Tuesday, March 7, 2017, 4:00 PM
K.K. Gerhart-Fritz, FAICP, President,
The Planning Workshop, Inc.
PHILOSOPHY OF PLANNING

• **One of the reasons communities plan is to ensure that the needs of the whole community are considered, not just benefits to individuals.**

• **Community planning is based upon a concept of protecting the public interest.**

• **Some flexibility in the use of individual land is given up in exchange for creating a community in which the interests of all are considered.**
GOVERNMENT FRAMEWORK

• Planning & Land Use Control -- Local

• Parameters Set by Enabling Act -- State

• Planning & Zoning Enabled and Upheld -- Federal
PLANNING IN INDIANA

- Indiana’s planning laws are more minimal than most states
- Planning and Zoning is not mandatory — up to each local government (City, Town, County to choose)
- If you choose to have Zoning, Indiana Code requires that you have a Plan
- >90% of Indiana Counties have Plan Commissions, Every City?, Most Towns
LOCAL PLANNING STRUCTURE

- Governing Body
  - County Commissioners
  - Town Council
  - City Council
  - Plan Commission
  - Board of Zoning Appeals

If it is confusing to us, think how confusing it is to the public!
LOCAL GOVERNING BODY
COUNTY COMMISSIONERS, TOWN COUNCIL OR CITY COUNCIL

• Elected
• Power to adopt comprehensive plan
  • Governing body must adopt, IC 36-7-4-509
• Power to adopt zoning ordinance
• Power to adopt subdivision ordinance
• Appoints board & commission members
• Capital investment decisions & budgets for towns & cities
BOARD OF ZONING APPEALS

- Appointed
- Quasi-Judicial
- Power to Grant Special Exceptions/Conditional Uses
- Power to Hear Appeals
- Power to Grant Variances
PLAN COMMISSION

• APPOINTED OR SERVE BY VIRTUE OF THEIR OFFICE PER SATE LAW (I.E., CITY ENGINEER, COUNTY SURVEYOR, COUNTY EXTENSION AGENT

• Raise your Hand if you serve on the Plan Commission

• Prepares* Comp Plan & Amdts (IC 36-7-4-501)
• Prepares* Zoning Ord & Amdts (IC 36-7-4-602A)
• Prepares* Sub Regs & Amdts (IC 36-7-4-701B)
• Provides Rezoning Recs (IC 36-7-4-602B)
• Provides Comp Plan & Zoning Ord Recs
• Subdivision Plat Approval & Development Plan Approval

* With help from Staff, Consultants, Volunteers
1) TO REPRESENT THE REST OF THE COMMUNITY.
   - HOW DOES THE COMMUNITY GIVE YOU DIRECTION (2 WAYS)?
2) TO EDUCATE YOURSELF AND OTHERS ON THE ISSUE(S).
3) TO SUPPORT THE PROCESS AND RECOGNIZE THE ROLES OF THE OTHER PARTICIPANTS.
4) TO MAKE A DEFENSIBLE DECISION.
LOCAL GOVERNMENT REVIEW

• Which of those is **most powerful**?
  • Local Governing Body
  • Plan Commission
  • BZA

• **What does that suggest regarding planning?**

There are several other participants in the planning process - these are just local government participants.
WHO DOES THE PLANNING?

• In Indiana, it is the plan commission’s responsibility to prepare and adopt a plan and to recommend it to the city or town council or county commissioners for adoption.

• The plan commission may be assisted by staff, by consultants, by volunteers, or by any combination.
COMPREHENSIVE PLAN – THE MOST IMPORTANT LOCAL PLANNING POLICY

• Guideline, not ordinance
• Long-range (20+ years)
• Covers entire jurisdiction (and maybe more)
• Traditionally addresses physical elements
TOP IMPLEMENTATION TOOLS

- Best or worst way to implement your comprehensive plan:
- Zoning & Subdivision Ordinances (or Unified Development Ordinance)
WHO REVIEWS PLAN COMMISSION APPLICATIONS?

- **Planning Staff** – not everyone has
- Technical Review Committee (Recommended, not required)
  - Should include city engineer, county surveyor & other local technical experts
- **Plan Commission Members**
REZONINGS – PLAN COMMISSION MAKES RECOMMENDATION TO LEGISLATIVE BODY, NOT FINAL DECISION

IC 36-7-4-603 REZONING CRITERIA

THE PLAN COMMISSION AND THE LEGISLATIVE BODY SHALL PAY REASONABLE REGARD TO:

(1) THE COMPREHENSIVE PLAN;

(2) CURRENT CONDITIONS AND THE CHARACTER OF CURRENT STRUCTURES AND USES IN EACH DISTRICT;

(3) THE MOST DESIRABLE USE FOR WHICH THE LAND IN EACH DISTRICT IS ADAPTED;

(4) THE CONSERVATION OF PROPERTY VALUES THROUGHOUT THE JURISDICTION;

AND

(5) RESPONSIBLE DEVELOPMENT AND GROWTH.
SUBDIVISION PLATS – PLAN COMMISSION MAKES FINAL DECISION OR DELEGATES TO PLAT COMMITTEE FOR FINAL DECISION

SUBDIVISION CRITERIA:

• THERE ARE NO STATE LAW CRITERIA LIKE FOR ZONING. EACH COMMUNITY SETS THEIR OWN STANDARDS — TAKE ADVANTAGE OF THIS!

