

Sensible Tools Handbook for Indiana



A GUIDANCE FOR PUBLIC OFFICIALS, PROFESSIONALS AND CITIZENS
INTERESTED IN APPLYING SENSIBLE GROWTH

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 NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION

2007

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THE MODEL FOR THIS HANDBOOK WAS *SENSIBLE TOOLS FOR HEALTHY COMMUNITIES: A DECISION-MAKING WORKBOOK FOR LOCAL OFFICIALS, DEVELOPERS AND COMMUNITY LEADERS*, PREPARED BY **DOUGLAS R. PORTER** FOR THE CAMPAIGN FOR SENSIBLE GROWTH, METROPOLITAN MAYORS CAUCUS AND METROPOLITAN PLANNING COUNCIL. ALL THREE ORGANIZATIONS WORK THROUGHOUT THE GREATER CHICAGO REGION. THE INTENT OF THE SENSIBLE TOOLS HANDBOOK IS TO PROVIDE USEABLE TOOLS FOR LOCAL COMMUNITIES TO PLAN FOR AND RESPOND TO PLANNING AND DEVELOPMENT CHALLENGES. THE AUTHOR AND STEERING COMMITTEE, NEVERTHELESS, REMAIN INDEBTED TO DOUG PORTER AND THE THREE ORGANIZATIONS FOR THE CONCEPT AND FOR THEIR WILLINGNESS TO SHARE CONTENT. MORE INFORMATION ON THE THREE ORGANIZATIONS CAN BE FOUND AT www.growingsensibly.org, www.metroplanning.org AND www.mayorscaucus.org

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SENSIBLE TOOLS HANDBOOK FOR INDIANA

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CHAPTER 1



Introduction

Introduction

Purpose of this Handbook

This is a guidebook to the implementation of principles of Sensible Growth in Indiana. It is intended to serve as a reader, reference source, and handbook for public officials, professionals and citizens interested in applying principles of good planning and Sensible Growth in their communities. The workbook is based upon Indiana planning and zoning law and best practices of smart growth that have been applied within the state.

How to Use this Book

Introduction

This introductory chapter includes this brief guide on “how to use this book,” a brief discussion of the basic principles of Sensible Growth, and a glossary.

Check-up Tools

Chapter 2, “Planning and Preparing for Sensible Growth,” describes the basic tools that a community should have in place to help guide Sensible Growth. Those tools include:

- A comprehensive plan
- Additional plan elements for a Sensible Growth plan
- Capital investment strategies to support Sensible Growth
- A zoning ordinance that includes Sensible Growth tools and standards
- A subdivision ordinance that includes

Sensible Growth tools and standards

- Supplemental growth management tools, including annexation plans, adequate public facilities controls and impact fees.

For each of these tools, there is a checklist to be used by local officials to diagnose existing local plans and regulations and to compare those existing tools to those needed to implement Sensible Growth.

Decision Guides

Chapter 3, “Making Sensible Decisions about Growth,” describes the major decisions about land-use and development that local officials are asked to make and includes checklists of questions to use in determining whether a particular proposal is consistent with principles of Sensible Growth.

Reference

Appendix A sets out the policies and principles of Smart Growth or Sensible Growth adopted by other organizations. The definition of Sensible Growth in the next part of this chapter was in substantial part synthesized from those sources.

Appendix B includes selected excerpts from the Indiana Code, with commentary by the author. The Indiana Code contains an entire chapter of several hundred pages on planning, zoning, and related issues. These brief excerpts include many of the most important sections of the code, with brief explanatory commentary.

Defining Sensible Growth

The concept of sensible growth has evolved from interest in “smart growth” that began in the 1980s and that spread around the country late in the 1990s and into the new century. The concept brings together two compatible but different ideas: first, the need for sound planning as a basis for decisions about growth; second, the application of common sense to many of the growth issues facing communities today.

Smart growth has attracted many supporters, ranging from the Sierra Club to the National Association of Home Builders. At least two national coalitions have been organized around the concept, and the Environmental Protection Agency has created a significant resource guide for those interested in smart growth principles.

To some extent, each organization that has adopted or published principles of smart growth or sensible growth has put its own “spin” on the term. But there are many common elements to those principles.

