitan Development or the Commission is the applicant or petitioner.
- F. **STATE FEE WAIVER** – For all departments of the State of Indiana, all fees outlined above shall be waived for projects in which a department is the applicant or petitioner and the project is located on property owned by the department or the State of Indiana.
- G. **MAINTENANCE OF FUNDS** – All monies from any filing fees for petitions and other activities to defray administrative costs shall be directed to the Metropolitan Board of Zoning Appeals' non-reverting fund to maintain said receipts.

ARTICLE III - DOCKETING OF PETITIONS

- 1. DOCKETING BY ADMINISTRATOR** - Each petition filed in proper form shall be numbered and docketed by the administrator for hearing before either the Hearing Officer or one of the Divisions of the Board.
- 2. DOCKET NUMBERS** - The docket number shall begin anew on January 1st of each year, and for all petitions shall be hyphenated with the numbers of the year, the initials "HOV" and the number that indicates the sequence the petition occupies among the petitions filed.
- 3. ORDER OF HEARING PETITIONS** - On the date set for hearing special exceptions, variances, modification and approval petitions shall come before the Hearing Officer in the regular order of their consecutive numbers and in the order enumerated above. Provided, however, petitions re-docketed following a continuance from a previous hearing by the Hearing Officer or petitions re-docketed following a special request, shall be heard at the beginning of the public hearing before the regularly docketed petitions.

ARTICLE IV - NOTICE

- 1. NOTICE REQUIREMENTS** - Notice of all petitions to be heard by the Hearing Officer shall be given to all interested parties of property owners, in the following manner:
 - A. NOTICE BY PUBLICATION** - Notice by publication shall be given by the Hearing Officer in the prescribed form, in two (2) newspapers of general circulation in Marion County at least (10) days before the hearing.
 - B. ADDITIONAL NOTICE BY PETITIONERS TO OWNERS OF ADJOINING LAND, NEIGHBORHOOD ORGANIZATIONS AND AFFECTED CITY-COUNTY COUNCILLORS** –
 - (1) Additional notice, on a form prescribed by the Metropolitan Development Commission, shall be given by the petitioner, by registered, certified or first class mail at least ten (10) days before the date of hearing, to the owners of all adjoining parcels of land.

However, the Indianapolis Department of Public Works or its successor and the Indiana Department of Highways or its successor shall not constitute a property owner requiring notice if the property is right-of-way, used for street purposes, except for interstate right-of-way, in which case notice shall be sent of the Indiana Department of Highways or its successor.
 - (2) For purposes of notice requirement of this paragraph, where any of such adjacent parcels of land are owned by petitioner, the subject property shall be deemed to include any land owned by petitioner adjacent to the land described in the petition.
 - (3) In the case of property that is subject to I.C. 32-25, each condominium unit shall be deemed one property ownership and the common area designated in the appropriate condominium instruments shall be deemed one property ownership, and notice to the co-owners of such common area may be given to the association of co-owners set forth in the condominium instruments recorded in the Office of the Recorder of Marion County, Indiana.
 - (4) Additional individual notice may be required of the petitioner by the Hearing Officer at the time of docketing the petition.

- (5) For the purpose of determining names and addresses of legal title owners, the records in the office of the Assessor of Marion County (and the similar office designated for ownership records by each County adjoining Marion County) that list the current owner of record at a point in time within fourteen (14) days of the date the notice shall be sent, shall be deemed to be the true names and addresses of persons entitled to notice and if notice is sent to such persons for the purposes of the hearing before the Hearing Officer, such notice shall be deemed proper.
- (6) Such notice shall state:
 - (a) the docket number and substance of the petition;
 - (b) the general location (by address of other identifiable locational or geographic characteristic) of the subject property (this does not require the identification of any real property by metes and bounds);
 - (c) the name of the petitioner;
 - (d) the time and place said petition has been set for hearing; and
 - (e) that the petition and file, including the legal description of the subject property, may be examined in the offices of the Hearing Officer.
- (7) Such notice shall also be sent in the same manner to each neighborhood organization whose boundaries include all or some part of the subject property, as delineated upon the Neighborhood Organization Map of the Department of Metropolitan Development (a copy of which is on file in the Division of Planning of the Department of Metropolitan Development and incorporated herein by reference). The Neighborhood Organization map shall be maintained as provided for in the Metropolitan Development Commission's Rules of Procedure. For purposes of such notice, the names, address, and boundaries of the Neighborhood Organization Map shall be deemed the true names, addresses and boundaries thereof.

The list of those neighborhood organizations entitled to notice shall be provided to the petitioner by the staff of the Commission.
- (8) Such notice shall also be sent in the same manner to each City-County Councillor whose District includes all or some part of the subject property. The list of those City-County Councillors entitled to notice shall be provided to the petitioner by the staff of the Commission.

C. NOTICE ON SUBJECT PROPERTY - Notice, on a form prescribed by the Metropolitan Board of Zoning Appeals, shall be posted at least ten (10) 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. Said notice shall remain posted until resolution of the petition. Such notice shall not be located within any public right-of-way, unless authorized by the Administrator. The Administrator may require a nominal, refundable deposit for said notice. Deposit shall be refunded upon return of said notice within 60 days of petition resolution.

D. 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 Hearing Officer 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 Hearing Officer.

- 2. NOTICE REQUIREMENTS FOR APPROVAL PETITIONS** - Notice of all approval petitions to be heard by the hearing Officer shall be given in the following manner:
- A. **NOTICE BY PUBLICATION** -Notice by publication shall be given by the Hearing Officer as stated in Article IV, 1. (a).
 - B. **ADDITIONAL NOTICE BY PETITIONERS** - Additional notice shall be provided as follows:
 - (1) Additional notice, on a form prescribed by the Metropolitan Development Commission, shall be given by the petitioner, by registered, certified or first class mail at least ten (10) days before the date of hearing, to all neighborhood organizations notified, in the original petition, to all remonstrators' attorneys who appeared at the hearing in the original petition or, if none appeared, to the first two persons who spoke on behalf of remonstrators.
 - (2) if the approval petition is not filed within twelve (12) months from the date of the decision by the Hearing Officer on the original petition, ten (10) day notice shall also be given to owners of adjoining land as stated in Article IV, 1, (b).
- 3. AFFIDAVIT OF NOTICE** - Petitioner, his attorney or agent, shall furnish evidence of compliance with the above notice requirement by filing a notarized statement in the offices of the Hearing Officer, listing the names and addresses of property owners and neighborhood organizations to whom notice was sent and, except for approval petitions, certifying that notice was posted on the subject property. Said notarized statement shall be postmarked or filed in the offices of the Hearing Officer within three (3) days following the mailing of the notice.
- 4. DEFECTIVE NOTICE** – If proper notice pursuant to Sections 1 (b) and (c) of this Article has not been given, the Hearing Officer may continue the case until a later date to allow time for un-notified person(s) to prepare for the hearing. Personal appearance shall waive any defect in notice unless said defect is timely raised at the beginning of the hearing when the Hearing Officer is considering requests for continuances. If the failure to give proper notice is not discovered until after the hearing, the Hearing Officer may rescind the approval of a petition and may set the petition for rehearing upon proper notice given by the Petitioner.

ARTICLE V - PUBLIC HEARINGS

- 1. TIME AND PLACE OF PUBLIC HEARING** - Regular meetings, designated as public hearings of the Hearing Officer, shall be heard in the City-County Building, Indianapolis, Indiana, at 10:00 o'clock A.M. on each Tuesday of each month. If the regular meeting day falls on a legal holiday, such meeting shall then be held on the following Thursday, unless the Administrator determines that it would create a conflict with another scheduled hearing or meeting.
- 2. SPECIAL MEETINGS** - Special meetings of the Hearing Officer may be called by the Hearing Officer. Written notice of a special meeting is not required if the date, time and place of the special meeting are fixed at a previous regular meeting.

3. ALL MEETINGS AND HEARINGS PUBLIC - All regular or special meetings and hearings of the Hearing Officer shall be open to the public and petitioner(s), remonstrator(s) and other persons desiring to be heard shall have the right to give testimony in accordance with these rules.

4. ANY PARTY MAY APPEAR IN PERSON BY AGENT OR BY ATTORNEY - At hearings before the Hearing Officer, any party may appear in person, by agent or by attorney.

An attorney or other representative of any party, petitioner or remonstrator may testify as to facts of which said agent has particular knowledge relating to the issues of the petition, but in so testifying the attorney or representative shall be sworn and subject to cross examination, as are the petitioner's or remonstrator's other witnesses.

The Administrator of the Division of Planning of the Department of Metropolitan Development shall appear in person, by agent or by attorney and present evidence, statements and argument in support of, or in opposition to, the granting of any variance or the determination of any matter before the Hearing Officer.

5. APPEARANCE REQUIRED PRIOR TO TESTIMONY AND EVIDENCE BY ADVERSE PARTIES AND OTHERS-

A. Adverse parties, remonstrators or any other person speaking before the Hearing Officer to any petition pending determination and decision by the Hearing Officer shall be required to enter a written or oral appearance specifying their names and addresses prior to the presentation of testimony and evidence.

B. Where such appearance is entered at least three (3) days prior to such public hearing, the petitioner shall supply such adverse party or parties with a copy of the petition and plot plan of the property involved, upon written request to the petitioner.

6. CONTINUANCE - The Hearing Officer may, at any time, in its own discretion, continue the hearing of any petition. The Hearing Officer may refer any petition to any Division of the Metropolitan Board of Zoning Appeals.

The Hearing Officer may determine if re-notification of owners of adjacent parcels, or if notification of additional interested parties shall be required if a petition is referred to one of the Divisions of the Board.

There shall be no "Automatic Continuances" of petitions scheduled before the Hearing Officer.

7. MOTION TO DISMISS - In order for a remonstrator's "motion to dismiss" to be considered by the Hearing Officer, said motion must be filed with the Administrator of the Division of Planning, and a copy served upon petitioner or designated agent, no later than the Thursday before the date of the scheduled hearing. Failure to comply with this provision shall result in summary dismissal of the "motion to dismiss" by the Hearing Officer.

8. TIME ALLOWED AND PROCEDURE FOR HEARING OF PETITIONS - Petitioners and remonstrators, respectively, shall be permitted a total of ten (10) minutes each for presentation of evidence, statements and arguments at the public hearing of every petition before the Hearing Officer, as follows:

A. **Petitioners and persons appearing in support** of the petition being heard by the Hearing Officer shall first have eight (8) minutes for the presentation of evidence, statements and argument in support of the matter being considered.

A reasonable additional time shall be allowed by the Hearing Officer for cross-examination and redirect examination of petitioner's witnesses.

B. **Remonstrators and persons appearing in opposition** to the petition shall then have eight (8) minutes for the presentation of evidence, statement and argument in opposition to the matter being considered.

A reasonable additional time shall then be allowed by the Hearing Officer for cross-examination and redirect examination of remonstrators' witnesses.

C. **Any member of the City-County Council** shall be allowed a reasonable additional time to provide testimony regarding a petition.

D. The **Administrator** in person, by agent or by attorney shall be given reasonable time by the Hearing Officer for the presentation of evidence, statements and argument in support of, or in opposition to, the matter being considered.

E. The petitioner shall then have two (2) minutes for **rebuttal** that shall include only evidence, statements and argument in rebuttal of remonstrators or the Administrator's evidence and a brief closing statement.

F. Remonstrators and persons appearing in opposition to the petition shall then have two (2) minutes for **rebuttal** that shall include only evidence, statements and argument in rebuttal of petitioner's rebuttal evidence or the Administrator's evidence and a brief closing statement.

G. A reasonable additional time may be allowed for any **member of the City-County Council** to provide rebuttal testimony.

H. Neither petitioners nor remonstrators shall be permitted to reserve for rebuttal any time not used during their initial presentations.

The Hearing Officer shall have authority to cut off repetitious and irrelevant testimony and shall have authority to extend the total ten (10) minute periods specified above, when it is appropriate in the interest of affording to all interested parties a fair hearing.

The Hearing Officer shall have authority to waive the requirements of this section, in order to conduct a hearing in a manner that he or she feels more appropriate.

9. ORDERLY CONDUCT REQUIRED - Every person appearing before the Hearing Officer shall abide by the order and direction of the Hearing Officer. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges extended by the Hearing Officer and shall be dealt with as the Hearing Officer deems fair and proper.

10. CONTACTING THE HEARING OFFICER REGARDING PENDING PETITION - PROHIBITED: ADMINISTRATOR'S WRITTEN STATEMENT OF FACTS OR OPINION TO BE FILED NOT LESS THAN THREE (3) DAYS PRIOR TO HEARING-

No person shall contact the Hearing Officer orally or in writing, in advance of a public hearing, on a petition then pending for decision with intent to influence the Hearing Officer's action on such petition except that the Administrator of the Division of Planning of the Department of Metropolitan Development or member(s) of the Division Staff, may file not less than three (3) days prior to any proposed hearing, a statement, in writing, stating any facts or opinion that is desired to be set forth with respect to such petition. If a statement is prepared, a copy of such statement shall be furnished simultaneously to all persons shown of record.

However, nothing herein shall prohibit any interested party from requesting a continuance, in writing, as provided for by these rules.

11. OBJECTIONS OR CONDITIONS OF THE ADMINISTRATOR - The Administrator, or authorized agent(s) or staff may, at any time, file a written objection to such a variance, special exception or approval petition if it would be injurious to the public health, safety, morals and general welfare of the community. If a written objection is filed, the petition shall be considered withdrawn from consideration by the Hearing Officer and shall be referred for hearing to one of the Divisions of the Metropolitan Board of Zoning Appeals.

The Administrator may indicate that he does not object to the granting of the variance, special exception or approval petition if specified conditions or commitments are attached: if the applicant for the variance, special exception or approval petition does not accept these conditions or commitments, the petition shall be considered withdrawn from consideration by the Hearing Officer and shall be referred for hearing to one of the Divisions of the Metropolitan Board of Zoning Appeals.

12. NO DECISION OR FINDING UNLESS BASED UPON FACTS IN PERMANENT RECORDS AND/OR WRITTEN STATEMENT FILED BY ADMINISTRATOR - No decision or finding of the Hearing Officer shall be made unless it is based upon facts submitted at a hearing and made a part of the permanent record and/or such written statement filed by the Administrator of the Division of Planning, the Administrator's agent or the Administrator's attorney. Provided, however, nothing herein contained shall deny the right of the Hearing Officer to inspect land involved in any petition to be heard by the Hearing Officer.

13. DISQUALIFICATION OF THE HEARING OFFICER IN CASE OF PERSONAL OR FINANCIAL INTEREST - The Hearing Officer shall, when some personal or direct or indirect financial interest in any petition exist, refer said petition to one of the Divisions of the Metropolitan Board of Zoning Appeals. The record of the particular petition concerned shall note any such disqualification.

14. AMENDMENTS TO ANY PETITION - Requests to amend any petition may be filed in writing prior to or at the beginning of any hearing, or made orally at the hearing. Any remonstrators present shall have the right to be heard on any objections they may have to such proposed amendment. It shall be within the discretion of the Hearing Officer to grant or deny requests for amendments and to require re-notification in compliance with Article IV. Provided, however, any proposed amendment to modify additional standards or regulations of the applicable ordinance(s) shall be re-docketed and re-advertised and the petitioner shall pay an additional filing fee.

- 15. AMENDMENTS AND SUPPLEMENTS TO SUPPORTING DOCUMENTS** - Requests to amend or supplement supporting documents to any petition, including revised site plan, revised elevations, proposed commitments and conditions, must be filed no later than the Monday of the week prior to the week of the scheduled hearing. If supporting documents are amended or supplemented between the Monday of the week of the hearing, or at the hearing, it shall be within the discretion of the Hearing Officer to continue the petition. In making this determination, consideration shall be given to sufficient time to adequately review these new supporting documents.
- 16. ALL TESTIMONY UNDER OATH** - All testimony before the Hearing Officer shall be given under oath or affirmation that shall be administered by some person qualified to administer oaths.
- 17. MINUTES AND RECORD OF HEARING** - The Hearing Officer shall keep minutes of all proceedings, investigations and other official actions and in all petitions heard by the Hearing Officer; and shall record the vote on all action taken. A verbatim recording or stenographic or steno-type record, shall be made of all hearings of the Hearing Officer, and shall remain on file in the offices of the Hearing Officer. All minutes and records shall be filed in the offices of the Hearing Officer and shall be public records.

Copies of such verbatim record of any hearing may be ordered by any party. The cost thereof shall be paid by the party ordering such copy or copies.

ARTICLE VI - FINAL DISPOSITION OF PETITIONS

- 1. DISMISSAL OF PETITIONS** - The Hearing Officer may dismiss a petition for want of prosecution or for lack of jurisdiction.

Any petition that has been dismissed by the Hearing Officer for want of prosecution shall not again be filed for consideration by the Hearing Officer within a period of three (3) months from the date of the dismissal, unless the Hearing Officer grants an approval petition to permit a refiling of the petition.
- 2. WITHDRAWAL OF PETITIONS** - No petition may be withdrawn by the petitioner after a decision has been made by the Hearing Officer. No petition that has been withdrawn by the petitioner shall again be filed for consideration by the Hearing Officer within a period of three (3) months from the date of said withdrawal, unless the Hearing Officer grants an approval petition to permit a refiling of the petition.
- 3. TRANSFER OF PETITIONS** - The Hearing Officer, in appropriate circumstances, may transfer a variance, special exception or approval petition to the docket of any Division of the Metropolitan Board of Zoning Appeals.
- 4. REFILING FOLLOWING ADVERSE DECISION** - A petition for a variance, special exception or approval relative to the same property may be filed with the Metropolitan Board of Zoning Appeals at any time following the denial or withdrawal of a variance, special exception or approval petition filed under this procedure.
- 5. NOTICE OF HEARING OFFICER'S DECISION** - Within five (5) days after granting a variance, special exception or approval petition, the Hearing Officer shall file with the Division of Planning a copy of his or her decision. However, if a representative of the Division of Planning appears at the hearing granting a variance, special exception or approval petition, then this appearance shall be considered notice to said Division and a copy of the decision need not be filed.

6. LETTER OF GRANT OR DENIAL - Following the Hearing Officer's action on a variance, special exception or approval petition, the Administrator of the Division of Planning shall notify the petitioner of the Hearing Officer's decision by sending the petitioner a letter of grant or denial that shall include, if a letter of grant, all conditions imposed by the Hearing Officer.