• FOLLOW YOUR STANDARDS -- IF PROPOSED PLAT MEETS ALL SUBDIVISION ORDINANCE STANDARDS, THEN PLAN COMMISSION MUST APPROVE IT!

• IF YOU DON’T LIKE YOUR STANDARDS, CHANGE THEM!

• LEGISLATIVE BODY ONLY SEES PLAT FOR ROW DEDICATION OR BONDING
DEVELOPMENT PLANS - PLAN COMMISSION MAKES FINAL DECISION

DEVELOPMENT PLAN CRITERIA:

- **There are no state law criteria like for zoning. Each community sets their own standards — take advantage of this!**

- **Follow your standards -- if proposed plan meets all zoning ordinance standards, then Plan Commission must approve it!**

- **If you don’t like your standards, change them!**
MAKING A DECISION

• **What are relevant issues in a subdivision hearing?**

  • Previous and future uses, street standards, street patterns, traffic, sidewalks, drainage, flooding, soil conditions, topography, lighting, provision of services, lot layout, street names, easements, utilities....

• **What isn't appropriate in a subdivision hearing?**

  • Sentiment (children playing ball on it now, losing your pretty view), emotions (don't like the applicant), rehashing the past, subjectivity
**Making Good Decisions**

- **Plan Commission can’t grant unless criteria/standards are met, whether from State Law (Rezonings) or local ordinances (Subdivision Plats, development plans)**

- **Must meet all criteria/standards for approval or have a darn good reason not to (Subdivision modification granted, etc.).**

"2 out of 3 is bad!"
FINDINGS OF FACT

- **IC 36-7-4-707** requires the Plan Commission or Plat Committee to make written findings for either an approval or denial of a plat. For a denial of a plat, the findings must set forth your reasons for that denial.

- **IC 36-7-4-603** requires the Plan Commission to make findings for rezoning.

A Plan Commission... is required to make findings of fact upon which its decisions are predicated.

-- **Hills vs Area Plan Commission of Vermillion County, App. 1 Dist. 1981, 416 NE 2d 456**
4 LOCAL DOCUMENTS YOU NEED:

- Comprehensive Plan
- Zoning Ordinance
- Subdivision Ordinance
- Rules of Procedure
ROLE OF PLAN COMMISSION MEMBERS AT THE MEETING

• Be familiar with the material — don’t open packet at the meeting
• Have a public discussion — don’t pass notes or whisper
• Explain the vote
• Make sure your input is meaningful
• **AFTER PUBLIC HEARING, PLAN COMMISSION MUST ARRIVE AT DECISION OR RECOMMENDATION.**

• **ISSUES OFTEN COMPLICATED, AND DECISION-MAKING IS DIFFICULT.**
DECISION-MAKING CONCERNS

- **Peer Pressure** -
  - Resist it!
  - Do not want to offend colleagues or appear to be unconventional or uncooperative.
  - Represent a variety of views, so there is no reason why decisions should always be unanimous.

Your Turn to get the Plan Commission Tattoo!
DEcision-Making Concerns

Public Pressure

- Difficult to make unpopular decision, especially in small towns & rural areas.
- Audience isn’t always right; doesn’t represent whole community.
- Proposed land use changes generate emotional responses.

Always remember: Popularity is not an indication of quality.
DECISION-MAKING CONCERNS

- **Developer & Business Pressure**
  - Represents one view, aimed at reducing costs and increasing profits.
  - Plan Commission should not accept inappropriate development to provide profits.
DEcision-Making Concerns

- **Political Pressure** --
  - Occasionally elected officials lobby for certain votes.
  - Plan commissions intended to be independent bodies — obligated to vote for good planning.

Different Perspectives!

*No heart, no brain and no courage. Guys, why are you not politicians?*
DECISION-MAKING CONCERNS

- **Compromise** --
  - **Want to find a middle position between developers and opponents.**
  - **Can leave everyone unhappy when neither side gets what it wants.**
  - **Developers quickly learn the compromise game, asking for more than they want or expect, in order to end up with the project they initially desired.**
  - **Compromise works if commission can broker a win-win solution, but regular compromise won't result in good development.**
DECISION-MAKING CONCERNS

- Outside influences --
  - Members interact with people in their daily lives who wish to influence their opinion or vote
  - Ex-Parte Contact is illegal for BZA per state law, but not Plan Commission
  - Good practice to refrain from discussions, because interferes with due process and inconsistent with the goals of the Open Meeting Law.
  - If contact can't be avoided, explain that it will be reported at the public meeting.
THE END – QUESTIONS?
K.K. Gerhart-Fritz, FAICP, President
The Planning Workshop, Inc.

Communication + Education = Effective Planning

7829 Wawasee CT.
Indianapolis, IN 46250

317-501-1988
KK@theplanningworkshop.com