- Compact, Contiguous Growth
- Redeveloping Built-Up Areas and Emphasizing Infill
- Encouraging Mixed Uses
- Providing Travel Choices
- Protecting and Respecting Natural Resources
- Creating a Range of Housing Opportunities
- Creating Livable Neighborhoods
- Promoting Economic Development
- Creating Affordable Growth

Appendix A provides summary versions of some of the major sets of principles of smart growth adopted or published by national organizations, as well as the list of principles from the Illinois handbook on which this document has been modeled. At the end of the appendix is a table that identifies common themes running through the various statements on smart growth.

Compact, Contiguous Development

Compact, contiguous development is important because:

- It conserves land. Developing 400 new homes (enough for 1,000 people) at 1 unit per acre consumes 400 acres of land; at 4 units per acre, which was a very traditional density for many nice, new neighborhoods in the 1960s and 1970s, requires 100 acres of land. The difference is 300 acres of land that remains as open space – often as productive farm land. Leapfrog development is even more destructive, because one subdivision of 40 or 50 homes surrounded by farms can lead to disputes that disrupt the farmers’ ability to operate their heavy machinery, to apply typical farm chemicals and even to keep their fields free of invasive species. One subdivision of 50 homes on 60 acres or so may hurt the ability of farmers on 400 or 500 surrounding acres to continue to farm.

- It saves money.

Sprawl is expensive. Paving the roads and laying the utility lines for houses on one-acre lots is roughly twice as expensive as providing the same facilities for homes on one-quarter acre lots.

Taxpayers will pay the long-term maintenance costs, which are also double. Some low-density development and much leapfrog development is built without such basic services as sewer and sidewalks. Retrofitting such developments with those services is far more expensive than providing them in the first place to compact, contiguous development.

- Compact and contiguous development allows more people to live near parks and schools – as well as shopping centers and movie theaters – without building more facilities.
- Compact development forms a basis for creating neighborhoods, not subdivisions.
- Compact and contiguous development creates a pattern that facilitates providing travel choices.

Redeveloping Built-Up Areas and Emphasizing Infill Development

This is the corollary of the first issue – development that occurs in existing, developed areas is by definition contiguous and is usually compact. It is also development that does not take undeveloped land.

It is also important to encourage infill and redevelopment because:

- Such development fills gaps in the urban fabric.
- Reinvestment in such development often encourages other redevelopment.
- Redevelopment in existing areas generates tax revenues for the local governments that serve the older parts of the community.



Fall Creek Place, Located two miles north of Downtown Indianapolis. In less than five years the neighborhood, with federal redevelopment fund, has changed from having the highest crime rate in the city to one where you can always find families pushing strollers or walking dogs. Vacant lots, abandoned homes and dilapidated homes were acquired, new streets, sidewalks, lighting, utilities, and trees were installed, and special financing packages were assembled for homebuyers. (source: www.fallcreekplace.com)

- New housing development in older areas may generate enough students to keep neighborhood schools open.
- Redevelopment typically brings people, and people bring activity, and activity brings life to the city and safety to its streets.

Smart Growth and Brownfields Redevelopment in Gary, Indiana

This is a critical time period for Gary's future economic and environmental redevelopment planning. The downsizing of industry and population which resulted in scores of brownfields sites throughout the city has provided an unprecedented redevelopment challenge and an opportunity for community re-visioning and in-fill re-uses. "Anchor" redevelopment projects have been initiated in Gary's Downtown, Lakefront, Airport Development Zone, and the Horace Mann, Small Farms and University Park neighborhoods. In addition to their specific development focus, all of these projects encompass brownfields redevelopment, green space restoration and preservation, and other Sensible or Smart Growth applications. It makes common sense that Gary's plans for revitalization should be based on sustainable development and smart growth principles. The city has been attempting, on a case-by-case basis, to incorporate Smart Growth planning into these development projects, but an underlying regulatory framework is needed. For this reason, the City of Gary has embarked on a USEPA Smart Growth and Brownfields Redevelopment grant funded project to review and revise the city's Zoning Code to remove barriers to Smart Growth. The adoption of the Smart Growth approach will insure Quality of Life improvements for Gary's population and attract new business and residents to the community. In addition, redevelopment of the core cities and re-use of existing infrastructure will reduce the development of greenfield sites and urban sprawl in our region.