7. CONDITIONS AND COMMITMENTS - AFFIDAVIT OF COMPLIANCE

A. CONDITIONS IMPOSED BY HEARING OFFICER - AFFIDAVIT OF COMPLIANCE

Whenever the decision of the Hearing Officer is conditioned upon petitioner's compliance with a requirement imposed by the Hearing Officer concerning construction or site development (e.g. installation of landscaping, fencing, paving, curb stops or any comparable requirement) and such condition is recited in the notice to petitioner of the Hearing Officer's decision, petitioner shall be required to notify the Administrator of the Division of Planning of the Department of Metropolitan Development of the timely fulfillment of such requirement by filing an affidavit of compliance in the offices of the Hearing Officer. If the time for fulfillment of the condition is stated in the Hearing Officer's decision, the affidavit shall be filed within thirty (30) days after the time allowed for fulfillment. If the time for fulfillment is not stated in the Hearing Officer's decision, the affidavit shall be filed within thirty (30) days after the commencement of the use or completion of construction authorized by the Hearing Officer's decision, whichever is earlier. Failure to comply with any conditions imposed by the Hearing Officer shall constitute a violation enforceable by governmental authority pursuant to the provision of I.C.36-7-4-1014.

B. COMMITMENTS - RECORDING - If deemed advisable, the Hearing Officer may require or permit the petitioner to make written commitments concerning the use of development of the subject property.

The commitments shall be reduced to writing in **recordable form and signed by the owner(s)** of the real estate. The commitments shall authorize their recording by the Division of Planning in the office of the Recorder of Marion County, Indiana, upon the grant of the variance, special exception or approval petition by the Hearing Officer. Following the recording of the commitments, the Division of Planning shall return the original recorded commitment to petitioner and shall retain a copy of the recorded commitments in its file.

The commitments shall be in the form set forth **by the Commission and/or the Metropolitan Board of Zoning Appeals**. Copies of the Exhibit forms are available from the Department of Metropolitan Development. The Hearing Officer may require in such commitment the designation of any specially affected persons, who in addition to persons entitled to receive notice of the hearing under Article IV, Section (b) shall be entitled to enforcement thereof pursuant to I.C. 36-7-4-1015. **The Hearing Officer** may not modify or terminate any commitment. The commitments may be modified or terminated by a decision of a Division of the Metropolitan Board of Zoning Appeals made at public hearing after proper notice has been given. Any modification or termination of the commitments approved by the Board and shall be in the form set forth by the Commission and/or the Metropolitan Board of Zoning Appeals. Copies of the Exhibit forms are available from the Department of Metropolitan Development and shall not be in full force and effect until reduced to writing by the present owner(s) of the real estate, endorsed by the Board, and recorded in the office of the recorder of Marion County, Indiana

C. ADMINISTRATOR'S APPROVAL - In those petitions where a decision of the Hearing Officer is conditioned upon the petitioner's compliance with a requirement imposed by the Hearing Officer concerning construction and site development, or where the Hearing Officer requires or permits the petitioner to make written commitments concerning the use or development of the subject property, and the requirement or written commitment stipulates

the review and approval official 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 should 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 belimited to, one or more of the following development aspects:
 - (a) site layout;
 - (b) building location, configuration and design;
 - (c) parking location and configuration;
 - (d) interior traffic flow;
 - (e) ingress and egress to the development;
 - (f) sign location, size and design,
 - (g) extent, placement and specification for landscaping, fencing and screening; and,
 - (h) an illumination or lighting plan.
- (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, remonstrator and other interested parties and comments made by decision-makers during the course of the hearing.

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 plan 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 a petition for a modification of commitments to approve a specific development plan.

The review fee for "Administrator's Approval" shall be assessed, and payment due, at the time of submittal.

8. APPEAL PROCEDURE -

- A. FILING OF REQUEST FOR APPEAL** - Any interested party, including the Administrator of the Division of Planning, may file a request for an appeal of the decision of the Hearing Officer. Such request for appeal shall be filed in the offices of the Hearing Officer no later than by 5:00 pm of the 5th day following such hearing. Said request for appeal shall simply state that the party requests a hearing by the Board of Zoning Appeals.
- B. SERVICE OF REQUEST FOR APPEAL UPON OTHER PARTIES** – Upon the same day as a request for appeal is filed in the offices of the Hearing Officer, a copy thereof shall be served, personally or by mailing, upon the party as follows: a remonstrator shall serve petitioner's attorney or, if none has appeared, the petitioner as named and at the address stated in the petition; a petitioner shall serve all remonstrators' attorneys who appeared at the hearing and, if none appeared, shall serve the first two persons who spoke on behalf of remonstrators, at their addresses as stated at the hearing; the Administrator of the Division of Planning, upon filing a request for appeal, shall serve both the petitioner and remonstrators above as provided. A certificate evidencing such service shall be filed with the Hearing Officer.
- C. DOCKETING FOR BOARD OF ZONING APPEALS** - Every petition shall automatically be placed on the docket of the next regular meeting of the Division of the Board that is to be held not sooner than five (5) days after the expiration of the time for filing a request for an appeal in such petition, provided, however, no petition shall be so docketed until all the commitments required or allowed by the Hearing Officer, and that comply with the requirements of this Article, shall have been filed with the Administrator of the Division of Planning.
- D. HEARING BY BOARD OF ZONING APPEALS IF REQUEST FOR APPEAL FILED** - If a request for an appeal is properly filed, the board shall proceed to hear the petition at its first meeting at which the petition appears on its docket or at any subsequent meeting to which the same may be continued. At such hearing, all parties, including the Administrator, shall be allowed to present evidence and argument relevant to the petition, as provided for in the Board's Rules of Procedure. Any commitment required or allowed by the Board and submitted by the petitioner at such hearing shall comply with all requirements of form and recording set forth in the Board's Rules of Procedure. In such commitment, the Board may require the designation of any specifically affected persons or categories of specially affected person, who (in addition to persons entitled to receive notice of the petition by the Board's Rules of Procedure) shall be entitled to enforcement thereof pursuant to I.C. 36-7-4-1015. At the conclusion of such hearing, the Board shall make its decision of said petition.
- E. WITHDRAWAL OF REQUEST FOR APPEAL** - Any person filing a request for appeal of the decision by the Hearing Officer shall have the right to withdraw the same prior to the petition being heard by the Board of Zoning Appeals. If all such requests in a petition are withdrawn, the decision of the Hearing Officer shall stand, as it would have had the request(s) not been filed.

- 9. EXHIBITS** - All exhibits, whether submitted by petitioner or remonstrator, shall become property of the Metropolitan Board of Zoning Appeals and will not be returned to the submitting party.

ARTICLE VII - WAIVER OF RULES

The Hearing Officer shall have the right to waive the Rules of Procedure upon his or her own motion, or upon request of an interested party, for good cause shown. However, a waiver request cannot be granted that would be inconsistent with Indiana Code.

ARTICLE VII - AMENDMENTS

Amendments to these Rules of Procedure may be made by the Metropolitan Development Commission upon the affirmative vote of a majority of the members of the Commission who are entitled to vote.

The foregoing Rules of Procedure of the Hearing Officer of the Metropolitan Board of Zoning Appeals of Marion County, Indiana are hereby adopted by the affirmative vote of the undersigned members of the Metropolitan Development Commission, this ___ day of _____, 2022.

John J. Dillon III, Commissioner and
President

Megan Garver, Commissioner and
Vice-President

Bruce Schumacher, Commissioner and
Vice-Secretary

Lena Hackett, Commissioner and
Secretary

Karina Bruns, Commissioner

William Selm, Commissioner

Alpha Blackburn, Commissioner

Brigid Robinson, Commissioner

Mindy Westrick

METROPOLITAN DEVELOPMENT COMMISSION OF
MARION COUNTY, INDIANA

ATTEST: Lena Hackett, Secretary
Metropolitan Development Commission of
Marion County, Indiana

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PLAT COMMITTEE

of the

Metropolitan Development Commission of
Marion County, Indiana

RULES OF PROCEDURE

ADOPTED: March, 1979
REVISED: August 17, 1988
October 3, 1990
August 14, 1992
November 19, 1997
December 1, 2005
November 19, 2009
June 4, 2014 (2014-P-006)
April 9, 2018 (2018-P-003)
May 4, 2022 (2022-P-006)

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RULES OF PROCEDURE

ARTICLE I - PLAT COMMITTEE, GENERAL

- 1. MEMBERS** - The Plat Committee shall consist of five (5) members.
- 2. OFFICERS** - Annually at the first regular meeting of the Plat Committee, a chairman, Vice- Chairman, and Secretary shall be elected from its members. The Chairman shall preside at all meetings, and in his or her absence or disability the Vice-Chairman shall preside.
- 3. CHAIRMAN TO DECIDE POINTS OF ORDER** - The Chairman, subject to these rules, shall decide all points of order or procedure, unless otherwise directed by a majority of the Committee in session at that time.
- 4. MINUTES, RECORDS** - The Plat Committee shall keep minutes of its meetings, proceedings and other official actions, and of all petitions heard by it, and shall record the vote on all actions taken.
- 5. BALLOT VOTE** - In all petitions heard by the Plat Committee, the Committee's vote shall be by ballot. All such ballots shall remain on file in the office of the Metropolitan Development Commission and shall be public records.
- 6. WHO MAY FILE** - A petition for a plat may be filed by the property owner(s).

A petition for a vacation of land in a plat, or part of a plat may be filed by owners of all or part of the plat pertaining to the land owned by the petitioner.

A petition for a vacation of a street, alley, easement, or public grounds may be filed by all of the owner(s) of the real estate adjacent to the property proposed for vacation.

A duly appointed agent or representative may sign a petition on behalf of the owner of the subject parcel. Any authorization to sign the petition or otherwise act on the owner's behalf with respect to the plat or vacation request shall be in writing, signed by the owner on a form provided by the City with the application, and submitted at the time of filing the petition.

For purposes of this section, owner is defined to include:

 - A. The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the most recent records of the township assessor;
 - B. A contract vendee;
 - C. A long-term lessee (but only if the lease is recorded among the records of the County recorder and has at least twenty-five (25) years remaining before its expiration date at the time of filing the petition.
- 7. MINIMUM FILING TIME REQUIRED PRIOR TO HEARING** - All petitions shall be filed at least forty (40) days prior to the hearing at which they are to be considered, unless otherwise requested by petitioner and approved by the Administrator.

8. COMPUTATION OF TIME - In computing any period of time under these Rules of Procedure, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the computed period is to be included unless it is:

- (1) a Saturday;
- (2) a Sunday;
- (3) a legal holiday under a state statute; or
- (4) a day that the office in which the act is to be done is closed during regular business hours.

A period runs until the end of the next day after a day described in subsection (a)(1) through (a)(4). If the period required or allowed is less than seven (7) days, intermediate Saturdays, Sundays, state holidays, and days on which the office in which the act is to be done is closed during regular business hours are excluded from the calculation.

ARTICLE II - PUBLIC HEARINGS

- 1. TIME AND PLACE OF PUBLIC HEARINGS** - Regular meetings, designated as public hearings of the Plat Committee of the Metropolitan Development Commission shall be held in the City-County Building, Indianapolis, Indiana, at 1:00 p.m. on the second Wednesday of each month. If such regular meeting day falls on a legal holiday, such meeting shall then be held on the following day that is not a legal holiday, unless the Administrator determines that it would create a conflict with another scheduled hearing or meeting. The Administrator shall then select an alternate hearing date.
- 2. SPECIAL MEETINGS** - Special meetings may be called by the Chairman or by three (3) members of the Plat Committee upon written request to the Secretary, who shall send to all members thereof, at least two (2) days in advance of a special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if the time of the special meeting is fixed at a previous regular meeting.
- 3. ALL MEETINGS AND HEARINGS PUBLIC** -All regular or special meetings and hearings of the Plat Committee shall be open to the public.
- 4. QUORUM** - The Plat Committee consists of five (5) members. A majority of the five (5) members of the Plat Committee shall constitute a quorum. No action of the Plat Committee is official unless concurred by a majority of its members.
- 5. INDECISIVE VOTE** - If in any case, the vote of the Plat Committee does not result in official action as set forth in Article II, 4 above, the petition shall be automatically re-docketed and heard at the next regularly scheduled meeting of the Plat Committee
- 6. WRITTEN APPEARANCES** - Any person interested in any petition shall have the right to enter a written appearance in the petition. Such written appearance shall indicate the name of the person appearing, or the name of any attorney or agent appearing on behalf of the interested party, and the address and telephone number of the party, attorney, or agent. The Plat Committee shall prepare and make available appropriate forms for such purpose, or the person interested may file such information in any form desired provided that the foregoing information is provided. The filing of the petition shall be deemed as an appearance therein

by the petitioner and his attorney or agent. Any person interested in a petition shall also have the right to appear at the public hearing and state his or her issues, without filing a written appearance.

7. CONTINUANCE - A continuance on any petition may be granted in one of three ways:

A. Plat Committee Continuance: The Plat Committee may, at any time, at its own discretion, continue the hearing of any petition. The Plat Committee may decide if re- notification of interested property owners shall be required if a petition is continued at a hearing for which proper notice was given by petitioner in compliance with the notice requirements of Article IV hereof.

B. Automatic Continuance: Each party (petitioner(s) and remonstrator(s)) shall be granted only one automatic continuance by the Administrator, to be used at the hearing, provided the continuance request meets the following:

- (1) The continuance request must be the first request for continuance by that party.
- (2) The continuance request must be made in writing and filed no less than by 5:00pm on the seventh (7) day prior to the day of the scheduled hearing.
- (3) The continuance request shall include the new date of the hearing that would be the next regularly scheduled meeting of the Plat Committee.
- (4) The party requesting the continuance shall give notice to all parties required to be served notice by Article IV hereof and to attorneys, agents or other individuals who have entered their appearance or are known by the party requesting the continuance to represent petitioner(s), remonstrator(s) or other parties. However, registered neighborhood organizations and City-County Councillors shall be required to give notice only to attorneys, agents, petitioners, and individuals who have signed a remonstrators of record form in the petition file.
Such notice shall be mailed at least seven days prior to the hearing.
- (5) If the continuance is granted to a date other than requested in the written request, the party requesting the date change shall notify all parties entitled to receive the notice of the date to which the hearing has been continued and shall file a copy of such notice with the Administrator.
- (6) An affidavit of notice shall be submitted to the Administrator at the time the continuance request is filed.
- (7) An automatic continuance cannot be withdrawn after being file-stamped and accepted by the Division of Planning.

C. Continuance for Cause: All other continuances shall be considered a Continuance for Cause that may be granted by the Plat Committee at the hearing. If both the petitioner(s) and remonstrator(s) do not agree to a Continuance for Cause, the Plat Committee shall base its decision to grant or not to grant the request on testimony from both parties at the hearing. At the hearing, written requests for continuance shall be considered prior to verbal requests for continuance.

8. TIME ALLOWED AND PROCEDURE FOR HEARING OF PETITIONS -

Petitioners and remonstrators, respectively, shall be permitted a total of 20 minutes for presentation of evidence, statements, and argument at the public hearing of every petition. The procedure of presentation shall be as follows:

- A. Petitioners and persons appearing in support of the petition being heard shall first have 15 minutes for the presentation of evidence, statements and argument in support of the matter being considered. A reasonable additional time shall then be allowed for cross-examination and redirect examination of petitioner's witnesses.
- B. Remonstrators and persons appearing in opposition to the petition shall then have 15 minutes for the presentation of evidence, statements, and argument in opposition to the matter being considered. A reasonable additional time shall then be allowed for cross-examination and redirect examination of remonstrators' witnesses.
- C. A reasonable additional time shall be allowed for any member of the City-County Council to provide testimony regarding a petition.
- D. The Administrator, in person, or by agent or by attorney shall be given a reasonable time by the Committee for the presentation of evidence, statements, and arguments in support of, or in opposition to the matter being considered.
- E. The petitioner shall then have 5 minutes for rebuttal that shall include only evidence, statements and argument in rebuttal of remonstrators' evidence and a brief closing statement.
- F. Remonstrators and persons appearing in opposition to the petition shall then have 5 minutes for rebuttal that shall include only evidence, statements and argument in rebuttal of petitioner's rebuttal evidence and a brief closing statement.
- G. A reasonable additional time may be allowed for any member of the City-County Council
- H. to provide rebuttal testimony.
- I. Neither petitioners nor remonstrators shall be permitted to reserve for rebuttal any time not used during their initial presentations.
- J. The presiding officer shall have authority to cut off repetitious and irrelevant testimony, and to extend the total 20 minute periods specified above, upon the request of any interested party, where appropriate in the interest of affording to all interested parties a fair hearing.

9. ORDERLY CONDUCT REQUIRED - Every person appearing before the Plat Committee shall abide by the order and directives of the presiding officer. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of the privileges of the Committee and shall be dealt with by the presiding officer as he or she deems fair and proper.

10. ANY PARTY MAY APPEAR IN PERSON, BY AGENT OR BY ATTORNEY - At all hearings, any party may appear in person, by agent or by attorney.

An attorney or other representative of any party, petitioner or remonstrator may testify as to facts of which he has particular knowledge relating to the issues of the petition, but in so testifying the attorney or representative shall be sworn and subject to cross-examination, as are other witnesses.

11. CONTACTING ANY COMMITTEE MEMBER REGARDING PENDING PETITION PROHIBITED; ADMINISTRATOR'S WRITTEN STATEMENT OF FACTS OR OPINION - No person, firm, corporation, public employee, or body politic shall contact any member of the Plat Committee orally, or in writing, in advance of public hearing in a petition then pending for decision in an effort to influence such member's votes, except that the Administrator, or a member of his or her staff, may submit prior to

any proposed hearing, a written statement of planning facts or opinion regarding such petition. A copy of such statement shall be furnished simultaneously to the petitioner and persons who have filed written appearances as outlined in Article II, Section 6.

- 12. DISQUALIFICATION IN CASE OF PERSONAL OR FINANCIAL INTEREST** - A member of the Committee who has any personal or direct or indirect financial interest in any petition presented shall disqualify himself or herself insofar as the particular petition is concerned, and shall not participate in the hearing and decision of such petition. The member disqualifying himself or herself shall do so before the petition is heard and shall not sit with the Committee while the testimony relating to the petition is in progress.
- 13. ALL TESTIMONY UNDER OATH** - All testimony before the Plat Committee shall be given under oath or affirmation that shall be administered by some person, qualified to administer oaths.
- 14. RECORD OF HEARING** - A verbatim recording, stenographic record, or stenotype record shall be made of all hearings of the Plat Committee and shall remain on file in the office of the Department of Metropolitan Development for a period of six months following hearing and determination, subject to State records retention laws. A transcript of such record of any hearing may be ordered by any party, and the cost thereof shall be paid by the party ordering such copy or copies. All exhibits, whether submitted by a petitioner or remonstrator, shall become the property of the Plat Committee and shall not be returned to the submitting party.

ARTICLE III - FILING AND DOCKETING OF PETITIONS

- 1. FILING ON COMMITTEE'S FORMS REQUIRED** - All petitions shall be presented for filing on forms supplied by the Plat Committee and shall include the exhibits, material, and information required by and specified on said forms.

Any communication purporting to be a petition not filed on such forms or not containing the information called for on said forms, shall be regarded as a mere notice of intention to file a petition and shall be of no force or effect until such filing is made on the required forms and contain all exhibits, materials and information required.

For vacations of streets and alleys, an as-built right-of-way improvement survey, shall be prepared by a registered land surveyor and submitted, detailing adjoining property owners, all physical improvements and easement restrictions, including but not limited, to pavement and right-of-way widths, structural encroachments, sidewalks, easements, above-ground and underground utilities and curb cuts.
- 2. DOCKET NUMBER** - After determination by the Administrator that a petition has been presented in proper form with all required exhibits, materials and information, such petition shall be filed and numbered consecutively in the order of its filing. The docket numbers shall begin anew on January 1, of each year, and all petitions shall be hyphenated with the numbers of the year, and initials indicating the type of

petition, followed by the number of the petition. The system of initials indicating the type of petition shall be established and maintained by the Administrator. On the date set for hearing, petitions shall come before the Plat Committee in the regular order of their consecutive numbers, with plat petitions heard first, followed by vacation petitions, and vacation assessment hearings.

3. DOCKETING PROCEDURES FOR EXPEDITED PETITIONS - Petitions may be scheduled out of their regular consecutive number order, if they are placed on the expedited portion of the docket. Petitions may be expedited and placed on the beginning of the docket by the Administrator, if, and only if, the following criteria are met:

- A. There is no known remonstrance to the petition;
- B. Staff is recommending approval of the petition; and
- C. The petitioner is in agreement with the conditions as proposed in the written staff report.

4. FILING FEE –

- A. In order to compensate for the expense of advertising and processing, per IC-36-7-4- 704 the following fee shall be paid by the applicant at the time of filing:

a. Preliminary Plat for a Major subdivision	\$2,999.00 plus \$19 per lot
b. Preliminary Plat for a Minor subdivision	\$2,299.00 plus \$19 per lot
c. Preliminary Plat for a Cluster subdivision	\$3,899.00 plus \$19 per lot
d. Additional fee for a Waiver of Subdivision Control Ordinance	\$ 479.00
e. Secondary Plat for a Major or Cluster Subdivision	\$1,699.00
f. Secondary Plat for a Minor subdivision	\$ 499.00
(2) Petition Requesting Vacation Approval of:	
a. Vacating a Street or alley right-of-way	\$4,299.00 plus \$5 per 10 linear foot of the street or alley
b. All other vacation requests	\$2,899.00
(3) Miscellaneous:	
a. Amendment to any other Petition requiring revised legal notice after legal notice has been published	\$ 250.00
b. Subdivision Surety Reduction	\$ 139.00 per surety per section
c. Sidewalk or Street Sign Inspection of a subdivision and Surety Release	\$ 139.00 per section

(4) Address/Street name changes:

a. Request for Change of Address assignment:	\$ 300.00 per lot
b. Street name change (other than for public safety reasons)	\$1,500.00 per block

- B. **DEPARTMENTAL FEE WAIVER** – For all departments of the City of Indianapolis, all fees outlined above shall be waived for projects in which:
- (1) a department is the applicant or petitioner and the project is located on property owned by the department or the City of Indianapolis; or
 - (2) the Department of Metropolitan Development or the Commission is the applicant or petitioner.
- C. **MAINTENANCE OF FUNDS** – As a Committee of the Commission, all monies from any filing fees for petitions and other activities to defray administrative costs shall be directed to the Commission’s non-reverting fund to maintain said receipts.

5. ADDITIONAL PROCEDURAL REQUIREMENTS OF SUBDIVISION

CONTROL ORDINANCE - Filing of applications for primary or secondary plat (or re-plat) approval (including major, and minor subdivisions), notification, filing of bonds for subdivision improvement and completion affidavits, recording of plats and all other platting (or re-platting) procedural requirements shall be in accordance with Chapter 741, the Subdivision Control Ordinance for Marion County, Indiana, Ordinance G.O. 64, 2015, as amended. The Department of Metropolitan Development may require electronic filing of application materials.

6. ADDITIONAL FILING REQUIREMENTS FOR VACATION PETITIONS -

Filing of applications for vacations petitions shall be in compliance with Chapter 741, the Subdivision Control Ordinance for Marion County, Indiana, Ordinance G.O. 64, 2015, as amended. For vacations of streets and alleys, an as-built right-of-way improvement survey, shall be prepared by a registered land surveyor and submitted, detailing adjoining property owners, all physical improvements and easement restrictions, including but not limited, to pavement and right-of-way widths, structural encroachments, sidewalks, easements, above-ground and underground utilities and curb cuts. Written proposed Findings of Fact must be submitted for petitions to vacate a plat or a portion of a plat, as well as petitions to vacate streets, alleys, or other public rights-of- way. Forms, outlining the specific types of Findings, are included with the vacation petition forms.

7. ADDITIONAL FILING REQUIREMENTS FOR WAIVERS - Filing of applications including a request for a waiver of the Rules of Procedure or the Subdivision Control Ordinance for Marion County, Indiana, Ordinance G.O. 64, 2015, as amended, shall be accompanied by a detailed description of the waiver(s) requested. Written proposed Findings of Fact shall be filed for any waiver of the standards and specification of the Subdivision Control Ordinance. Description of the requested waiver(s) of the standards and specification of the Subdivision Control Ordinance shall be included in the Notice as described in Article IV.

ARTICLE IV - NOTICE

1. NOTICE REQUIREMENTS - Notice of all petitions to be heard by the Plat Committee shall be given to all interested parties or property owners, in the following manner:

A. NOTICE BY PUBLICATION - When the Plat Committee is required by law to publish a notice of a public hearing on a petition or other matter, such notice shall be published by the Committee at least ten (10) days prior to the date set for the hearing, in accordance with IC- 5-3-1.

B. ADDITIONAL NOTICE - Additional notice by petitioners to owners of adjoining land, neighborhood organizations and affected City-County Councilors.

- (1) Plat Petitions and Petitions to Vacate a plat or a portion of a plat, including but not limited to the vacation of a platted building line or covenant. Additional notice of each Plat petitions and petitions to vacate a plat or a

portion of a plat, including but not limited to the vacation of a platted building line or covenant, shall be given by the petitioner by registered, certified or first-class mail at least twenty-three (23) days before the date of the hearing (on the form prescribed by the Committee) to all of the following parties:

- (a) owners of all adjoining parcels of land in Marion County to a depth of two (2) ownerships within six-hundred and sixty (660) feet of the perimeter of the subject property.
- (b) each owner of land in the affected section of the plat.
- (c) owners of property outside of Marion County, regardless of jurisdiction, if their property is within a depth of two (2) ownerships or within six hundred and sixty (660) feet of the perimeter of the subject property described in the petition.

In no event shall notice be required to be given to owners of land located more than six-hundred and sixty (660) feet from the subject property. However, the Indianapolis Department of Public Works and the Indiana Department of Transportation (INDOT) shall not constitute a property owner requiring notice if the property is right-of-way used for street or highway purposes, except for interstate right-of-way, in which case notice shall be sent to the INDOT.

(2) Petitions to vacate an Alley, Street, Easement, or Public Grounds.

Petitioner shall give additional notice of a petition to vacate an alley, street, easement, or public grounds by registered, certified or first class mail at least twenty-three

(23) days before the date of the hearing (on a form prescribed by the Committee) to all of the following parties:

- (a) owners of all real estate, or interests therein.
- (b) all abutting property owners along such street, alley, and/or public ground to be vacated. If the proposed vacation terminates at mid-block (i.e., at a location other than a right-of-way with an intersecting street), such notice shall include all owners from the termination of the vacation to the next intersecting street, in the same direction, beyond such termination.
- (c) owners of all adjoining parcels of ground to a depth of two (2) ownerships, within six hundred sixty (660) feet of the perimeter of the subject right-of-way. However, the Indianapolis Department of Public Works or its successor and the Indiana Department of Transportation (INDOT) or its successor shall not constitute a property owner requiring notice if the property is right-of-way used for street purposes, except for interstate right-of-way, in which case notice shall be sent to the INDOT.

- (d) all public utilities, the Department of Public Works of Indianapolis- Marion County, and the Department of Public Safety of Indianapolis- Marion County,
 - (e) office or board entitled to receive legal notices for any city or town affected by the proposed vacation, and
 - (f) any excluded city, if the proposed vacation is within the boundaries of an excluded City.
- (3) For purposes of the notice requirement of this Section, where any of such adjacent parcels of land are owned by petitioner, the subject property shall be deemed to include any land owned by petitioner adjacent to the land described in the petition.
- (4) In the case of property that is subject to I.C. 32-25, each condominium unit shall be deemed one property ownership and the common area designated in the appropriate condominium instruments shall be deemed one property ownership, and notice to the co-owners of such common area may be given to the association of co-owners.
- (5) For the purpose of determining names and addresses of legal title owners, the records in the office of the Assessors of Marion County and the similar office designated for ownership records by each County adjoining Marion County that list the current owner(s) of record at a point in time within fourteen (14) days of the date on which the notice shall be sent, shall be deemed to be true names and addresses of persons entitled to notice and if notice is sent to such persons for the purposes of the hearing before the Committee, such notice shall be deemed proper.
- (6) Such notice shall state:
- (a) the time and place of the hearing;
 - (b) the geographic area (by address or other identifiable locational or geographic characteristic) that is the subject of the plat or vacation (this does not require the identification of any real property by metes and bounds);
 - (c) the name of the petitioner;
 - (d) the docket number and a description of the proposed plat or vacation requested in the petition;
 - (e) the petition and file, including the legal description of the subject property, may be examined in the offices of the Committee;
 - (f) that written objections to the petition that are filed with the Secretary of the Committee before the hearing will be considered;
 - (g) that oral comments concerning the petition will be heard; and
 - (h) that the hearing may be continued from time to time as may be found necessary.
- (7) Such notice shall also be sent in the same manner to each neighborhood organization whose boundaries include all or some part of the subject

property as delineated upon the Neighborhood Organization Map of the Department of Metropolitan Development (a copy of which is on file in the offices of the Committee and incorporated herein by reference). The Neighborhood Organization map shall be maintained as provided for in the Metropolitan Development Commission’s Rules of Procedure. For purposes of such notice, the names, addresses and boundaries of Neighborhood Organization Map shall be deemed the true names, addresses and boundaries thereof. The list of those neighborhood organizations entitled to notice shall be provided to the petitioner by the staff of the Committee.

- (8) Such notice shall also be sent in the same manner to each City-County Councillor whose District includes all or some part of the subject property. City-County Councillor notification shall be given for every petition. The list of those City-County Councillors entitled to notice shall be provided to the petitioner by the staff of the Committee.

C. NOTICE ON SUBJECT PROPERTY - Notice for all petitions, 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. For vacations of streets and alleys, said notice shall be posted upon private property abutting each terminus of the proposed vacation area. Such notice shall not be located within any public right-of- way, unless authorized by the Administrator.

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 within 60 days of petition resolution.

The requirements of Sections 1(B) and (C) of this Article shall not be applicable to petitions initiated by the Commission. The Commission shall determine the requirements, if any, for notice on such petitions.

D. 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.

- 1. AFFIDAVIT OF NOTICE** - Petitioner, his or her attorney or agent shall furnish evidence of compliance with the notice requirements by filing a notarized statement in the offices of the Committee listing the name and addresses of property owners and neighborhood organizations to whom notice was sent by certified, registered or first class mail and certifying that notice was posted on the subject property. Said notarized statement shall be

postmarked or filed in the offices of the Committee within three (3) days following the mailing and posting of notice.

2. **DEFECTIVE NOTICE** - If proper notice pursuant to Sections 1 (B) and (C) of this Article has not been given, the Plat Committee may continue the petition until a later date to allow time for un-notified persons to prepare for hearing. Personal appearances shall waive any defect in notice unless the defect in the notice is timely raised at the beginning of the hearing, when the Plat Committee is considering requests for continuances. If the failure to give proper notice is not discovered until after the hearing, the Plat Committee may order the petition to be reheard by the Committee, upon proper notice given by the petitioner. -

ARTICLE V - APPEALS TO COMMISSION

1. **PLATS** - Any interested party, including the Administrator, may file a request for an appeal of the recommendation of the Plat Committee, including any conditions. Such request for appeal shall be filed in the offices of the Commission no later than by 5 p.m. of the 5th day following the action of the Plat Committee, per IC-36-7-4-708. Said request for appeal shall simply state that the party requests a hearing by the Commission. Prior to or upon the same day as a request for appeal is filed in the offices of the Commission, a copy thereof shall be served, personally or by mailing, upon the opposing party as follows: a remonstrator shall serve petitioner's attorney or agent or, if none has appeared, the petitioner as named and at the address stated in the petition; a petitioner shall serve all remonstrators' attorneys or agents who appeared at the hearing and, if none appeared, shall serve the first two persons who spoke on behalf of remonstrators, at their addresses as stated at the hearing; the Administrator shall serve both petitioner and remonstrators as above provided. Documentation evidencing such service shall be filed with the Commission. The Commission shall hear the appeal at its next regular meeting held at least ten (10) days after the notice of appeal is filed.
2. **VACATIONS** - Appeals of the decision of the Plat Committee regarding the vacation of plats or parts of plats, vacation of public ways, easements, or public places or parts thereof shall follow the same procedure noted in Section 1 of this Article V, in accordance with IC- 36-7-4-712.
3. **COMMISSION DECISION FINAL** A final decision of the Commission, including: primary approval or disapproval of a plat; imposition of a condition on primary approval of a plat; approval or disapproval of the vacation of all or part of a plat; approval or disapproval of the vacation of any recorded covenants filed with the plat; or imposition of a condition on approval of the vacation of all or part of a plat (which may include the vacation of any recorded covenants filed with the plat) may be reviewed in accordance with Indiana Code 36-7-4-1600 (Judicial Review). Such petitions for judicial review shall be presented to the court within thirty (30) days after the decision of the Metropolitan Development Commission. The petitioner for judicial review shall pay the costs of preparation of transcripts of any hearing before the Commission needed for the judicial review.

ARTICLE VI - FINAL DISPOSITION OF PETITIONS

1. **FINAL DISPOSITION OF PLAT PETITIONS**
 - A. Written notice of the Committee's decision upon petitions for plat or re-plat approval shall be sent by regular mail to the petitioner.
 - B. Such notice shall state the conditions, if any, imposed upon the approval of plats (or re-plats).
 - C. Written findings of fact shall be prepared indicating the reasons for approval or disapproval of the petition, per IC-36-7-4-707.

2. FINAL DISPOSITION OF VACATION PETITIONS

A. HEARING CONCLUSION - Upon the conclusion of the hearing, the Plat Committee shall find and decide:

- (1) For the vacation of an alley, easements, street or public grounds, whether the vacation is in the public interest in accordance with IC 36-7-4-712; whether any interests of the public, any utility or governmental unit shall be reserved; any other conditions to be imposed in the decision; and whether there shall be a hearing on assessment of benefits or award of damages. **OR**
- (2) For the vacation of plat or portions of plats, whether (a) conditions in the platted area have changed so as to defeat the original purpose of the plat; (b) it is in the public interest to vacate all or part of the plat; and (c) the value of that part of the land in the plat not owned by the petitioner will not be diminished by vacation, in accordance with IC-36-7-3-11.

B. ASSESSMENT OF BENEFITS

- (1) **Vacation without Assessment of Benefits or Award of Damages.** In any vacation petition in which there has been no acquisition by governmental condemnation or purchase, no construction or maintenance by a governmental agency and no public use of the subject property, or any part thereof, there shall be no assessment of benefits. No benefits shall be assessed against the owner of any land in governmental or public ownership, or to be vacated for governmental or public use or for use by a semi-public institution or agency engaged in a public, non-proprietary function, such as education or welfare.
- (2) **Vacation Petitions with Assessment of Benefits.** All other vacation petitions are with assessment of benefits. The assessment of benefits may occur at the same hearing as the vacation petition, or at the next regularly scheduled hearing after the vacation petition is approved.
- (3) **Selection of Appraiser.** Petitioner shall select, from a panel of appraisers designated by the Metropolitan Development Commission (a list of which is on file in the office of the Department of Metropolitan Development, Division of Planning), an appraiser who, upon his selection by petitioner and notification thereof by the Secretary of the Committee, shall appraise any benefits to property or interests beneficially affected by the vacation. One copy of the appraisal report shall be filed at least 10 days prior to the hearing on the assessment. The appraisal fee shall be paid by Petitioner at the hearing upon assessment of benefits or within 10 days thereafter.
- (4) **Determination of Assessment.** Upon the conclusion of the hearing, the Plat Committee may either sustain or modify the assessments of benefits.
- (5) **Payment of Assessment.** Payment of assessments shall be by check payable to the City Controller that may be submitted at the hearing upon assessment of benefits, or within one year thereafter.

C. VACATIONS IN EXCLUDED CITY OR INCLUDED TOWN - If the Plat Committee finds that the Excluded City or Included Town acquired the subject property by condemnation or purchase, or that it has performed construction or maintenance on the subject property or any part thereof, the Plat Committee shall refer final action upon assessment of benefits or award of damages to such City or Town. Within thirty (30) days after final action upon assessment of benefits or award of damages, the petitioner shall file with the Plat Committee, a certified copy of the final action of the City or Town and proof of compliance with any conditions imposed in the Plat Committee's decision. Within ten (10) days after recording the vacation, Petitioner shall file proof thereof with the Plat Committee. If the Plat Committee finds that the City or Town did not acquire the subject property by condemnation or purchase and further finds that it has neither performed construction or maintenance on the subject property, then the Plat Committee shall proceed in accordance with Section 2, A of this Article.

D. RECORDING VACATIONS - The Administrator shall not record the adopted Vacation Resolution until after all appeal periods have passed, or after final disposition of an appealed vacation petition. If any conditions are imposed on a vacation by the Plat Committee, petitioner shall, within one year of the vacation approval (unless time is extended by the Committee), indicate, in writing, compliance with all conditions of the vacation that were required to be completed prior to recording said vacation. After the compliance letter is received and after all assessment and appraisal fees have been paid by the petitioner, the Administrator shall be authorized to file with the Marion County Auditor and record with the Marion County Recorder certified copies of the adopted Vacation Resolution, survey, and Committee's decision.

E. COMMITMENTS - If deemed advisable, the Committee may require or permit the petitioner to make written commitments concerning the use or development of the subject property.

The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitment(s) shall be in effect for such length of time as the Committee may require and the commitment(s) shall authorize their recording by the Division of Planning in the Office of the Recorder of Marion County, Indiana upon adoption of a vacation or plat petition by the Committee. Following the recording of the commitments, the Division shall return the original recorded commitment to petitioner and shall retain a copy of the recorded commitments in its file. The commitments shall be in substantially the form set forth by the Metropolitan Development Commission.