The Horace Mann Hope VI residential project in the heart of downtown Gary provides a variety of housing options blending market rate with public and low income tax credit housing. The new development is pedestrian friendly and just blocks from City Hall, the Hudson Campbell Fitness Center and the Adam Benjamin Transportation Center for bus and rail access. Source: City of Gary, IN

NewPorte Landing is a proposed redevelopment and transformational opportunity for City of La Porte, IN. Currently, the area is neglected and deteriorated and its lack of investment have made it a blighted area. The area has serious and long standing environmental issues.

The proposed concept plan provides improved access and connection of pedestrian, automobile, and bicycle travel with the rest of the City. The Plan focuses on recreation and natural amenities. It proposes new commercial and residential developments.

Source: City of La Porte, IN



Encouraging Mixed Uses

Traditional neighborhoods in this country typically include single-family residences, apartments, grocery stores, hair salons, casual restaurants and even small medical and dental offices. In such neighborhoods, people could walk to providers of some of their day-to-day needs. As people walked to the stores or ate at neighborhood restaurants, they saw other people who lived near them and gradually built a true sense of neighborhood. The walkability of the neighborhood reduced automobile traffic and resulting congestion and air pollution. With apartments and townhouses (row houses) in the same neighborhood, it was possible for families with children, the grandparents of those children, and young people just out of school all to live in the same neighborhood, creating a context for extended families.

Zoning began with the concept that some uses should be separated from one another. Certainly the idea of separating a nuclear power plant or slaughterhouse from a residential area still makes a lot of sense. Modern environmental laws, however, have reduced the negative effects of many other types of businesses, making them better neighbors.

A true mixed-use neighborhood, with a neighborhood commercial area, creates a pattern of development that is transit-friendly a bus stop in the neighborhood

commercial area is likely to make sense for the bus operator as well as for residents of the area.

Providing Travel Choices

Travel choices are an important element of smart growth because:

- With gasoline prices having reached record high levels during the preparation of this report, traveling one-person per car has become very expensive for everyone and unaffordable for some.
- Given the choice, many people like to walk or ride bicycles as a primary form of transportation for some purposes, but our urban form often discourages that.
- Individual automobiles are a major source of air pollution; they operate less efficiently than they were designed to do and thus generate more pollution than they should when they are stuck in traffic.
- Expanding road systems is one of the most expensive undertakings of state and local governments. To the extent that we reduce travel demand with transportation choices, we reduce the need to expand roads.
- Well-operated, well-used mass transit systems offer a comfortable, convenient and safe alternative to individual



automobiles. Although many areas lack mass transportation systems that meet this definition, there is a much better opportunity for the creation of such systems if the pattern of development is one that facilitates the use of transit.

Protecting and Respecting Natural Resources

Congress and the state legislature have adopted comprehensive programs to control water pollution and air pollution, to halt irresponsible contamination of the land, and to clean up some of the environmental messes left from the past. Why, then, is it important to consider these issues locally?



- Local issues are often unique. A historic oak tree in the heart of town or the last standing hardwood grove in the county may be of little significance on a state or national scale, but they may be very important locally.
- Many environmental impacts are most significant at the local level. Although air pollution generated from tall stacks may blow to Canada (some of it does) and water pollution discharged at the low end of the county may travel elsewhere, many environmental issues affect people who live near their sources most. For example, contamination of the groundwater is likely to affect local well users

long before it reaches rivers and streams and draws the attention of state and federal agencies.

- Many federal and state laws are performance based. As long as the air quality and the water quality in the area are generally good, those laws may not protect some values that are important locally.
- Federal and state laws generally do not prevent bad decisions about land – they just prevent irresponsible contamination. In many cases, a developer can level a hill or



fill a valley essentially free of federal regulation; only if the fill goes so far as to affect “navigable waters of the United States” is there any federal or state regulation of such activities. Thus, to the extent that there are natural features or key natural resources that people value in the community, local controls are the best way to protect them.

- Any change in the community will have an impact on the environment. Is it more important to a particular community to protect

the gentle forested slope on the north side of town, the remnant prairie on the west side, or the rich farmland on the east side? If the community wants to grow, it will have to make such choices – and such choices are often made best at the local level.

Creating a Range of Housing Opportunities

Having a range of housing opportunities in a community is important for many reasons:

- Lively, interesting communities include people with many different backgrounds and many types of lives.