Copies of the Exhibit forms are available from the Department of Metropolitan Development. The Committee may require in such commitment the designation of any specially affected persons, who shall be entitled to enforcement thereof pursuant to IC 36-7-4-1015. The commitments may be modified or terminated by a decision of the Committee, or its successor, made at a public hearing after proper notice has been given. Any modification or termination of the commitments approved by the Committee shall not be in full force and effect until reduced to

writing by the present owner(s) of the real estate, approved by the Committee, and recorded in the office of the Recorder of Marion County, Indiana. The modification or termination shall be in substantially the form set forth by the Metropolitan Development Commission. Copies of the Exhibit forms are available from the Department of Metropolitan Development.

F. DISMISSAL OF PETITIONS -The Plat Committee may dismiss a petition for want of prosecution or for lack of jurisdiction.

G. WITHDRAWAL OF PETITIONS - No petition may be withdrawn by the petitioner after a vote has been ordered by the Chairman. No plat or vacation petition that has been withdrawn by the petitioner shall again be placed on the docket for consideration within a period of three (3) months from the date of said withdrawal, except upon motion to permit re-docketing, adopted by the affirmative vote of a majority of the members of the Committee.

H. REDOCKETING FOLLOWING ADVERSE DECISION - No plat or vacation petition that has been decided adversely against the petitioner shall again be placed on the docket for consideration by the Committee within a period of one year from the date of the decision, except upon motion to permit re-docketing, adopted by the affirmative vote of a majority of the members of the Committee.

ARTICLE VII - ENGINEERS' CERTIFICATION OF CORRECTION

Engineers' "Certificates of Error" or "Certificates of Correction" reciting and correcting subsequently discovered engineering or surveying errors of measurements or typographical error in recording plats, re-plats or vacations shall require approval by the Administrator prior to recording.

ARTICLE VIII - WAIVERS

- 1. WAIVER OF RULES** - The Plat Committee, upon the affirmative vote of a majority of the members present and entitled to vote, shall have the right to waive the Rules of Procedure upon its own motion or upon request of an interested party for good cause shown. However, a waiver request cannot be granted that would be inconsistent with Indiana Code.
- 2. WAIVER OF STANDARDS AND SPECIFICATIONS** - After notice in accordance with these Rules and upon the affirmative vote of a majority of the members present and entitled to vote, the Plat Committee shall have the right to waive the standards and specifications of the Subdivision Control Ordinance for Marion County, Indiana, Ordinance G.O. 64, 2015, as amended. Said waiver shall be based upon Findings of Fact as prescribed by the Subdivision Control Ordinance for Marion County, Indiana, Ordinance G.O. 64, 2015, as amended.

ARTICLE IX - DEFINITIONS

As used in these Rules of Procedure, the following terms shall have the following meanings:

1. "Administrator" shall mean the Administrator of the Division of Planning of the Department of Metropolitan Development, or his/her designated representative(s).
2. "Commission" shall mean the Metropolitan Development Commission.
3. "Committee" shall be the five-member Plat Committee of the Metropolitan Development Commission.

ARTICLE X -AMENDMENTS

Amendments to these Rules of Procedure shall be made by the Metropolitan Development Commission upon the affirmative vote of a majority of the members of the Commission who are entitled to vote.

The foregoing Rules of Procedure of the Plat Committee 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 _____, 2022. The Effective Date of this Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana shall be _____, 2022.

John J. Dillon III,
Commissioner and President

Megan Garver,
Commissioner and Vice-President

Bruce Schumacher,
Commissioner and Vice-Secretary

Lena Hackett,
Commissioner and Secretary

Karina Bruns, Commissioner

William Selm, Commissioner

Alpha Blackburn, Commissioner

Brigid Robinson, Commissioner

Mindy Westrick, Commissioner

METROPOLITAN DEVELOPMENT COMMISSION OF MARION
COUNTY, INDIANA

ATTEST: Lena Hackett, Secretary
Metropolitan Development
Commission of Marion
County, Indiana

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METROPOLITAN DEVELOPMENT COMMISSION

of Marion County, Indiana

RULES OF PROCEDURE

ADOPTED: November 5, 1986
LAST REVISED: May 18, 2022

Metropolitan Development Commission Rules of Procedure Amendment History

Date	Resolution No.	Subject
November 5, 1986		<i>Adopted</i>
August 17, 1988	88-R-68	<i>Administrator's Approval fees & procedure</i>
September 5, 1990	90-R-38	<i>Traffic Impact Study procedure</i>
October 3, 1990	90-R-46	<i>Fees</i>
August 7, 1991	91-R-21	<i>Supplemental Review Process & Refiling rule waiver</i>
September 2, 1992	92-R-40	<i>Notice to City-County Councillors</i>
November 15, 1995		<i>Regional Center sign fees</i>
May 15, 1996	96-N-004	<i>Floodplain development fees & procedure</i>
December 4, 1996	96-N-006	<i>Nonconforming Use Certification</i>
December 7, 2005	2005-P-006	<i>Fees, Notice changes, etc.</i>
October 1, 2008	2008-P-12	<i>Regional Center & Speedway Hearing Examiners</i>
December 2, 2009	2009-P-4	<i>Modification Petitions, Numbering, etc.</i>
December 2, 2009	2009-P-5	<i>Petition Filing Fees</i>
June 16, 2010	2010-DCE-01	<i>ILP Fees – effective August 1, 2010</i>
June 16, 2010	2010-DCE-01, Sec. 2	<i>ILP Fees – effective January 1, 2011</i>
March 1, 2012	2012-P-007	<i>Residency & Make-up of the Commission Publication of Zoning Ordinance Appeal of the Hearing Examiner or Committee Judicial Review Procedure, Variance Appeal</i>
June 4, 2014	2014-P-005	<i>Council review of rezoning petitions and other legislative changes</i>
March 1, 2017	2017-P-009	<i>Tree Fund</i>
May 18, 2022	2022-P-006	<i>Computation of Time and various changes</i>

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Rules of Procedure

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. "Clerk" shall mean the clerk of the City-County Council of the City of Indianapolis /Marion County, Indiana.
- C. "Commitment" shall be as prescribed in IC 36-7-4.
- D. "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.
- E. "Companion Petition" shall mean any combination of petitions authorized by IC 36-7-4-403.5. Petitions in excluded cities may not be companion petitions.
- F. "Condition" shall be as prescribed in IC 36-7-4.
- G. "Covenant" shall be as prescribed in IC 36-7-4.
- H. "Division" shall mean the Division of Planning of the Department of Metropolitan Development.
- I. "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 IC 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.

A specific Hearing Examiner includes the 'Regional Center 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.

A specific Hearing Examiner includes the 'Speedway Hearing Examiner'. The Commission shall appoint a resident of the Town of Speedway to act as the Speedway Hearing Examiner.

- J. “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:

- Five members, of whom no more than three (3) may be of the same political party, appointed by the Mayor of the City of Indianapolis.
- Four 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.

Each Member shall comply with the residency requirements of IC 36-7-4-216 and if necessary the Commission may conduct a hearing to determine such residency compliance.

3. OFFICERS OF THE COMMISSION

The Commission shall select annually a President, Vice President, Secretary and Acting Secretary from its membership.

The President shall preside at all meetings and, in his or her absence or disability, the Vice President shall preside. In the absence or disability of both the President and Vice President, the Secretary shall preside.

4. POWERS OF THE COMMISSION

The Metropolitan Development Commission has the power to:

- A. Assign and reassign addresses and, prior to final approval by the Mayor, make recommendations to name and rename streets so that their names are easy to understand and to avoid duplication or conflict with other names;
- B. Exercise the thoroughfare planning powers conferred by IC 36-7-4-506;
- C. Adopt amendments to, or additional segments of, the comprehensive plan;
- D. Adopt resolutions governing land use policy for Marion County;
- E. Approve and recommend to the City-County Council additional ordinances for the zoning or districting of all lands within Marion County;
- F. Approve and recommend to the City-County Council proposed ordinances for the amendment or repeal of the zoning ordinances;
- G. Approve a proposed use and site and development plan, or revised plans, required by a zoning ordinance as a condition of development;
- H. Approve the modification or termination of covenants and commitments;
- I. Concurrently exercise the powers of the Metropolitan Board of Zoning Appeals for the purpose of granting or denying,
 - (1) a variance from the development standards (such as height, bulk or area) of the zoning ordinance; or
 - (2) a special exception from the terms of the zoning ordinance;

- J. Hear appeals by the staff to the Commission of any decision of the Board of Zoning Appeals granting an administrative appeal, special exception or variance petitions that raises a question of substantial zoning policy.
- K. Hear appeals by a City-County Councilor to the Commission of any decision of the Board of Zoning Appeals regarding a variance of use petition that raises a question of substantial zoning policy and that affects only real property located outside the boundaries of an excluded city.
- L. Hear appeals of any decision of the Plat Committee;
- M. Concurrently exercise the powers of the Plat Committee for the purpose of granting or denying a plat petition or vacation petition in connection with its consideration of a rezoning petition, an approval petition, a variance petition, or a special exception petition; and
- N. Exercise all powers conferred on it by statute in the manner prescribed by statute. This section shall not be construed as a limitation on such powers.

5. PRESIDENT TO DECIDE POINTS OF ORDER

The President, subject to these rules, shall decide all points of order or procedure, unless otherwise directed by a majority of the members of the Commission present.

6. REQUESTS FOR CONTINUANCE AND SPECIAL REQUESTS

All requests for continuances and special requests normally shall be considered at the beginning of each public hearing.

7. COMPUTATION OF TIME

In computing any period of time under these Rules of Procedure, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the computed period is to be included unless it is:

- (1) a Saturday;
- (2) a Sunday;
- (3) a legal holiday under a state statute; or
- (4) a day that the office in which the act is to be done is closed during regular business hours.

A period runs until the end of the next day after a day described in subsection (a)(1) through (a)(4). If the period required or allowed is less than seven (7) days, intermediate Saturdays, Sundays, state holidays, and days on which the office in which the act is to be done is closed during regular business hours are excluded from the calculation.

ARTICLE II - PROPOSALS TO AMEND OR PARTIALLY REPEAL THE TEXT OF THE ZONING ORDINANCE

1. WHO MAY INITIATE

The Metropolitan Development Commission may initiate a proposal to amend or partially repeal the text of the zoning ordinance.

2. FILING OF PROPOSAL AND HEARING

After the proposal is prepared it shall be filed with the Administrator who shall docket the proposal for consideration by the Commission at a public hearing to be held within sixty (60) days of the filing of the proposal.

3. NOTICE

The Commission shall give notice of the public hearing by publication in accordance with IC 5-3-1 at least ten (10) days before the date set for the hearing. The notice shall contain:

- A. The time and place of the hearing;
- B. The geographic areas (or zoning districts in a specified geographic area) to which the proposal applies;
- C. A summary of the subject matter contained in the new proposal (not the entire text) that describes any new or changes provisions;
- D. If the proposal contains or would add or amend any penalty or forfeiture provisions, the entire text of those penalty or forfeiture provisions;
- E. That the proposal is on file and may be examined before the hearing in the offices of the Administrator;

- F. That written objections to the proposal that are filed with the Secretary of the Commission before the hearing will be considered;
- G. That oral comments will be heard; and
- H. That the hearing may be continued from time to time as may be found necessary.

4. NO ADDITIONAL NOTICE REQUIRED

The Commission need not give any additional notice of a public hearing on a proposal to amend or partially repeal the text of the zoning ordinance.

5. CONDUCT OF HEARINGS

Public hearings on proposals to amend or partially repeal the text of the zoning ordinance shall be conducted in accordance with Article VI of these Rules of Procedure.

6. CERTIFICATION OF PROPOSAL

If a proposal to amend or partially repeal the text of the zoning ordinance receives a favorable recommendation from the Commission, the Administrator, or the Administrator's agent, shall, within ten (10) business days of the Commission's decision, certify a copy of the proposal to the Clerk of the City-County Council.

7. ACTION BY CITY-COUNTY COUNCIL

At the first regular meeting of the City-County Council after the proposal is certified (or at any subsequent meeting within ninety (90) days after certification) the Council may adopt, reject or amend the proposal by a three-fifths (3/5) vote of its full membership. The Council shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.

If the Council adopts the proposal, it takes effect as other Ordinances of the Council.

If the Council fails to act on the proposal within ninety (90) days after certification, it takes effect as if it had been adopted (as certified) ninety (90) days after certification.

If the Council rejects or amends the proposal, it shall be returned to the Commission for its consideration, with a written statement of the reasons for the rejection or amendment. The Commission shall have forty-five (45) days in which to consider the rejection or amendment and report to the Council as follows:

- A. If the Commission approves the amendment or fails to act within the forty-five (45) days period, the ordinance stands as passed by the Council as of the date of the filing of the Commission's report of approval with the Council or the end of the forty-five (45) days period.
- B. If the Commission disapproves the rejection or amendment, the action of the Council on the original rejection or amendment stands only if confirmed by another vote of the Council within forty-five (45) days after the Commission certifies its disapproval. If the Council fails to confirm its action under this subsection, the ordinance takes effect as if it had been adopted forty-five (45) days after the Commission certifies its disapproval.

8. PUBLICATION OF ZONING ORDINANCES

The Administrator shall print the text of the zoning ordinance, a part of the Revised Code of the Consolidated City of Indianapolis, in book form. Upon the adoption of a proposal to amend or partially repeal the text of the zoning ordinance, the Administrator shall have such ordinance as amended reprinted in book form. Two (2) copies of the zoning ordinance as printed in book form shall be filed in the office of the Administrator and shall be kept on file in that office for public inspection.

ARTICLE III - FILING OF PETITIONS FOR ZONE MAP CHANGES, APPROVALS, VARIANCES, PLATS OR VACATIONS

1. WHO MAY FILE

Amendments to the zoning ordinance proposing to change the zone maps may be initiated by the Metropolitan Development Commission or by a petition signed by property owners who own at least fifty per cent (50%) of the land involved in the petition.

A petition for approval, modification, a variance, a special exception, a plat or a vacation petition for a particular parcel or parcels of property may be filed by the property owner(s) or the owner's authorized agent. Variances of development standards, or special exceptions from the terms of the Zoning Ordinance may be filed with a petition for rezoning, or as part of a companion petition. Variances of use, plats, and vacations may only be filed as part of a companion petition.

A duly appointed agent or representative may sign a petition on behalf of the owner of the subject parcel. Any authorization to sign the petition or otherwise act on the owner's behalf with respect to the rezoning, approval, variance, special exception, plat or vacation request shall be in writing, signed by the owner on a form provided by the City with the application submitted at the time of filing the petition.

For purposes of this section, owner is defined to include:

- A. The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the most recent records of the assessor;
- B. A contract vendee;
- C. A long-term lessee (but only if the lease is recorded among the records of the County recorder and has at least twenty-five (25) years remaining before its expiration date at the time of filing the petition.

2. FILING REQUIRED AT LEAST THIRTY-FIVE DAYS PRIOR TO HEARING

All petitions, except Regional Center, shall be filed at least thirty-five (35) days prior to the

initial hearing at which they are to be considered, unless otherwise requested by petitioner and approved by the Administrator.

3. FILING ON COMMISSION'S FORMS REQUIRED

All petitions to the Commission shall be made on forms to be supplied by the Commission and shall include one copy of the applicable petition, one copy of the legal description of the subject property, and three copies of the exhibits, material, and other information required by and specified on said forms. The Commission may require electronic filing of applications, supporting exhibits and materials. Any communication purporting to be a petition not on forms furnished by the Commission or not containing the information called for on said forms, shall be regarded as a mere notice of intention to petition and shall be of no force or effect until it is filed in the form required.

For vacations of streets and alleys, an as-built right-of-way improvement survey, shall be prepared by a registered land surveyor and submitted, detailing adjoining property owners, all physical improvements and easement restrictions, including but not limited, to pavement and right-of-way widths, structural encroachments, sidewalks, easements, above-ground and underground utilities and curb cuts.

4. COMMITMENTS

Each petitioner who is seeking to amend the zoning ordinance to change the zone maps pursuant to IC 36-7-4-608 or who is requesting the approval of a development plan required by the zoning ordinance as a condition of development shall submit to the Commission properly executed commitments in substantially the form set forth by the Commission. Copies of the Exhibit forms are available from the Department of Metropolitan Development.

Such commitments may be submitted at the time the petition is filed, but in no event shall such commitments be filed later than the date of the hearing on the petition.

5. REQUIRED FINDINGS OF FACT

In every variance petition, special exception petition, vacation petition to vacate a plat or a portion of a plat, waiver of plat standards and specifications, modifications related to a variance or special exception petition, or approval petition for a special district, petitioner shall, at the time of filing the petition, file proposed detailed written findings of fact. Any other interested party may file proposed findings of fact at any time prior to the Friday preceding the date set for the hearing.

6. SPECIFYING OF REQUEST REQUIRED

All variance, special exception and approval petitions must specify the ordinance(s) and development, performance or other standard(s) and regulation(s), condition(s) or approval(s) sought by the petitioner to be modified or approved. A mere recitation in the petition that development is, or will be, "per plans filed" is insufficient to modify any standard(s) or regulation(s) of the applicable ordinance(s).

7. TRAFFIC IMPACT STUDIES

Each petition for zone map change, petition for commission approval, petition for variance, plat petition or vacation petition shall be subject to the provisions of the "Applicant's Guide, Transportation Impact Studies for Proposed Development" dated June 29, 1990, which is incorporated herein by reference and made a part of these Rules of Procedure.

8. CONTIGUOUS LOTS

For rezoning, variance, approval and modification petitions, the subject lots must be contiguous to be considered as one petition filing.

9. FEES

In order to compensate for the expense of advertising and/or processing, the following fee shall be paid by the applicant at the time of filing a petition or requesting a service or upon issuance of the permit:

A. FILING FEES:

(l) Petition Requesting a Zoning Base Map Change (Rezoning) to a:	
(a) Commercial or Industrial District	\$2,789.00 plus \$19.00 for each acre or any portion thereof over 1 acre.
(b) Special District (to include all Special Use, University Quarter, Hospital, Historic Preservation, Speedway, and Park Districts)	\$2,789.00 plus \$19.00 for each acre or any portion thereof over 1 acre.
(c) D-P District (Planned Unit Development) or C-S District (Special Commercial District)	\$3,499.00 plus \$19.00 for each acre or any portion thereof over 1 acre.
(d) Dwelling District over three acres	\$2,789.00 plus \$19.00 for each acre or any portion thereof over 1 acre.
(e) Dwelling District three acres or less	\$ 479.00
(f) Gravel-Sand-Borrow District (GSB District) or Special Use District XIII (SU-13 District) or Special Use District XXIII (SU-23 District) or Special Use District XXVIII (SU-28 District) or Special Use District XLI (SU-41 District)	\$5,499.00 plus \$69.00 for each acre or any portion thereof over 1 acre.
(g) Any other District	\$3,299.00 plus \$19.00 for each acre or any portion thereof over 1 acre.