Coffee Creek, Chesterton, IN: Morgan's Corner brings back the traditional neighborhoods of the past—those with neighborhood parks, front porches, sidewalks, and the sense of community that defines Coffee Creek Center.

Source: <http://www.coffeecreekcenter.com/>

- A community should house its teachers and firefighters, its laborers and janitors, as well as its doctors and lawyers.
- Sociological studies have shown that healthy communities typically include people at many different stages of life – parents with young children, older parents with teenagers, young couples and singles just starting out, empty nesters, retired persons, and people who, because of age

or other condition, may need some help with their day-to-day living.

- Collaborative working relationships can provide a basis for leveraging funds for affordable housing.
- There are poor people and homeless people almost everywhere, although they are often essentially invisible to most people. Those people are not someone else's problem – they are the community's challenge and opportunity.
- Housing costs have increased significantly, particularly in the last quarter of the twentieth century and the first few years of the following one. Thus, housing has become less affordable for more people.

Creating Livable Neighborhoods

A neighborhood is the level of community with which most people most closely identify. The neighborhood provides the social, physical and, often, economic contexts that most affect the lives of people. Providing a high quality of life in a community starts with creating livable neighborhoods.



Promoting Economic Development

Economic development is critical to the future health of a community.

- **Jobs.** Many of the businesses that, a mere generation ago, employed hundreds of thousands of Hoosiers, have closed or down-sized to the point that they hardly exist. Communities need to replace those jobs.

Economic Base. The economic base is that part of the local economy that brings in money from outside the community. Money flows out of a community every day, as people buy clothing, cars and cleansers that are made elsewhere. It is essential to bring money back in. Agriculture is part of the economic base, manufacturing is part of the economic base, logistics and warehousing are part of the economic base. However, a new retail store or fast-food restaurant is not part of the economic base, even if it employ lots of people; it simply recycles money that is already in the community and then ships part of it out to buy supplies.

- **Tax Base.** Indiana, far more than most states, forces its local governments to rely on property taxes to support local needs, including many of the expenses of operating schools. Bringing in new industry – or even new retail uses – expands the tax base, typically without significantly increasing local costs. With a different system of taxation, the fight for tax base would be less important but, as this hand-

book is written the fight for tax base is critical to the survival of many communities.

Creating Affordable Growth

Many of the costs of growth are experienced at the local level. Many rapidly growing communities find that they enjoy new tax revenues but that new costs increase more rapidly than income – leaving the communities worse off than they were before the growth and the increased tax revenues came along. Some of the factors in this equation are:



- The cost of building new roads, sidewalks, parks and other infrastructure is paid in part by developers, but much of the cost is also paid by local taxpayers.
- The cost of expanding schools in Indiana is largely paid by local taxpayers.
- The cost of extending utility lines is usually paid by developers, but the costs of major expansions to sewer and water plants are spread among local rate payers.
- The increased costs of maintaining expanded facilities is spread among local taxpayers and rate payers.

To the extent that a community cannot afford to – or does not choose to – expand its facilities to meet the demands of

growth, local facility users pay the social costs of a reduced level of service.

- When developers are allowed to create new developments without sewers, sidewalks and other basic infrastructure, local taxpayers and ratepayers are very likely to wind up paying at least a portion of the costs of providing that infrastructure at some point in time.

New growth almost always costs the community some money, but new growth that is compact and contiguous, that is well planned, and that includes a mix of uses, will typically pay for itself. It is not reasonable to expect every new development to bring in more tax dollars than it costs. Because of Indiana’s school financing system, housing for families will almost always be at least a short-term fiscal drain on the community. It is, however, reasonable to expect that well-planned growth of the community will, overall, have a neutral or even positive fiscal impact on the community.

The Portage Northside Plan is one of the identified sub-areas of the Marquette Plan Phase I (see page 31). The catalyst for this sub area is a reclaimed sixty-acre lakefront parcel of land slated to be co-developed between the City of Portage and National Park Service as new lakefront parkland adjacent to lands within the Indiana Dunes National Lakeshore. Coupled with its location along the Burns Waterway, proximity to a South Shore commuter rail station, a public marina slated for expansion, and a new waterfront/marina residential development and a new industrial/office/mixed use development already under construction.