(2) Petition Requesting Commission Approval

(a) Approvals in the Regional Center (RC) for:

1. RC New Construction, Addition to, or Exterior Renovation of a Building or Parking Garage (excluding single-and two-family residential):		
i. Less than 5,000 square feet and less than 2 stories and not a High Impact Project		\$479.00
ii. High Impact Project—5,000 to 30,000 square feet or between 3-6 stories		\$1,299.00
iii. High Impact Project—over 30,00 square feet or 7 stories or more		\$1,999.00
2. RC Surface Parking Lot		\$2,299.00
3. RC Wireless Facility		\$450.00
4. RC Sidewalk café		\$450.00
5. RC Non-building structures only, such as art, appurtenances, etc.		\$
6. RC Building Identification Signs (petitions for multiple Bldg. Identification Signs are levied the largest applicable base fee and then the per sign fee):		
i. Window signs/sign face changes		NO COST
ii. Wall, Awning, Canopy, Projecting, Marquee, or Suspended sign (64 sf or less)		\$450.00 plus \$29.00 per sign
iii. Wall, Awning, Canopy, Projecting, Marquee, or Suspended sign (greater than 64 sf)		\$1,250.00 plus \$29.00 per sign
iv. Roof sign		\$2,270.00 plus \$29.00 per sign
v. All other Bldg. Identification signs		\$450.00 plus \$29.00 per sign
7. RC Freestanding sign		\$1,870.00 per sign
8. RC Off-Premises sign		\$3,299.00 per sign face
9. RC construction, addition to, or renovation of an Individual Single- or Two-Family dwelling, Addition, outbuilding, or associated accessory Structure		NO COST
10. RC paint color		NO COST
11. RC demolition NOT considered a High Impact Project		\$479.00
12. RC demolition considered a High Impact Project		\$1,999.00

(3) Petition Requesting Approval to Modify a Previously-approved Petition	
(a) Approval to modify or terminate covenants, commitments, conditions, or development statement in:	
1. D-P or C-S or Special district	\$1,999.00
2. all other districts	\$1,899.00
(b) Approval to modify or terminate a site plan, elevation or other plan in:	
1. D-P or C-S or Special district	\$2,199.00
2. all other districts	\$2,099.00
Note: If a petition pertaining to the same property requests approval as described in both subsection a. and subsection b. above, then the fee would be only the higher of the two.	
(c) Approval for one single- or two-family dwelling, regardless of the district, to modify or terminate:	
1. covenants, commitments, conditions, or development statement	\$ 479.00
2. site plan, elevation or other plan	\$ 529.00
Note: If a petition pertaining to the same property requests approval as described in both subsection 1. and subsection 2. above, then the fee would be only the higher of the two.	
(d) Additional fee for any petition involving a petition over 20 years ago or a petition that has been modified more than twice	\$ 159.00

(4) Petition Requesting a Variance or Special Exception	
(a) Variance of Development Standards of the:	
1. Dwelling Districts Zoning Ordinance	\$550.00 plus \$29.00 for each Variance of Development Standards requested
2. Sign regulations for on-premises sign(s)	\$1,970.00 plus \$29.00 for each Variance of Development Standards requested
3. Sign regulations for off-premises sign(s)	\$3,270.00 plus \$29.00 for each Variance of Development Standards requested
4. Commercial, Industrial and all other Zoning Ordinance	\$1,970.00 plus \$29.00 for each Variance of Development Standards requested

(b) Variance of Use for a:	
1. Single or Two-family Dwelling use	\$ 579.00 plus \$ 29.00 for each variance of development standards requested
2. All other uses	\$1,999.00 plus \$ 29.00 for each variance of development standards requested
(c) Special Exceptions pertaining to:	
1. Commercial or Industrial Use	\$1,650.00 plus \$ 29.00 for each variance of development standards requested
2. Dwelling Use for a Manufactured Home	\$ 479.00 plus \$ 29.00 for each variance of development standards requested
3. Religious Use	\$1,650.00 plus \$ 29.00 for each variance of development standards requested
4. Wireless Facility	\$1,650.00 plus \$ 29.00 for each variance of development standards requested

(5) Petition regarding Plat approval	
(a) Preliminary Plat for a Major Subdivision	\$2,999.00 plus \$19 per lot
(b) Preliminary Plat for a Minor Subdivision	\$2,299.00 plus \$19 per lot
(c) Preliminary Plat for a Cluster subdivision	\$3,899.00 plus \$19 per lot
(d) Additional fee for a Waiver of Subdivision Control Ordinance	\$479.00
(e) Secondary Plat for a Major or Clustersubdivision	\$1,699.00
(f) Secondary Plat for a Minor subdivision	\$ 499.00

(6) Petition Requesting Vacation or vacation approval	
(a) Vacating a Street or alley right-of-way	\$4,299.00 plus \$5 per 10 linear foot of the street or alley
(b) All other vacation requests	\$2,899.00

(7) Administrative Appeal:	
(a) Appeal of the Administrator's interpretation of the ordinance (must be filed concurrently with another petition)	\$1,970.00
(b) Administrative Appeal of an Administrative action, such as issuance of an ILP, approval or denial of a development plan submittal, action upon an Administrator's Approval	\$2,379.00

(8) Miscellaneous:	
(a) Amendment to a Petition that changes the requested use requiring revised legal notice after legal notice has been published	\$799.00
(b) Amendment to a Petition pertaining to the C-S or D-P District requiring revised legal notice after legal notice has been published	\$849.00
(c) Amendment to any other Petition requiring revised legal notice after legal notice has been published	\$250.00
(d) Subdivision Surety Reduction	\$139.00 per surety per section
(e) Sidewalk or Street Sign Inspection of a subdivision and Surety Release	\$139.00 per section
(f) Address/Street Name changes:	
1. Request for Change of Address	\$300.00 per lot
2. Street Name Change (other than public safety reasons)	\$1,500.00 per block
(g) Appeal of Address Guidelines and Standards	\$300.00
(h) Certified copy of records, ordinances or other information	\$10.00 plus any photocopying charges
(i) Zoning affidavits for licensure (such as auto dealers)	\$ 293.00 (\$85.00 minimum)

(j) Research, production or similar work	\$85.00 per hour of review (over 1 st hour)
(k) Zoning Confirmation (see notes below): 1. Classification and Enforcement Status 2. History and Non-Conforming Use Research	\$85.00 minimum \$85.00 per hour of review (over 1 st hour)

(Notes: A Zoning Classification and Enforcement Status consists of a letter stating the zoning district of the property as shown on the most current zoning base maps and states any active code enforcement activity. A zoning classification letter does not include any information on possible variances or commitments also on the site.

History Research of a site, in addition to a statement of current zoning district status, also includes research of zoning and variance petitions, as well as permit history, pertaining to the property.

Nonconforming Use Research involves detailed study of zoning regulations and classifications for a site to assess the legal status of a use or structure on that site, based on historic zoning ordinances and base maps, as well as petition and permit files of the Department of Metropolitan Development.)

(9) Administrator's Approval: (see notes below)	
(a) Specific Review	\$ 99.00
(b) General Review	\$ 279.00

(Notes: In those petitions where the Commission, Hearing Examiner or Committee has granted a rezoning, variance, special exception or approval subject to a variance condition or written commitment that stipulates the review and approval of a final plan by the Administrator, a "specific review" relates to a specified item or items requiring approval, such as signs, landscaping or parking lot layout. A "general review" relates to an overall review of the entire plan and any specific requirements placed on the plan by the Commission, Hearing Examiner, or Committee.

The fee for "Administrator's Approval" shall be assessed, and payment due, at the time of submittal.)

(10) Certificate of Legally Established Nonconforming Use: *	
(a) Single- or Two-family residential use and associated development standards	\$ 299.00
(b) All other uses and development standards	\$ 479.00
* Note: Any research conducted shall be billed at a rate of \$85 per hour with an \$85 minimum fee.	

B. IMPROVEMENT LOCATION PERMIT FEES:

(1) Non-Refundable Application Fee	\$ 32.00
(2) New Single-family Construction:	
(a) Metes and bounds	\$ 199.00
(b) Platted-Master Permit	\$ 156.00
(c) Platted	\$ 156.00
(3) Single-family Accessory Buildings and Additions:	
	\$ 108.00
(4) Two-family/Cluster/Attached:	
	\$ 199.00
(5) Other Improvements associated with single- and two-family (including, but not limited to; ponds, satellite dishes, radio towers):	
	\$ 108.00
(6) Multi-Family:	
(a) New Construction	\$ 682.00 (plus \$29.00 per unit)
(b) Additions	\$ 682.00 (plus \$29.00 per unit)
(c) Additions (excluding Dwelling Unit):	\$ 380.00 for improvements up to and including 1,000 square feet of area (plus \$122.00 per additional 1,000 square feet)
(d) Other Improvements: (including, but not limited to; awnings, ponds, roof line changes, satellite dishes, radio towers)	\$170.00
(7) Signs	
(a) Off-Premises sign:	
i. Sign area up to and including 100 square feet:	\$ 417.00
ii. Sign area greater than 100 square feet:	\$ 838.00
(b) On-Premises Freestanding – Pole, Pylon, Roof, Ground Sign:	\$ 422.00
(c) On-premises Building, Wall, Incidental signs others	\$ 142.00
(d) Business - awnings or canopies with signs:	\$ 170.00

(8) Commercial, Industrial or Special Use:	
(a) New Construction:	\$ 380.00 for improvements up to and including 1,000 square feet of area (plus \$122.00 per additional 1,000 square feet)
(b) Awnings, Canopies without a sign:	\$ 170.00
(c) Surface Parking:	\$ 152.00 per every 1,000 square feet of new area
(d) Other Improvements (including, but not limited to; ponds, satellite dishes, radio towers):	\$ 170.00

(9) Floodplain Development Plan Review Fees:	
(a) Plan Review for New Single-family Construction:	\$ 183.00
(b) Plan Review for Single-family accessory buildings, additions, and craft permits	\$ 117.00
(c) Plan Review Fees for Commercial and Subdivision Development:	
i. Initial fee for plat and/or plan submittal with up to 3 hours of technical review	\$ 514.00
ii. Hourly rate (over 3 hours)	\$ 242.00
(d) Alternative Accelerated Plan Review for Commercial and Subdivision Development	
i. Accelerated initial fee for plat and/or plan submittal with 1 hour of technical review	\$ 301.00
ii. Accelerated hourly rate (over 1st hour)	\$ 301.00
(e) Review and approval of community acknowledgement for FEMA removal from floodplain for single-family residential structures.	\$ 93.00

C. WAIVER OR MODIFICATION OF FEES

- (1) The Metropolitan Development Commission may at any time for good cause shown, or upon its own motion, waive or modify the applicable filing fee to not less than one hundred (\$100.00) dollars, transfer a filing fee and waive or modify the fee for an Improvement Location Permit required as a part of the decision of the Commission, said permit fee schedule being established by these Rules of Procedure. Modification of the permit fee for an Improvement Location Permit shall not be less than the minimum fee specified by these Rules of Procedure.
- (2) To encourage the development of green building projects, the Director of the Department of Code Enforcement is authorized to create and implement a policy discounting or offering rebates for permits issued by the Department of Code Enforcement under these rules for green building projects. Such discount or rebate shall not exceed fifty percent (50%) of the total cost of each permit issued.
- (3) The Director of the Department of Code Enforcement is also authorized to create and implement a policy discounting permits issued by the Department of Code Enforcement under these rules for charitable corporations organized under Section 501(c)(3) of the Internal Revenue Code. Such discount or rebate shall not exceed fifty percent (50%) of the total cost of each permit issued.

D. REDUCTION OF FEES

Where three or more petitions are being heard together as companion petitions, the fee shall be 75% of the total fee of all petitions added together.

E. FEES FOR PERMITS OBTAINED AFTER COMMENCEMENT OF WORK

If work for which a permit is required has commenced in violation of the provisions of 2015-P-010 (G.O. 24, 2015) as amended, the permit fee shall be five (5) times the applicable amount stated in Article II, 7; provided, however, that the maximum fee incurred under this section shall be five thousand dollars (\$5,000.00) plus the amount of the normal fee for the permit.

F. REFUND OF FEES OF WITHDRAWN OR TRANSFERRED PETITIONS

The Administrator may, upon request and for good cause shown, refund the applicable filing fee if the petition is withdrawn prior to the publishing or mailing of any public notice. The Administrator may, upon request and for good cause shown, refund all except one hundred (\$100.00) dollars of the applicable filing fee if the petition is withdrawn before any public hearing. The request shall be in writing and received within 90 days of withdrawal.

The Administrator may, upon request and for good cause shown, transfer the applicable filing fee to another petition pertaining to the same property if the transfer of the petition occurs before any public hearing. The request shall be in writing and received within 90 days of the transfer.

G. DEPARTMENTAL FEE WAIVER

For all departments of the City of Indianapolis, all fees outlined above shall be waived for projects in which 1) a department is the applicant or petitioner and the project is located on property owned by the department or the City of Indianapolis; or 2) the Department of Metropolitan Development or the Commission is the applicant or petitioner.

H. STATE FEE WAIVER

For all departments of the State of Indiana, all fees outlined above shall be waived for projects in which a department is the applicant or petitioner and the project is located on property owned by the department or the State of Indiana.

I. MAINTENANCE OF FUNDS

The Commission shall establish a non-reverting fund to maintain the receipts from any filing fees for petitions and other activities in accordance with IC 36-7-4-411 to defray administrative costs.

J. TREE FUND

The Metropolitan Development Commission establishes the non-reverting Tree Fund for the purpose of administering the Landscaping and Screening provisions of the Consolidated Zoning/Subdivision Ordinance, such as the Green Factor.

The Tree Fund shall be used by the City of Indianapolis to purchase and plant trees and to maintain the trees for an initial establishment period. The establishment period is typically two growing seasons. The trees shall be installed in and along public rights-of-way and on public lands such as parks.

A contribution of \$1000.00 to the Tree Fund provides the contributor one tree credit that may be used for the calculation of the Green Factor requirement.

The Tree Fund may accept other monies not related to the Green Factor.

ARTICLE IV - DOCKETING OF PETITIONS

1. DOCKETING BY ADMINISTRATOR

Each complete 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 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.

2. TRANSFER TO COMMISSION

The Hearing Examiner may transfer, in his or her discretion, any petition on his or her docket to the full Commission and, in the event of transfer, may require the petitioner to give additional notice to adjoining property owners as is prescribed by these Rules. The Commission may transfer any petition from the docket of the Hearing Examiner to the docket of the full Commission.

3. DOCKET NUMBERS

After determination by the Administrator that a petition, ordinance or resolution is complete and has been presented in proper form with all required exhibits and supporting documents, such petition, ordinance or resolution shall be filed and numbered consecutively in the order of its filing. The docket numbers shall begin anew on January 1, of each year and for all petitions to be heard within that year shall be hyphenated with the numbers of the year, and initial(s) indicating the type of petition, followed by the number of the petition. The system of initials indicating the type of petition shall be established and maintained by the Administrator.

4. ORDER OF HEARING PETITIONS

On the date set for hearing, petitions shall come before the Hearing Examiner, Committee or Commission, as docketed by the Administrator, in the regular order of their consecutive numbers, except that companion variance petitions, companion special exception petitions, companion plat petitions, and/or companion vacation petitions shall be heard concurrently with the related rezoning petition. However, petitions that are appealed, transferred from the Hearing Examiner or continued from a previous hearing shall be heard at the beginning of the public hearing, in the order enumerated above, before the regularly docketed petitions. The Commission may alter the order to assure that all petitioners and interested parties may be heard.

5. DOCKETING PROCEDURES FOR EXPEDITED PETITIONS (HEARING EXAMINER DOCKET ONLY)

Petitions may be scheduled out of their regular consecutive number order, if they are placed on the expedited portion of the docket. Petitions may be expedited and placed on the beginning of the docket by the Administrator only if the following criteria are met:

- A. There shall be no known remonstrance to the petition;
- B. Staff shall be recommending approval of the petition; and
- C. The petitioner shall be in agreement with the commitments and/or conditions as proposed in the written staff report.

Prior to placing a petition on the expedited docket, staff shall verbally discuss the commitments and/or conditions with the petitioner or the petitioner's representative.

ARTICLE V - NOTICE

1. NOTICE REQUIREMENTS

Notice of all petitions or other zoning-related matters to be heard by the Hearing Examiner, Committee or Commission, other than proposals to amend or partially repeal the text of the zoning ordinance, shall be given to all interested parties or property owners, in the following manner:

A. NOTICE BY PUBLICATION

When the Metropolitan Development Commission is required by law to publish a notice of a public hearing on a petition or other matter, such notice shall be published by the Commission at least ten (10) days prior to the date set for the hearing.

B. ADDITIONAL NOTICE -- ADDITIONAL NOTICE BY PETITIONERS TO OWNERS OF ADJOINING LAND, NEIGHBORHOOD ORGANIZATIONS AND AFFECTED CITY-COUNTY COUNCILORS

- (1) Additional notice of each petition, except Regional Center, Park District One, Hospital District One, University Quarter District One, and Central Business District-Special Approval Petitions, shall be given by the petitioner by registered, certified or first-class mail at least twenty-three (23) days before the date of the hearing (on the form prescribed by the Commission) to all of the following parties:
 - a. owners of all adjoining parcels of land in Marion County to a depth of two (2) ownerships within six-hundred and sixty (660) feet of the perimeter of the subject property.
 - b. owners of property within the area included in the petition who are not petitioners.
 - c. owners of property outside of Marion County, regardless of jurisdiction, if their property is within a depth of two (2) ownerships or within six-hundred and sixty (660) feet of the perimeter of the subject property described in the petition.

In no event shall notice be required to be given to owners of land located more than six-hundred and sixty (660) feet from the subject property. However, the Indianapolis Department of Public Works (DPW) and the Indiana Department of Transportation (INDOT) shall not constitute a property owner requiring notice if the property is right-of-way used for street or highway purposes, except for interstate right-of-way, in which case notice shall be sent to the INDOT.

- (2) Plat Petitions and Petitions to Vacate a plat or a portion of a plat, including but not limited to the vacation of a platted building line or covenant. Additional notice for Plat petitions and petitions to vacate a plat or a portion of a plat, including but not limited to the vacation of a platted building line or covenant, shall be given by the petitioner by registered, certified or first-class mail at least twenty-three (23) days before the date of the hearing (on the form prescribed by the Commission) to all of the following parties:
 - a. owners of all adjoining parcels of land in Marion County to a depth of two (2) ownerships within six-hundred and sixty (660) feet of the perimeter of the subject property.
 - b. owners of property outside of Marion County, regardless of jurisdiction, if their property is within a depth of two (2) ownerships or within six hundred and sixty (660) feet of the perimeter of the subject property described in the petition.