Source: City of Portage, Planning Department



Courtesy of City of Portage

Glossary

Cluster Development

Arrangement of development on one part of a site to save open space in the remainder of the site without a reduction of the total amount of development on the site.

Compact Development

“Compact” is a term used to describe the density or intensity of development. Under traditional planning principles in small and midsize cities and towns, residential development should have a density of at least four dwelling units per acre to be considered compact. The term is relative, and densities should be higher in urban areas where attached and multi-family dwelling units are common.

Comprehensive Plan

The term used in Indiana law to describe a local government’s plan for its physical future. (See discussion in Chapter 2). In some states and in much local practice, the term “master plan” is used to refer to the same document. “Comprehensive plan,” however, is the operative legal phrase in Indiana.

Conservation Subdivision

A phrase coined by planner Randall Arendt to describe a form of cluster development designed specifically to

preserve significant features of the cultural landscape, such as stands of woods, stream valleys, and even farmland. The term is slightly misleading, as most conservation subdivisions are neither compact nor contiguous to existing development and thus do not achieve some of the



Harrison West, Valparaiso, IN: A 2003 Governor's Award winning for Environmental Excellence—Land Use. The subdivision was planned to include a Tree Preservation Program and a Lot Restoration Program with Sustainable Site Designs, Conservation Zones, and Vegetated Swales.

Source: <http://www.wagnerhomes.com/hwest.htm>

conservation goals of sensible development. They do represent an environmentally responsible approach to rural subdivisions and one that preserves some of the rural cultural landscape.

Governing Body

A phrase used in this handbook to refer to the elected legislative body for a local government – a town council, city council (sometimes called “common council”) or board of county commissioners.

Green Infrastructure

A term used generically in some communities to refer to parks, greenways, and other forms of permanent public or quasi-public open space. See example in the following page.



Monon Trail, Indianapolis

Greenways

Tracts of land that connect one preserved area to another, often including a hiking or bicycling trail.

Growth management

Tools and techniques for addressing the timing and location of growth (See discussion in Chapter 2).

Infill Development

New development or redevelopment within

the developed part of an existing community. This term is most aptly applied to development on an existing lot or group of lots that are served by existing streets and utilities.

Leapfrog Development

A new subdivision or other development that is separated from the community to which it most closely relates by undeveloped land that could be available for development.

Master Plan

See “Comprehensive Plan.”

Mixed Land Uses

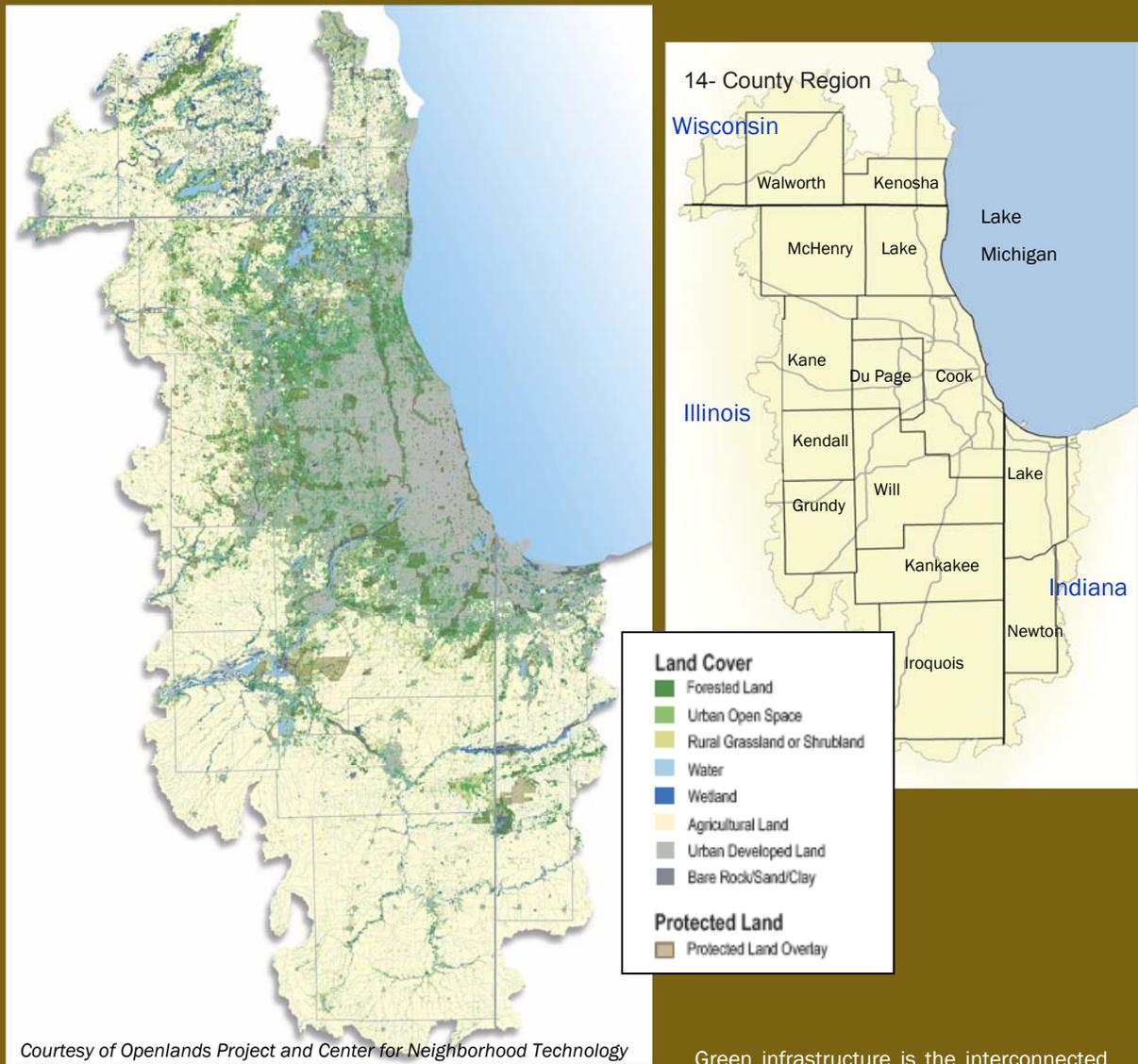
A pattern of development that includes



*New mixed used development in West Lafayette, Indiana
Courtesy of Planning With POWER Project, Purdue University*

more than one type of land use. This term is best applied to development that is planned to make those uses part of a larger whole, rather than simply different uses that happen to be next to one another. The most common mixture involves multi-family residential and commercial uses in the same development

NATURAL CONNECTIONS : Green Infrastructure in Wisconsin , Illinois , and Indiana



Courtesy of Openlands Project and Center for Neighborhood Technology

Green infrastructure is the interconnected network of land and water that supports native species, maintains natural and

ecological processes, sustains air and water resources, and contributes to the health and quality of life of people and communities. This map uses sub-watershed boundaries for its borders to illustrate how the regional fabric of green infrastructure stretches across state and county lines, ignoring political boundaries.

This map was created to be used as a tool for creating linkages between existing protected lands and for identifying opportunities for natural resource protection and restoration. As the map shows, the region has vast green infrastructure resources, but only a limited amount is currently protected and many protected areas are isolated from each other. Strategically focused efforts to protect more green infrastructure and create new linkages are crucial.

Source: <http://www.greenmapping.org>

(much like a downtown in an Indiana small town in the 1950s or before), although mixed-use projects may also include single-family homes, offices and even light industrial uses.

New Urbanism

Design concepts that build on the strengths of neighborhoods built in this country primarily in the late nineteenth century and before World War II. Those neighborhoods are often characterized by a gridiron street pattern, relatively small lots, and relatively small front yards.

Plan Commission

An appointed body established by one or more local governments in accordance with Indiana law. That body has responsibility for preparing the comprehensive plan, advising the governing body on zoning and other planning matters, reviewing particular matters before they go to the governing body, and making decisions under local subdivision control ordinances.



Aberdeen, Valparaiso-IN: A golf course community developed by using PUD zoning. It includes mixed uses, commercial, offices and residential development. The subdivision was planned to preserve natural features.

Planned Unit Development

A form of flexible zoning that gives a developer more ability to design a development that fits the topography of the site (“Design with Nature”.) Planned unit developments, or PUDs, typically include characteristics of cluster zoning but often also include mixed uses and/or significant amenities, such as golf courses, large



A commercial building located by the main entrance of Aberdeen

recreational areas, or other public or quasi-public spaces.