- c. each owner of land in the affected section of the plat.

In no event shall notice be required to be given to owners of land located more than six-hundred and sixty (660) feet from the subject property. However, the Indianapolis Department of Public Works and the Indiana Department of Transportation (INDOT) shall not constitute a property owner requiring notice if the property is right-of-way used for street or highway purposes, except for interstate right-of-way, in which case notice shall be sent to the INDOT.

- (3) **Petitions to vacate an Alley, Street, Easement, or Public Grounds.** Additional notice of a petition to vacate an alley, street, easement, or public grounds shall give by registered, certified or first class mail at least twenty-three (23) days before the date of the hearing (on a form prescribed by the Commission) to all of the following parties:
 - a. owners of all real estate, or interests therein.
 - b. all abutting property owners along such street, alley, or public ground to be vacated. If the proposed vacation terminates at mid-block (i.e., at a location other than a right-of-way with an intersecting street), such notice shall include all owners from the termination of the vacation to the next intersecting street, in the same direction, beyond such termination.
 - c. owners of all adjoining parcels of ground to a depth of two (2) ownerships, within six hundred sixty (660) feet of the perimeter of the subject right-of-way. However, the Indianapolis Department of Public Works or its successor and the Indiana Department of Transportation (INDOT) or its successor shall not constitute a property owner requiring notice if the property is right-of-way used for street purposes, except for interstate right-of-way, in which case notice shall be sent to the INDOT.
 - d. all public utilities, the Department of Public Works of Indianapolis-Marion County, and the Department of Public Safety of Indianapolis-Marion County,
 - e. office or board entitled to receive legal notices for any city or town affected by the proposed vacation, and
 - f. any excluded city, if the proposed vacation is within the boundaries of an excluded City.
- (4) For purposes of the notice requirement of this Section, where any of such adjacent parcels of land are owned by petitioner, the subject property shall be deemed to include any land owned by petitioner adjacent to the land described in the petition.
- (5) In the case of property that is subject to IC 32-25, each condominium unit shall be deemed one property ownership and the common area designated in the appropriate condominium instruments shall be deemed one property ownership, and notice to the co-owners of such common area may be given to the association of co-owners.
- (6) For the purpose of determining names and addresses of legal title owners, the records in the office of the assessor of Marion County and the similar office designated for ownership records by each County adjoining Marion County that list the current owner(s) of record at a point in time within fourteen (14) days of the date on which the notice shall be sent, shall be deemed to be true names and addresses of persons entitled to notice and if notice is sent to such persons for the purposes of the hearing before the Hearing Examiner, Committee or Commission, such notice shall be deemed proper.
- (7) Such notice shall state:

- a. the time and place of the hearing;
 - b. the geographic area (by address or other identifiable locational or geographic characteristic) that is the subject of the zone map change (this does not require the identification of any real property by metes and bounds);
 - c. the name of the petitioner;
 - d. the docket number and a description of the proposed zone map change, approval, variance, special exception, plat or vacation requested in the petition;
 - e. the petition and file, including the legal description of the subject property, may be examined in the offices of the Commission;
 - f. that written objections to the petition that are filed with the Secretary of the Commission before the hearing will be considered;
 - g. that oral comments concerning the petition will be heard; and
 - h. that the hearing may be continued from time to time as may be found necessary.
- (8) Such notice shall also be sent in the same manner to each neighborhood organization whose boundaries include all or some part of the subject property as delineated upon the Neighborhood Organization Map of the Department of Metropolitan Development (a copy of which is on file in the offices of the Commission and incorporated herein by reference). Neighborhood organization notification shall be given for every petition, except Regional Center (non-High Impact Projects), University Quarter District One, and Central Business District-Special Approval Petitions.

Each quarter, a new Neighborhood Organization Map shall be adopted by the Commission's staff. Any neighborhood organization that meets the minimum criteria of organizational status established by the Commission and desires to be included upon the Neighborhood Organization Map of the Department of Metropolitan Development shall file in the office of the Administrator of the Planning Division, on a form prescribed by the Commission, a statement of its name, current address, boundaries, membership, and such other data as may be required by the Commission. No notice shall be required to be sent to any neighborhood organization not appearing on the Neighborhood Organization Map. For purposes of such notice, the names, addresses and boundaries of neighborhood organizations as they appear upon the Neighborhood Organization Map shall be deemed the true names, addresses and boundaries thereof.

The list of those neighborhood organizations entitled to notice shall be provided to the petitioner by the staff of the Commission.

- (9) Such notice shall also be sent in the same manner to each City-County Councilor whose District includes all or some part of the subject property. City-County Councilor notification shall be given for every petition, except Regional Center (non-High Impact Projects), University Quarter District One, and Central Business District-Special Approval Petitions.

The list of those City-County Councilors entitled to notice shall be provided to the petitioner by the staff of the Commission.

C. NOTICE ON SUBJECT PROPERTY

Notice for all rezoning, variance, special exception, plat, vacation, PK-2 approval, Regional Center for High Impact Projects, and HD-2 approval petitions, and all companion petitions allowed under the provisions of IC 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, unless authorized by the Administrator. 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 within 60 days of petition resolution.

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.

E. 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.

2. AFFIDAVIT OF NOTICE

Petitioner, his attorney or agent shall furnish evidence of compliance with the notice requirements by filing a notarized statement in the offices of the Commission listing the names and addresses of property owners and neighborhood organizations to whom notice was sent by certified, registered or first class mail and certifying that notice was posted on the subject property. Said notarized statement shall be postmarked or filed in the offices of the Commission within three (3) days following the mailing of notice.

3. DEFECTIVE NOTICE

If proper notice pursuant to Sections 1 (B) and (C) of Article V has not been given, the Hearing Examiner, Committee or Commission, as the case may be, may continue the petition until a later date to allow time for un-notified persons to prepare for hearing. Personal appearances shall waive any defect in notice unless the defect in the notice is timely raised at the beginning of the hearing when the Hearing Examiner, Committee or Commission is considering requests for continuances.

If the Failure to give proper notice is not discovered until after the hearing, the Commission may take the following action:

- A. If the petition has been approved by the Committee, Hearing Examiner or the Commission but is not required to be or has not been certified to the City-County Council for its approval, the Commission may order the petition to be reheard by the Committee, Hearing Examiner or the Commission upon proper notice given by the Petitioner.
- B. If the petition has been certified to the City-County Council for its approval but not yet approved by the City-County Council, the Commission may rescind its recommendation approving such petition and may direct the Administrator to amend his certification to exclude such petition and shall set the petition for rehearing by the Committee, Hearing Examiner or Commission upon proper notice given by the Petitioner.

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. 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.

Hearing dates, times and locations may be scheduled or rescheduled in a timely manner by the Administrator, if the Administrator determines that a scheduled hearing would create a conflict with another scheduled hearing or public meeting.

2. SPECIAL MEETINGS

Special meetings may be called by the President or by two (2) members of the Commission, upon written request to the Secretary, who shall send to all members thereof, at least three (3) days in advance of a special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if the date, time and place of the special meetings are fixed in a regular meeting and all members of the Commission are present at that regular meeting.

3. ALL MEETINGS AND HEARINGS PUBLIC

All meetings and hearings of the Commission, Committee or Hearing Examiner, except such meetings that are legally constituted executive sessions, shall be open to the public and petitioner(s), remonstrator(s) and other persons desiring to be heard shall have the right to give testimony, in accordance with these rules.

4. QUORUM AND OFFICIAL VOTE

A majority of the members of the Commission constitutes a quorum. A quorum must be present for official action at a regular or properly called special meeting. Unless indicated otherwise within these Rules, action of the Commission is not official, unless it is authorized, at a regular or properly called special meeting by:

- A. At least five (5) members, when eight (8) or nine (9) members are present at the meeting; or
- B. At least four (4) members, when fewer than eight (8) members are present at the meeting.

A simple majority of the total membership shall constitute a quorum of a Committee and action of the Committee is official if concurred in by a simple majority of the total membership of the Committee.

5. INDECISIVE VOTE

When a vote of the Commission does not result in an official action of the Commission as set forth in section 4 above, the petition or resolution shall be automatically re-docketed and heard at the next regularly scheduled meeting of the Commission, unless otherwise rescheduled by the Commission at the same meeting at which the indecisive vote occurred.

6. ANY PARTY MAY APPEAR IN PERSON, BY AGENT OR BY ATTORNEY

At all hearings, any party may appear in person, by agent or by attorney.

An attorney or other representative of any party, petitioner or remonstrator may testify as to facts of which said agent has particular knowledge relating to the issues of the petition, but in so testifying the attorney or representative shall be sworn and subject to cross-examination as are the petitioner's or remonstrator's other witnesses.

The Administrator shall appear in person, by agent or by attorney and present evidence, statements and arguments in support of or in opposition to any petition or other matter being considered.

7. APPEARANCE REQUIRED PRIOR TO TESTIMONY AND EVIDENCE BY ADVERSE PARTIES

- A. Adverse parties or remonstrators to any petition pending determination and decision by the Commission shall be required to enter a written or oral appearance specifying their names and addresses prior to the presentation of testimony and evidence.
- B. Where such appearance is entered at least five (5) days prior to such public hearing, the petitioner shall supply such adverse party or parties with a copy of the petition and plotplan of the property involved, upon written request to the petitioner.

8. CONTINUANCE

A continuance on any non-petition matter shall be at the discretion of the Commission and shall not be eligible for an automatic continuance by the Administrator. A continuance on any petition (all companion petitions shall be considered as one petition) may be granted in one of three ways:

A. Commission/Hearing Examiner/Committee Continuance

The Commission, Hearing Examiner, or Committee may, at any time, on its own discretion, continue the hearing of any petition. The Commission, Hearing Examiner, or Committee may decide if re-notification of interested property owners shall be required if a petition is continued at a hearing for which proper notice was given by petitioner in compliance with the notice requirements of Article V hereof.

B. Automatic Continuance

Each party (petitioner(s) and remonstrator(s)) shall be granted only one automatic continuance by the Administrator, to be used at either the Hearing Examiner or Commission hearing, provided the continuance request meets the following:

- (1) The continuance request must be the first request for continuance by that party.
- (2) The continuance request must be made in writing and filed by 5:00 pm on the seventh day prior to the day of the scheduled hearing.
- (3) The continuance request shall be for the same body (Commission or Hearing Examiner) as originally scheduled.
- (4) The continuance request shall include the new date of the hearing. If a petition is scheduled for the 1st regularly scheduled meeting of the month, the new date would be the 1st regularly scheduled meeting of the next month. If a petition is scheduled for the 2nd regularly scheduled meeting of the month, the new date would be the 2nd regularly scheduled meeting of the next month. If the respective 1st or 2nd regularly scheduled meeting has been canceled or eliminated from the schedule, the automatic continuance shall be for the next regularly scheduled meeting that is at least three weeks later than the originally scheduled meeting.
- (5) The party requesting the continuance shall give notice to all parties required to be served notice by Article V hereof and to attorneys, agents or other individuals who have entered their appearance or are known by the party requesting the continuance to represent petitioner(s), remonstrator(s), or other parties. However, registered neighborhood organizations and City-County Councillors shall be required to give notice only to attorneys, agents, petitioners, and individuals who have signed a remonstrators of record form in the petition file. Such notice shall be mailed at least seven days prior to the originally scheduled hearing.
- (6) If the continuance is granted to a date other than requested in the written request, the party requesting the date change shall notify all parties entitled to receive the notice of the date to which the hearing has been continued and shall file a copy of such notice with the Administrator.
- (7) An affidavit of notice shall be submitted to the Administrator at the time the continuance request is filed.
- (8) An automatic continuance request cannot be withdrawn after being file-stamped and accepted by the office of the Administrator.

C. Continuance for Cause

All other continuances shall be considered a continuance for cause, which may be granted by the Commission, Hearing Examiner, or Committee at the hearing. If both the petitioner(s) and remonstrator(s) do not agree to a continuance for cause, the Commission or Hearing Examiner shall base its decision to grant or not to grant the request on testimony from both parties at the hearing. At the hearing, written requests for continuance shall be considered prior to verbal requests for continuance. The Commission shall give strong consideration to the first continuance made by a City-County Councilor for a petition where a City-County Councilor has appealed a decision of a BZA regarding a variance of use.

9. MOTION TO DISMISS

In order for a remonstrator's "motion to dismiss" to be considered by the Hearing Examiner, Committee or Commission, said motion must be filed with the Administrator, and a copy served upon petitioner or designated agent, no later than the Friday before the date of the scheduled hearing. Failure to comply with this provision shall result in summary dismissal of the "motion to dismiss" by the Hearing Examiner, Committee or Commission.

10. TIME ALLOWED AND PROCEDURE FOR HEARING OF RESOLUTIONS

Interested parties for and against a resolution, respectively, shall be permitted a total of ten (10) minutes each for the presentation of evidence, statements and argument at the public hearing for resolutions that require a public hearing before the Committee or Commission, as follows:

- A. Persons appearing in opposition of the resolution being heard shall first have ten (10) minutes for the presentation of evidence, statements and arguments in opposition of the matter being considered.
- B. Persons appearing in support of the resolution shall then have ten (10) minutes for the presentation of evidence, statements and argument in support to the matter being considered.
- C. A reasonable additional time shall be allowed for any member of the City-County Council to provide testimony regarding a resolution.
- D. The Director of the Department of Metropolitan Development in person, by agent or by attorney shall be given a reasonable time for the presentation of evidence, statements and arguments in support of, or in opposition to, the matter being considered.

11. TIME ALLOWED AND PROCEDURE FOR HEARING OF PETITIONS

Petitioners and remonstrators, respectively, shall be permitted a total of 20 minutes each for the presentation of evidence, statements and argument at the public hearing of every petition that requires a public hearing before the Hearing Examiner, Committee or Commission, as follows:

- A. **Petitioners** and persons appearing in support of the petition being heard shall first have fifteen (15) minutes for the presentation of evidence, statements and arguments in support of the matter being considered.

A reasonable additional time shall then be allowed by the Hearing Examiner, Committee or Commission for cross-examination and redirect examination of petitioner's witnesses.

- B. **Remonstrators** and persons appearing in opposition to the petition shall then have fifteen (15) minutes for the presentation of evidence, statements and argument in opposition to the matter being considered.

A reasonable additional time shall then be allowed by the Hearing Examiner, Committee or Commission for cross-examination and redirect examination of remonstrator's witnesses.

- C. A reasonable additional time shall be allowed for any **member of the City-County Council** to provide testimony regarding a petition.
- D. The **Administrator** in person, by agent or by attorney shall be given a reasonable time by the Hearing Examiner, Committee or Commission for the presentation of evidence, statements and arguments in support of, or in opposition to, the matter being considered.
- E. The **petitioner** shall then have five (5) minutes for rebuttal that shall include only evidence, statements and argument in rebuttal of remonstrators' or the Administrator's evidence, and a brief closing statement.
- F. **Remonstrators** and persons appearing in opposition to the petition shall then have five (5) minutes for rebuttal that shall include only evidence, statements and argument in rebuttal of petitioner's rebuttal evidence or the Administrator's evidence and a brief closing statement.
- G. A reasonable additional time may be allowed for any **member of the City-County Council** to provide rebuttal testimony.
- H. Neither petitioners nor remonstrators shall be permitted to reserve for rebuttal any time not used during their initial presentations.
- I. The presiding President, Chairman or Hearing Examiner, as the case may be, shall have authority to cut off repetitious and irrelevant testimony, and also shall have authority, unless, in the case of the President being otherwise directed by a majority of the

Commission in session at that time, to extend specified periods of time, when it is appropriate in the interest of affording to all interested parties a fair hearing.

12. ORDERLY CONDUCT REQUIRED

Every person appearing at the hearings shall abide by the order and directives of the presiding officer. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges extended by the Commission and shall be dealt with by the presiding officer as is deemed fair and proper.

13. CONTACTING ANY COMMISSION MEMBER REGARDING PENDING PETITION PROHIBITED; ADMINISTRATOR'S WRITTEN STATEMENT OF FACTS OR OPINION TO BE FILED NOT LESS THAN SIX (6) DAYS PRIOR TO THE HEARING

No person shall contact any member of the Commission, Committee or Hearing Examiner, as the case may be, in advance of a public hearing, on a petition then pending for decision with intent to influence such person's action on such petition, except that the staff of the Division may submit, not less than six (6) days prior to any proposed hearing, a statement in writing, stating any facts concerning the physical characteristics of the area involved in the petition, together with a recital of surrounding land use and public facilities available to service the area, or other pertinent facts.

The staff of the Division may include in any such statement an opinion of the proposed amendment or other pending petition. A copy of such statement shall be furnished simultaneously to all persons shown of record.

In all petitions to be heard by a Hearing Examiner, any person disagreeing with the written statement of the staff of the Division shall be afforded the opportunity to file a written response thereto not less than two (2) days prior to hearing which shall be considered by the Hearing Examiner in evaluating such staff comments.

However, nothing herein shall prohibit any interested party from requesting a continuance, in writing, as provided for by these rules.

14. NO DECISION OR FINDING CONCERNING A VARIANCE, SPECIAL EXCEPTION, OR VACATION UNLESS BASED UPON FACTS IN PERMANENT RECORDS AND/OR WRITTEN STATEMENT FILED BY ADMINISTRATOR

No decision or finding of the Hearing Examiner, Committee or Commission shall be made concerning a variance, special exception, or petition to vacate all or part of a plat unless it is based upon facts submitted at a hearing and made a part of the permanent record and/or such written statement filed by the Administrator, the Administrator's agent or the Administrator's attorney.

Provided, however, nothing herein contained shall deny the right of the Hearing Examiner, Committee or Commission members to inspect land involved in any petition to be heard by the Commission.

15. DISQUALIFICATION OF COMMISSION OR COMMITTEE MEMBER OR HEARING EXAMINER IN CASE OF PERSONAL OR FINANCIAL INTEREST

A member of the Commission, Committee or a Hearing Examiner who has some personal or direct or indirect financial interest in any petition or resolution presented or is biased or prejudiced or otherwise unable to be impartial shall disqualify himself or herself insofar as the particular petition or resolution is concerned, shall not sit as a member of the Committee or Commission during the hearing of the particular petition or resolution, and shall not participate as a member in the Committee's or Commission's hearing, findings of fact for a variance, special exception, or vacation, or decision in such petition. The member disqualifying himself or herself shall do so before the petition or resolution is heard and shall not sit with the Committee or Commission while the testimony relating to the petition or resolution is in progress. The record of the particular petition or resolution concerned shall note any such disqualification.

If the Hearing Examiner must disqualify himself or herself in accordance with this section, the petition(s) shall be forwarded directly to the Commission for initial hearing.

16. AMENDMENTS TO ANY PETITION

Requests to amend any petition may be filed in writing prior to or at the beginning of any hearing, or made orally at the hearing. Any remonstrators present shall have the right to be heard on any objections they may have to such proposed amendment. It shall be within the discretion of the Commission, Committee or Hearing Examiner to grant or deny requests for amendments and to require re-notification in compliance with Article V. Provided, however, any proposed amendment to change the zoning classification shall be re-docketed and re-advertised unless the proposed change is for a use allowed in the zoning classification originally petitioned for. Further, in any petition needing re-docketing and re-advertising, the petitioner shall pay an additional filing fee.

17. COMMITMENTS, AMENDMENTS AND SUPPLEMENTSTO SUPPORTING DOCUMENTS

Requests to amend or supplement supporting documents to any petition, including revised site plan, revised elevations, proposed commitments and conditions, must be filed no later than the Monday of the week prior to the week of the scheduled hearing.

If supporting documents (including information which may be used to support staff's position) are amended or supplemented between the Monday of the week prior to the week of the scheduled hearing and the beginning of the hearing, or at the hearing, it shall be within the discretion of the Commission, Committee or Hearing Examiner to continue the petition. In making this determination, consideration shall be given to whether or not the staff, petitioners, and any remonstrators have had sufficient time to adequately review these new supporting documents.

18. ALL TESTIMONY UNDER OATH

All testimony before the Commission, Committee or Hearing Examiner shall be given under oath or affirmation that shall be administered by some person qualified to administer oaths.

19. MINUTES AND RECORD OF HEARING

The Hearing Examiner, Committee and Commission shall keep minutes of his/her or its proceedings, investigations and other official action and in all petitions heard by him/her or the Committee or Commission; and shall record the vote on all action taken. A shorthand, stenotype or electronic record shall be made of all hearings of the Commission, Committee or Hearing Examiner and shall remain on file in the offices of the Metropolitan Development Commission

for a period of six months following the hearing and determination. All minutes and records filed in the offices of the Commission shall be public records.

A transcription of such verbatim record of any hearing may be ordered by any party, and the cost thereof shall be paid by the party ordering such copy or copies.

20. RECORD OF VOTING

In all petitions heard by the Commission or Committee, the Commission's vote shall be by ballot and recorded by roll call vote. All such ballots shall remain on file in the offices of the Commission and shall be public records. Rezoning, approval, variances, special exceptions, plats and vacation petitions shall be voted on as separate cases.

21. SEPARATION / WITHDRAWAL OF COMPANION PETITIONS

When petitions are filed and docketed as companion petitions, those petitions may not be separated for continuance or hearing purposes, until the required hearing process causes the petitions to be separated. Individual petitions, however, may be withdrawn, as allowed by Article VIII, Section 2.

ARTICLE VII - RECOMMENDATION

1. RECOMMENDATION OF THE HEARING EXAMINER

Upon the conclusion of the hearing before all Hearing Examiners, the Hearing Examiner shall announce whether his or her recommendation to the Metropolitan Development Commission shall be that the petition(s) be approved, disapproved, or approved subject to conditions, amendments or commitments by the petitioner, and at such time the Hearing Examiner shall announce the date of final action by the Commission on the Hearing Examiner's recommendation.

2. HEARING EXAMINER'S COMMENT

The Hearing Examiner shall report his or her findings of fact and his or her recommendation to the Commission.

3. COVENANTS AND COMMITMENTS

A. COVENANTS

Any parole covenants made to the Hearing Examiner or the Commission, such parole covenants, being defined as any representation of fact or intention made verbally in a public hearing and identified by the person making the same as a covenant, or any plans, drawings or exhibits submitted pursuant to said ordinance, shall be reduced to the form of a recordable written covenant(s) and signed by the owner(s) of the real estate. The written covenants shall authorize their recording by the Division in the office of the Recorder of Marion County, Indiana, upon the final adoption of the Zoning Ordinance by the City-County Council. Following the recording of the covenants, the Division shall return the original recorded covenants to petitioner and shall retain a copy of the recorded covenants in its file. The covenants shall be in substantially the form set forth by the Commission. Copies of the Exhibit forms are available from the Department of Metropolitan Development. The Covenants may be modified by a decision of the Metropolitan Development Commission, or its successor, made at a public hearing after proper notice has been given. Any modification of the covenants approved by the Commission shall not be in full force and effect until reduced to writing by the present owner(s) of the real estate, approved by the Commission, and recorded in the office of the Recorder of Marion County, Indiana. The modification or termination shall be in substantially the form set forth by the Commission. Copies of the Exhibit forms are available from the Department of Metropolitan Development. of these Rules of Procedure.

B. COMMITMENTS

If deemed advisable, the party hearing the petition, (the Hearing Examiner, the Commission, or the City-County Council), may require or permit the petitioner to make written commitments concerning the use or development of the subject property. The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitment(s) shall be in effect for as long as the real estate to which they apply remains zoned to the classification to which the real estate was zoned when the commitments were made or for such other length of time as the Commission may require and the commitment(s) shall authorize their recording by the Division in the Office of the Recorder of Marion County, Indiana upon the final adoption of the Zoning Ordinance by the City-County Council or upon adoption of an approval, variance, special exception, vacation or plat.

petition by the Commission. Following the recording of the commitments, the Division shall return the original recorded commitment to petitioner and shall retain a copy of the recorded commitments in its file.

The commitments shall be in substantially the form set forth by the Commission. Copies of the Exhibit forms are available from the Department of Metropolitan Development. of these Rules of Procedure.

The party hearing the petition, (the Hearing Examiner, the Commission, or the City-County Council), may require in such commitment the designation of any specially affected persons, who (in addition to persons entitled to receive notice of the rezoning under Article V, Section 1(B) shall be entitled to enforcement thereof pursuant to IC 36-7-4-1015.

The commitments may be modified or terminated by a decision of the Metropolitan Development Commission, or its successor, made at a public hearing after proper notice has been given, or by a decision of the City-County Council, as it is considering a rezoning petition, in accordance with Article VIII, 5, of these Rules. Any modification or termination of the commitments approved by the Commission or City-County Council shall not be in full force and effect until reduced to writing by the present owner(s) of the real estate, approved by the Commission or City-County Council, and recorded in the office of the Recorder of Marion County, Indiana.

If the effect of a modification of commitment made by the City-County Council is to make the commitment less stringent than the commitment approved by the Metropolitan Development Commission, the modified commitment shall be referred to the Commission for further review. The Commission shall, not later than forty-five (45) days after referral of the modified commitment:

- A. Ratify the modified commitment; or
- B. Certify a recommendation to the City-County Council that the commitment be further modified.

After considering the recommendations of the Commission, the City-County Council shall make the final decision on the terms of the modified commitments.

The modification or termination shall be in substantially the form set forth by the Commission. Copies of the Exhibit forms are available from the Department of Metropolitan Development.

4. ADMINISTRATOR'S APPROVAL AUTHORIZED

The Administrator is authorized to grant or deny final plan approval in the following instances:

- A In those petitions where the Commission, Hearing Examiner, or Committee grants a rezoning to the D-P District or in other petitions for rezoning, variance, special exception, approval, plat or vacation (as noted in Article III) that are subject to a condition or written commitment that stipulates the review and approval of a final plan by the Administrator.
- B In Regional Center petitions; and
- C In applications and petitions authorized by the applicable zoning ordinance.

5. AUTHORITY AND REVIEW PROCESS OF ADMINISTRATOR'S APPROVAL

The Administrator shall have the following authority and shall follow the following procedures in the review process:

- A. 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.)
- B. 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:
 - (1) site layout;
 - (2) building location, configuration and appearance (i.e. elevations);
 - (3) parking location, count, and configuration;
 - (4) interior traffic flow;
 - (5) ingress and egress to the development
 - (6) sign location, size and design;
 - (7) extent, placement, and specifications for landscaping, and landscape screening;
 - (8) fencing, fence location, height, materials, and elevations;
 - (9) pedestrian connectivity and public transit accessibility; and
 - (10) an illumination or lighting plan;
 - (11) requirements of the D-P or C-S District; or
 - (12) requirements of the ordinance of the specific district in which it is located.
- C. In exercising discretion to approve or disapprove a final plan, the Administrator shall use the following standard:
 - 1. 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.
 - 2. 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.
 - 3. 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.
- D. 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 an Administrative Appeal. This appeal must be filed within 23 days from the date of the denial or the approval, unless otherwise indicated by ordinance.
- E. Any interested party shall have the right to appeal such action of the Administrator. Such appeal shall be filed as an approval petition for an Administrative Appeal. This appeal must

be filed within 23 days from the date of the decision by the Administrator, unless otherwise indicated by ordinance.

6. FILING OF REQUEST FOR APPEAL OF THE HEARING EXAMINER OR COMMITTEE

Any interested party, including the Administrator, may file a request for an appeal of a decision or 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:

Rezoning, companion variance (only associated with a rezoning petition allowed by IC 36-7-4-918.8) or modification petition:	By five (5) p.m., five (5) days following the Hearing Examiner or Committee decision.
Approval petition for special districts allowed by IC 36-7-4-1400 series:	By five (5) p.m., five (5) days following the Hearing Examiner or Committee decision.
Plat or vacation petition as a companion petition in a combined hearing allowed by IC 36-7-4-403.5:	By five (5) p.m., five (5) days following Hearing Examiner or Committee decision.
Variance or modification of a variance or special exception petition as a companion petition in a combined hearing allowed by IC 36-7-4-403.5:	By five (5) p.m., five (5) days following Hearing Examiner or Committee decision.

7. SERVICE OF REQUEST FOR APPEAL UPON OTHER PARTIES

Upon the same day as a request for appeal is filed in the offices of the Commission, a copy thereof shall be served, personally or by first class, registered or certified mailing, upon the opposing party as follows: a remonstrator shall serve petitioner's attorney or, if none has appeared, the petitioner as named and at the address stated in the petition; a petitioner shall serve all remonstrators' attorneys who appeared at the hearing and, if none appeared, shall serve the first two persons who spoke on behalf of remonstrators, at their addresses as stated at the hearing; the Administrator, upon filing a request for appeal, shall serve both petitioner and remonstrators as above provided. A certificate evidencing such service shall be filed with the Commission.

8. DOCKETING FOR COMMISSION ACTION

Every petition subject to the Commission’s review shall automatically be placed on the docket of the next regular meeting of the Metropolitan Development Commission held not sooner than five (5) days after the expiration of the time for filing a request for an appeal in such petition, provided, however, no petition shall be so docketed until all the covenants and/or commitments required or allowed by the Hearing Examiner or Committee, and which comply with the requirements of Article VII, shall have been filed with the Administrator. At each hearing before the Hearing Examiner or Committee, notice of such hearing dates before the Commission shall either be posted or announced by the Hearing Examiner with respect to petitions heard on such day. Each such hearing before the Commission shall be deemed a continuation of the hearing before the Hearing Examiner and no further advertisement or notice of such Commission hearing shall be required.

9. ACTION BY THE COMMISSION WITHOUT HEARING IF NO REQUESTS FOR APPEAL FILED

As to any petition in which no requests for appeal are filed, as and within the time permitted, and in which the stipulated commitments have been executed and submitted, the Commission shall, without allowing further evidence or argument by the parties, act upon the recommendation for decision certified by the Hearing Examiner, at the first meeting of the Commission at which the petition(s) appears on the Commission docket or at any subsequent meeting to which said petition may be continued.

At said time the Commission may either (1) approve the recommendation of the Hearing Examiner, or (2) set the petition(s) for hearing at the next regularly scheduled meeting of the Commission. If said petition(s) is scheduled for hearing as set forth above, the Administrator shall notify in writing those persons designated in Section 7, and in said notice set forth the time and place that said petition(s) will be heard by the Commission.

10. HEARING BY COMMISSION IF REQUEST FOR APPEAL FILED OR INITIAL HEARING BY COMMISSION

If a request for an appeal is filed, as and within the time permitted in Section 6, or in an initial hearing by the Commission, the Commission shall proceed to hear the petition at its first meeting at which the petition appears on its docket or at any subsequent meeting to which the same may be continued.

At such hearing, all parties, including the Administrator, shall be allowed to present evidence and argument relevant to the petition, as provided for in Article VI, Section 6.

Any commitment required or allowed by the Commission and any parole or written covenant submitted by the petitioner at such hearing shall comply with all requirements of form and recording set forth in Article VII, Section 3. In such commitment, the Commission may require the designation of any specially affected persons or categories of specially affected persons, who (in addition to persons entitled to receive notice of the rezoning under Article V, Section 1(b)) shall be entitled to enforcement thereof pursuant to IC 37-7-4-1015. At the conclusion of such hearing, the Commission shall make its decision on said petition(s).

11. WITHDRAWAL OF REQUEST FOR APPEAL

Any person filing a request for appeal of the recommendation certified by the Hearing Examiner or Committee shall have the right to withdraw the same prior to the hearing of the petition

before the Metropolitan Development Commission. If all such requests in a petition are withdrawn, the Metropolitan Development Commission shall proceed to act upon the petition(s) in the same manner as it would have had the request(s) not been filed.

ARTICLE VIII - FINAL DISPOSITION OF PETITIONS

1. DISMISSAL OF PETITIONS

The Commission, Committee or Hearing Examiner may dismiss a petition for want of prosecution or for lack of jurisdiction.

No parcel of ground that has been included in any petition that has been dismissed by the Hearing Examiner, Committee or Commission for want of prosecution shall again be included in any petition filed for consideration within a period of three (3) months from the date of the dismissal, except upon motion to permit refiling by a majority vote of all members present at a regular or special meeting, for good cause shown.

2. WITHDRAWAL OF PETITIONS

No petition may be withdrawn by the petitioner after a vote has been ordered by the presiding officer. No parcel of ground that has been included in a petition that has been withdrawn by the petitioner shall again be included in any petition filed for consideration within a period of three (3) months from the date of said withdrawal, except upon motion to permit refiling, adopted by a majority vote of all members of the Commission who are entitled to vote, for good cause shown. A petition, docketed for the Commission, may be withdrawn after hearing and recommendation by the Hearing Examiner or Committee.

3. REILING FOLLOWING ADVERSE DECISION

- A.** No parcel of ground, or part of a parcel that has been the subject of an adverse decision of a **rezoning or variance of use** petition shall be included in a rezoning or variance of use petition filed within a period of twelve (12) months from the date of either the adverse decision by the Commission, or an adverse decision of the City-County Council, or an adverse decision of any Division of the Metropolitan Board of Zoning Appeals, unless the body which previously denied the petition decides, by a majority vote of all members present, or in the case of an adverse rezoning decision, the Commission decides by an official vote, to allow a refiling within the twelve (12) month period.
- B.** No parcel of ground, or part of a parcel that has been the subject of an adverse decision of a **variance of development standards, special exception, plat or vacation petition** shall be included in a variance of development standards, special exception, plat or vacation petition filed within a period of twelve (12) months from the date of either the adverse decision by the Commission, or an adverse decision of any Division of the Metropolitan Board of Zoning Appeals, unless the body which previously denied the petition decides, by a majority vote of all members present to allow a refiling within the twelve (12) month period.
- C.** No parcel of ground that has been the subject of an adverse decision of an **approval or modification petition** by the Commission shall again be included in an approval or modification petition filed for consideration by the Commission, Committee or Hearing Examiner within a period of three (3) months from the date of an adverse decision by the Commission, except upon motion to permit refiling adopted by the determination of the Hearing Examiner, Committee or an official vote of the Commission, whichever the case may be.

- D.** Notice shall be given to all interested parties or property owners of any request to secure a waiver of this rule, in accordance with the notice requirements of Article V of these Rules of Procedure.

4. NOTICE OF COMMISSION'S DECISION

Within five (5) days after granting a zone map change, approval, special exception, variance from the terms of the zoning ordinance, plat or vacation, the Commission shall file with the Division a copy of its decision.

However, if a representative of the Division appears at the hearing granting a zone map change, approval, special exception, variance from the terms of the zoning ordinance, plat or vacation then this appearance shall be considered notice to the Division of the Commission's decision, and a copy of the decision need not be filed.

The Commission, when it has a hearing, or the Hearing Examiner, when he/she makes a decision on a petition which is not appealed, shall condition the grant of variance, special exception, or plat in such a manner that it takes effect if and when the recommended ordinance amendment is approved by the City-County Council.

5. ZONE MAP CHANGES: ADOPTION BY CITY-COUNTY COUNCIL AFTER APPROVAL BY METROPOLITAN DEVELOPMENT COMMISSION

A. CERTIFICATION

If a zoning ordinance changing the zone maps is approved, denied, or no recommendation is made by the Commission, the Administrator, or the Administrator's agent, shall, within ten (10) days following the decision, certify a copy of the ordinance, if the petition is approved, or a copy of the Commission's decision, if the petition is not approved, to the clerk of the City-County Council, provided, however, no petition shall be considered finally approved by the Commission or be so certified until all the covenants and/or commitments required or allowed by the Commission, and which comply with the requirements of Article VII, shall have been filed with the Administrator.

B. ADOPTION OF ZONE MAP CHANGES

At the first regular meeting of the City-County Council after a proposal to change the zone maps is certified, the Council may, by a majority of those voting, schedule the proposal for a hearing on a date not later than its next regular meeting.

(1) If the Council:

- a. Fails to schedule the proposal for a hearing; or
- b. Schedules it for a hearing but fails to act on it within thirty (30) days after certification; the ordinance takes effect as if it had been adopted (ascertained) thirty (30) days after certification.

(2) If the Council schedules the proposal for a hearing, it shall announce the hearing during a meeting and enter the announcement in its memoranda and minutes. The announcement must state:

- a. The date, time and place of the hearing;
- b. A description of the proposed changes in the zone maps;

- c. That written objections to the proposal filed with the Clerk of the Council will be heard; and
- d. That the hearing may be continued from time to time as may be found necessary.

(3) If the Council rejects the proposal at a hearing scheduled, it is defeated. Rejection of the proposal does not preclude it from being proposed again under IC 36-7-4-608, subject to Section 3 above.

C. CITY-COUNTY COUNCIL APPROVAL OR REJECTION OF ZONEMAP CHANGES

If the City-County Council holds a public hearing as above provided, it may take action with respect to said proposal by a three-fifths (3/5) vote of its full membership. If said ordinance is approved, the Commission shall then make the necessary modifications of the zone maps and shall keep them available in the offices of the Division.

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.