Smart Growth

A term first used in Maryland to describe patterns of growth that were generally compact and contiguous to existing development and that, as a result, were far less expensive to provide with public services than scattered and leapfrog sprawl.

Subdivision

A subdivision is the division of a tract or parcel of land into two or more lots or parcels. Local subdivision control the applicability is triggered by the act of subdivision. See discussion in Chapter 2.

Sustainable Development

Development that reduces the demand for energy and nonrenewable resources. Indiana's "Biotown" pilot project at Reynolds is intended to create a community that will be sustainable from an energy perspective. Sensible growth includes many elements designed to make development of land, but their ordinances are actually ordinances that make a development more sustainable than other development alternatives, but little urban or suburban development in this country even approaches real sustainability.

Traditional Neighborhood Development (TND)

Neighborhood designs that include features of typical pre-1940s development, such as mixed-uses, pedestrian friendly streets, and homes with front porches.



Millennium Place, Muncie, IN



Coffee Creek, Chesterton: a new community built with TND concepts, which includes houses with front porches.

Transit-Oriented Development

Development focused around transit stations that is designed to improve transit use and neighborhood walkability. This type of development is most important in areas with established mass transit systems –



particularly those that operate on fixed-rail – but it is

possible to create new developments even in exurban areas that will facilitate future connections to transit service.

Walkable Community

A pattern of development that places residences in close proximity to such conveniences as schools, parks and small commercial centers, and that provides safe and attractive pedestrian connections to link residential neighborhoods to these facilities.

Zoning

A regulatory system that divides a community into zones, or zoning districts, and that prescribes specific development regulations for each district. The basic elements of zoning regulations establish permitted uses, intensity of uses, and dimensional and bulk controls for each district. (See discussion in Chapter 2).

CHAPTER 2



Planning for Sensible Growth

Planning for Sensible Growth

The Comprehensive Plan as the Foundation

Introduction

Planning is the essence of Sensible Growth, and the comprehensive plan is the essence of community planning. Most communities have more than one plan. Parks plans, neighborhood plans, school plans, transportation plans, trails plans, downtown development plans, and economic development plans are typical types of plans adopted by local governments or other community groups. All of those plans have value, but it is important to have a larger context that fits all of the plans together. That is the role of the comprehensive plan, or master plan; those two terms are used almost interchangeably by local governments, but “comprehensive plan” is the term used in the state law and thus is the term used here.

What Does “Comprehensive” Mean?

There are three characteristics that make a comprehensive plan different from other types of plans:

1. It is relatively long-range;
2. It includes the entire geographic area for which the local govern-

ment adopting it has, or may have, responsibility;

3. It includes or incorporates plans for all of the physical systems within that geographical areas.

It is important to review each of those concepts in a little more depth:

Long Range

The typical planning target for a comprehensive plan is about 20 years. Local implementation plans – such as the capital budgets for roads and schools – will be much shorter in range, typically about five years. The comprehensive plan will necessarily be less detailed and is likely to be less accurate in its forecasts than shorter range plans, but it provides an important context for the shorter-range plans. For example, if a community plans a new cross-town arterial road or a beltway around part of the community, it is likely to take more than five years to build all of the pieces. It is critically important, however, that, as the pieces are built, they all connect to one another. The comprehensive plan provides the context for the shorter range plans, ensuring that they connect. If a community wants to plan for a new kind of industry, it may need to reserve land for that purpose and ensure that access to the land is not eaten away

with a series of commercial developments along the roadway serving the property.

Entire Geographic Area

The larger the geographic area included in a plan, the more useful the plan will be over the long-run. A comprehensive plan for a city or town should include all of the area within the municipal limits, plus areas in which the city or town provides services such as sewer and water and areas that it wants to consider for future annexation; under Indiana law, those areas are generally included in the planning jurisdiction of a municipality. For a county, the comprehensive plan should include all of the unincorporated territory in the county. Under the area plan commission model in Indiana, a county and one or more municipalities share a plan commission and plan together, but other local governments can cooperate in local planning efforts under interlocal agreements.