6. FINAL DISPOSITION OF VACATION PETITIONS

A. HEARING CONCLUSION

Upon the conclusion of the hearing, the Hearing Examiner, Committee or Commission shall find and decide whether the vacation is in the public interest; whether any interests of the public, any utility or governmental unit shall be reserved, and any other conditions to be imposed in the decision; and whether there shall be a hearing on assessment of benefits or award of damages.

(1) Vacation without assessment of benefits or award of damages.

In any vacation case in which there has been no acquisition by governmental condemnation or purchase, no construction or maintenance by a governmental agency and no public use of the subject property, or any part thereof, there shall be no assessment of benefits. No benefits shall be assessed against any land in governmental or public ownership, or to be vacated for governmental or public use or for use by a semi-public institution or agency engaged in a public, non-proprietary function, such as education or welfare.

(2) Vacation petitions with assessment of benefits.

All other vacation petitions are with assessment of benefits. The assessment of benefits may occur at the same hearing as the vacation petition, or at the next regularly scheduled hearing after the vacation petition is approved.

Petitioner shall select, from a panel of appraisers designated by the Metropolitan Development Commission (a list of which is on file in the office of the Division), an appraiser who, upon his selection by petitioner and notification thereof by the Secretary of the Commission, shall appraise any benefits to property or interests beneficially affected by the vacation. One copy of the appraisal report shall be filed at least 10 days prior to the hearing on the assessment. The appraisal fee shall be paid by Petitioner at the hearing upon assessment of benefits or within 10 days thereafter.

Upon the conclusion of the hearing, the Hearing Examiner, Committee or Commission may either sustain or modify the assessments of benefits.

Payment of assessments shall be by check payable to the City Controller at the hearing upon assessment of benefits or within one year thereafter.

B. RECORDING VACATIONS

The Administrator shall not record the adopted Vacation Resolution until after all appeal periods have passed, or after final disposition of an appealed vacation petition. Within one year of the vacation approval (unless time extended by the Hearing Examiner, Committee or Commission), the petitioner shall indicate, in writing, compliance with all conditions required by the vacation that were required to be completed prior to recording said vacation. After the compliance letter is received and after all assessment and appraisal fees have been paid by the petitioner, the Administrator shall be authorized to record with the Marion County Auditor and the Marion County Recorder certified copies of the adopted Vacation Resolution, survey, and Hearing Examiner, Committee or Commission's decision.

7. LETTER OF GRANT OR DENIAL

Following final action on a zone map change, approval, special exception, variance, plat or vacation petition, the Administrator shall notify the petitioner of the final decision by sending the petitioner a letter of grant or denial that shall include, if a letter of grant, all conditions imposed.

8. VARIANCE CONDITIONS IMPOSED BY COMMISSION -AFFIDAVIT OF COMPLIANCE

Whenever the decision of the Commission is conditioned upon petitioner's compliance with a requirement imposed by the Commission concerning construction or site development (e.g. installation of landscaping, fencing, paving, curb stops or any comparable requirement) and such condition is recited in the notice to petitioner of the Commission's decision. Petitioner shall be required to notify the Commission of the timely fulfillment of such requirement by filing an affidavit of compliance in the offices of the Commission. If the time for fulfillment of the condition is stated in the Commission's decision, such affidavit shall be filed within thirty (30) days after the time allowed for fulfillment. If the time for fulfillment is not stated in the Commission's decision, the affidavit shall be filed within thirty (30) days after the completion of construction authorized by the Commission's decision, whichever is earlier.

Failure to comply with any conditions imposed by the Metropolitan Development Commission shall constitute a violation enforceable by governmental authority pursuant to the provisions of IC 36-7-4-1014.

9. APPEAL PROCEDURE

A. JUDICIAL REVIEW

The following are final decisions of the Commission that may be reviewed in accordance with Indiana Code 36-7-4-1600 Series:

- (1) A final decision under the 700 series of this chapter (subdivision control) including: primary approval or disapproval of a plat; imposition of a condition on primary approval of a plat; approval or disapproval of the vacation of all or part of a plat; approval or disapproval of the vacation of any recorded covenants filed with the plat; or imposition

- of a condition on approval of the vacation of all or part of a plat (which may include the vacation of any recorded covenants filed with the plat).
- (2) Approval or disapproval of a variance from the zoning ordinance.
 - (3) A final decision under IC 36-7-4-1015 (appeal of a commitment modification or termination), unless the modification was made by the City-County Council.
 - (4) A final decision under IC 36-7-4-1400 Series (development plans).
 - (5) A final decision under IC 36-7-4-1500 Series of this chapter (planned unit development), when authority to make a final decision is delegated to the plan commission by the legislative body under IC 36-7-4-1511.

Such petitions for judicial review shall be presented to the court within thirty (30) days after the decision of the Metropolitan Development Commission. The petitioner for judicial review shall pay the costs of preparation of transcripts of any hearing before the Commission needed for the judicial review.

B. ADMINISTRATOR'S APPEAL OF ANY DECISION OF THE METROPOLITAN BOARD OF ZONING APPEALS OR THE BOARD OF ZONING APPEALS OF AN EXCLUDED CITY TO THE COMMISSION

The Administrator may appeal to the Commission any decision of a Board of Zoning Appeals granting an administrative appeal, or a special exception or variance from the terms of the zoning ordinance. A City-County Councilor, in whose district the parcel of real property is located, may appeal to the Commission a decision of a Board of Zoning Appeals approving, denying, or otherwise concerning a variance of use from the terms of the zoning ordinance that affects only real property located outside the corporate boundaries of an excluded city. The Administrator or City-County Councilor shall file the notice of appeal within five (5) days after the Board has rendered its decision. The notice must certify that the decision raises a substantial question of zoning policy appropriate for consideration by the Commission. The Commission shall hear the appeal at its next regular meeting held not less than five (5) days after the notice of appeal is filed. In hearing appeals, the Metropolitan Development Commission sits as a Board of Zoning Appeals and shall be treated as if it is a Board. The Commission may accept into evidence the written record of the hearing before the Board of Zoning Appeals, if any, along with other evidence introduced by the Division or interested parties. The Commission shall consider the matter de novo, but the decision of the Board is considered affirmed unless two-thirds (2/3) of the Commission members voting vote to deny the administrative appeal, special exception, or variance.

Appeals by the Administrator of a variance or special exception heard by the Hearing Examiner as part of a companion petition requires a majority vote as outlined in Article VI, Section 4, Quorum and Official Vote.

10. EXHIBITS

All exhibits submitted for consideration by the Commission, whether submitted by the petitioner or a remonstrator, shall become property of the Commission and will not be returned to the submitting party.

ARTICLE IX – RESERVED.

ARTICLE X - SUPPLEMENTAL REVIEW PROCESS

1. ESTABLISHMENT OF SUPPLEMENTAL REVIEW PROCESS

The Metropolitan Development Commission establishes a flexible procedure for more intense review and more complete presentation of major approval, rezoning, and variance petitions, and companion petitions permitted by IC 36-7-4-403.5. This procedure, called the Supplemental Review Process, generally applies to petitions that, because of development size or intensity, will have a significant effect on drainage ways, parks, roadways, or sewer systems. Under the Supplemental Review Process, not all petitions will follow exactly the same procedure but common elements of the Process include:

- A. Additional information about the effect of the development on infrastructure is requested from the petitioner.
- B. Review of the supplemental information is made by the Department of Metropolitan Development, Department of Parks and Recreation, and Department of Public Works.
- C. Interested persons and organizations in the community are notified about the petition.
- D. A coordination meeting led by Department of Metropolitan Development staff is conducted to discuss the petition with the petitioner, representatives of affected City Departments, interested persons and organizations in the community.
- E. The petition is scheduled for hearing before the Metropolitan Development Commission (not before the Hearing Examiner).
- F. The staff provides information that is more substantial to the Metropolitan Development Commission at the time of presentation of the petition, including information about the effect of the proposed development on infrastructure adequacy.

2. GOAL OF SUPPLEMENTAL REVIEW PROCESS

The goal of the Supplemental Review Process is to allow the Metropolitan Development Commission to make more informed decisions on the major petitions that affect adequacy of drainage systems, parks, roadways, and sewer systems. This goal is accomplished by establishing a structured means for provision of more accurate and complete information about the impact of the proposed development on infrastructure and establishing meetings among interested parties so that this information can be shared and conflicts among competing interests can be identified and, if possible, resolved. The Supplemental Review Process shall not unreasonably burden the resources of petitioners or needlessly protract the petition process. City staff shall be reasonable in applying Supplemental Review Process requirements and attentive to meeting City response time deadlines established under the Process.

3. APPLICATION OF SUPPLEMENTAL REVIEW PROCESS

Petitions that meet the thresholds for the Supplemental Review Process will be the subject of a request by staff to be included in the Process. The petitioner is not required to participate in the Supplemental Review Process. However, petitions that meet Supplemental Review Process thresholds but do not participate in the Process, staff shall assume reasonable infrastructure impacts based on the most intense development allowed by the petition in analyzing the petition and shall point out in the staff comment that the petitioner has declined to participate in the Supplemental Review Process.

"Automatic" continuances, provided for under Article VI, 8, B, are not allowed, for either petitioner(s) or remonstrator(s), if the petition is being considered under the Supplemental Review Process.

A petitioner who agrees to participate in the Supplemental Review Process may, at any time, withdraw from the Process.

4. RULES FOR SUPPLEMENTAL REVIEW PROCESS

Procedural rules applying specifically to the Supplemental Review Process are hereby adopted by the Metropolitan Development Commission and are found in a booklet entitled "Supplemental Review Process User Manual". This booklet provides detailed information about Supplemental Review Process requirements and operation. The Supplemental Review Process is governed by these Rules of Procedure and the Supplemental Review Process User Manual. In case of a conflict, these Rules of Procedure control.

5. AMENDMENT OF SUPPLEMENTAL REVIEW PROCESS PROCEDURES

The Supplemental Review Process User Manual may be amended by action of the Metropolitan Development Commission in the same manner that these Rules of Procedure are amended.

ARTICLE XI - ADDRESS GUIDELINES AND STANDARDS

1. ESTABLISHMENT OF THE ADDRESS GUIDELINES AND STANDARDS

To carry out its responsibilities regarding the assignment and reassignment of addresses and, the naming and renaming of streets, the Metropolitan Development Commission establishes the "Address Guidelines and Standards for Indianapolis/Marion County."

2. OBJECTIVES OF THE ADDRESS GUIDELINES AND STANDARDS

- A. To improve the process in the assignment of new addresses.
- B. To establish a review committee to correct existing addresses that would potentially delay emergency responses or the delivery of mail, goods and services.
- C. To establish uniform address standards within Indianapolis/ Marion County for the use of street names and the location and display of address numbers.
- D. To incorporate elements in the assignment and approval process that allows various interdependent agencies to share information through electronic integration.

3. RULES OF THE ADDRESS GUIDELINES AND STANDARDS

Procedural rules applying specifically to the assignment and reassignment of addresses or the naming and renaming of street names are hereby adopted by the Metropolitan Development Commission and are found in a document entitled "Address Guidelines and Standards for Indianapolis/Marion County." The Address Guidelines and Standards for Indianapolis/Marion County provides detailed information about addressing requirements and the naming and renaming of streets. The assignment and reassignment of addresses, as well as the naming and renaming of streets, are governed by these Rules of Procedure and the "Address Guidelines and Standards for Indianapolis/Marion County." In case of conflict, these Rules of Procedure control.

4. AMENDMENT OF ADDRESS GUIDELINES AND STANDARDS

The "Address Guidelines and Standards for Indianapolis/Marion County" document may be amended by the action of the Metropolitan Development Commission in the same manner that these Rules of Procedure are amended.

ARTICLE XII - CERTIFICATE OF LEGALLY ESTABLISHED NONCONFORMING USE

1. APPLICATION FOR CERTIFICATE

A property owner may petition for a certificate stating that the owner's property, though nonconforming to the uses and development standards set forth in the zoning ordinances of Indianapolis and Marion County, Indiana, shall nevertheless be deemed to be legally established as of the date of such certificate. To petition for such a certificate, the owner/petitioner shall submit the following:

- A. An application for such certificate on a form prescribed by the Department of Metropolitan Development, which form shall require the submission of materials such as affidavits, city directory entries, assessment records, real estate records, or any other applicable proof, establishing that the use or development standards applicable to the property occurred prior to:
 - (1) the applicable zoning ordinances in place at the time the nonconformity(ies) was established; or,
 - (2) April 8, 1969 (in order to claim the specific exemption noted in 2. below).
- B. A site survey, drawn to scale, noting all buildings and improvements on the property by type, use and construction.
- C. Legal description of the subject property.
- D. Application fee, as adopted by the Commission and noted in Article III, 9, A (Filing Fees) of its Rules of Procedure.

2. REVIEW OF SUBMISSION

- A. The Administrator shall review the submission against the ordinances in place for the property, specifically in relation to the date of establishment claimed in the submission.
- B. In cases where the owner/petitioner is claiming the exception noted as "legal establishment of nonconforming uses that were not legally initiated prior to April 8, 1969," found in the applicable zoning ordinances, the Administrator shall review the submission to ensure that the provisions of the ordinance relative to the exceptions have been satisfied.

3. CERTIFICATION

If the provisions of the exceptions noted above are satisfied, or, alternatively, if the documentation substantiates that the use or development standards associated with the property pre-date the applicable zoning ordinance in place as of the date claimed by the owner/petitioner, the Administrator shall issue a certificate of legally established nonconforming use.

Said certificate shall include the following:

- A. the legal description of the property;
- B. the street address;
- C. a statement describing the nonconforming uses which are permitted or nonconforming development standards which are specifically involved;
- D. a statement that, as of the date of issuance of the certificate, the nonconformities of the use or improvements of the property noted are deemed to be legally established;
- E. the date of issuance;
- F. signature of the Administrator.

The certificate shall be notarized and shall be in a form that is acceptable for recording by the Recorder of Marion County, Indiana.

4. DISTRIBUTION OF CERTIFICATE; MAINTENANCE OF RECORDS

A copy of the certificate shall:

- A. be recorded by the owner/petitioner with the Office of the Recorder of Marion County, Indiana.
- B. be mailed by DMD staff to the Registered Neighborhood Association(s) within which the property is located.
- C. be delivered by DMD staff to the applicable Assessor having jurisdiction over the property.

The Department of Metropolitan Development shall maintain a permanent record of all such certificates issued, which record shall be available to the public and shall be organized by common address of the property.

5. DENIAL OF CERTIFICATE

If after review of the submission, the Administrator determines it does not meet the requirements of this Article and the applicable ordinances referenced, the Administrator shall deny the application for certification.

ARTICLE XIII - WAIVER OF RULES

The Commission, Committee or Hearing Examiner shall have the right to waive the Rules of Procedure upon their own motion, or upon request of an interested party, for good cause shown. However, a waiver request cannot be granted that would be inconsistent with Indiana Code.

ARTICLE XIV - AMENDMENTS TO RULES OF PROCEDURE

Amendments to these Rules of Procedure shall be made by the Metropolitan Development Commission upon the affirmative vote of a majority of the members of the Commission who are entitled to vote.

ARTICLE XV – ADOPTION

The foregoing 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 _____, 2022

John J. Dillon III, Commissioner
and President

Megan Garver, Commissioner and
Vice- President

Bruce Schumacher, Commissioner and
and Vice-Secretary

Lena Hackett, Commissioner
Secretary

Karina Bruns, Commissioner

William Selm, Commissioner

Alpha Blackburn, Commissioner

Brigid Robinson, Commissioner

Mindy Westrick, Commissioner

METROPOLITAN DEVELOPMENT COMMISSION
OF MARION COUNTY, INDIANA

ATTEST:
Lena Hackett, Secretary
Metropolitan Development Commission
of Marion County, Indiana

METROPOLITAN DEVELOPMENT COMMISSION
MARION COUNTY, INDIANA
RESOLUTION NO. 2022-P-010

RESOLUTION 2022-P-010 authorizes the Department of Metropolitan Development (“DMD”) to enter into a service agreement (“Service Agreement”) with the Marion County Wellfield Education Corporation to provide wellfield education and voluntary business registration in Marion County through December 31, 2024 in an amount not to exceed \$110,000 per year.

WHEREAS, City-County Council Special Resolution No. 69, 1997 authorizes the creation of a nonprofit corporation, the Marion County Wellfield Education Corporation, to carry out wellfield education and voluntary business registration to protect the quality of water drawn from public wells in Marion County; and

WHEREAS, the Marion County Wellfield Education Corporation, a nonprofit corporation registered with the State of Indiana, is qualified to conduct wellfield education and voluntary business registration in Marion County; and

WHEREAS, DMD’s Wellfield Protection Zoning Ordinance establishes authorization for the annual assessment of a Groundwater Protection Fee from each of the public water utilities that serve customers in Marion County to ensure funding for costs associated with wellfield education and voluntary business registration; and

WHEREAS, DMD desires to enter into a service agreement with the Marion County Wellfield Education Corporation to provide wellfield education and voluntary business registration in Marion County through December 31, 2024.

NOW THEREFORE, BE IT RESOLVED by the Metropolitan Development Commission, that the Department of Metropolitan Development is hereby authorized to enter into a service agreement with the Marion County Wellfield Education Corporation to provide wellfield education and voluntary business registration in Marion County through December 31, 2024 in an amount not to exceed \$110,000.00 per year.

Dated: _____

John J. Dillon III, President
Metropolitan Development Commission

Approved as to Legal Form this 25th day of May 2022.



Christopher Steinmetz
Assistant Corporation Counsel

**METROPOLITAN DEVELOPMENT COMMISSION
MARION COUNTY, INDIANA
RESOLUTION NO. 2022-FS-001**

WHEREAS, the Metropolitan Development Commission of Marion County, Indiana (the "Commission") is authorized to approve the employment of all persons engaged by contract to render professional or consulting services for the Department of Metropolitan Development ("DMD"); and

WHEREAS, the Department of Metropolitan Development (DMD) is in need of grant writing and program development services and Trajectory, LLC, has experience providing such services;

WHEREAS, Trajectory LLC, has been providing such grant writing and program development services to DMD;

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Development Commission of Marion County, Indiana as follows.

1. The Commission hereby authorizes DMD to extend the services agreement with Trajectory, LLC, adding \$6,875 with a new amount not to exceed of \$16,625 for grant writing and program development services. The Commission hereby finds and determines that the use of these services will be in the best interest and for the benefit of the City of Indianapolis.
2. The Director of the Department of Metropolitan Development is hereby authorized and directed to take such further actions and execute such documents as she deems necessary or advisable to effectuate the authorizations set forth in this Resolution.
3. This Resolution shall take effect immediately upon adoption by the Commission.

Approved as to Legal Form and Adequacy:

Metropolitan Development Commission:



Katelyn Campbell, Asst. Corp. Counsel

John J. Dillon III, President

Date: 5/24/22

Date: _____