All Physical Systems

The comprehensive plan should address at a minimum plans for roads and other transportation systems, private land-use, major public facilities, publicly provided sewer and water services, and parks and open space. To the extent that a community has separate plans for such geographic areas as downtowns and neighborhoods, those plans should fit into the larger plan; if the community has already adopted plans for some areas of the community before completing a comprehensive plan and leaders are still

satisfied with those plans, they can simply be incorporated into the larger plan.

Required Elements of a Comprehensive Plan

The text in this subsection explains what makes a comprehensive plan comprehensive, but it is also important to consider exactly what is contained in a comprehensive plan. Under Indiana law, there are three essential elements for a comprehensive plan:

1. **A statement of objectives for the future development of the jurisdiction.** It is perhaps more appropriately termed a statement of goals – that is, a statement of what the community wants to accomplish through the plan.
2. **A statement of policy for the land use development of the jurisdiction.** The most typical form of this statement is a future land use map. Projecting future land-uses for health, established neighborhoods and commercial areas is relatively easier than determining the future land use for a vacant piece of property. Ideal sites for apartment buildings, medical buildings, neighborhood shopping centers, and office buildings all have a great deal in common, and one or all of those may be a suitable use of a particular piece of land along a busy thoroughfare.

Traditional land-use planning has

typically designated specific land uses for each location. One of the goals of Sensible Growth is to include more mixed-use; it is important to reflect the intention to mix uses on the future land-use plan, because people will rely on that plan in making decisions about buying and developing land.

3. **A statement of policy for the development of public ways, public places, public lands, public structures, and public utilities.** The future land-use policy of future governmental facilities is important because the government has more control over them. Thus, it is extremely important that the plan show existing future streets, roads and thoroughfares, locations for firehouses, future utility service areas, existing and future parks and

other public facilities. One of the goals of the planning process, of course, is to ensure that there is a logical relationship among the plans for all of these facilities (will that school site have good road access and a direct connection to public sewer?) and between the plans for public facilities and private land-use (building a few homes far from a fire station is one thing, but what about a nursing home or a major factory?).

See Ind. Code §36-7-4-502, included in Appendix B. A subsequent section includes a long list of optional items, broad enough to cover most subjects that would interest a community undertaking a planning process.

The Effect of an Adopted Comprehensive Plan

The adoption of a comprehensive plan has three principle effects on local decisions:

Consideration in Decisions:

Section 36-7-4-504(a) of the Indiana Code provides:

- (a) After the comprehensive plan is approved for a jurisdiction, each governmental entity within the territorial jurisdiction where the plan is in effect **shall give consideration to the general policy and pattern of develop-**

ment set out in the comprehensive plan in the:

- (1) Authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities,
- (2) Authorization, construction, alteration, or abandonment of public ways, public places, public lands, public structures, or public utilities, and
- (3) Adoption, amendment, or repeal of zoning ordinances, including zone maps and PUD district ordinances (as defined in section 1503 [IC 36-

COMMUNITIES IN INDIANA CARE ABOUT HOW THEY GROW



Elkhart County Wants Smart Growth in New Comprehensive Plan to Help Manage Northern Indiana Development Pressures

In anticipation of increased growth pressures across northern Indiana, Elkhart County officials set an aggressive schedule to replace their 1987 comprehensive plan with one that will combine land protection, urban development, transportation improvements, regional cooperation and other smart-growth goals, with Commissioner Mike Yoder expecting a series of public sessions throughout the county in June and the whole draft by year's end.

Backing his strong planning push, outlined at an initial meeting of officials, developers and business leaders, a county *Truth* editorial applauds the participation of Goshen and Nappanee mayors, and especially two taxpayers "who took the time to come and voice their opinion," but hopes for much greater involvement by municipal leaders and the public.

"We also want to see representatives of all Elkhart County's smaller towns, as well as the city of Elkhart," the editorial continues, pointing out that their residents "are all stakeholders in this comprehensive planning process, too."

As county planners work, the editorial says, they should look at all other plans and studies, including comprehensive plans drawn up by Goshen, Wakarusa, and jointly by Elkhart and three adjacent townships, but also by Marshall County and the southwest. By incorporating these plans, "done by working on a grass-roots level with residents," the editorial stresses, the county's new plan "will find more support" and "be truly more comprehensive." -- *Truth* 3/6/2005



Smarter Land-Use In the Works for Fort Wayne and Allen County as Leaders Draft Region's First Joint Comprehensive Plan

Hindered by their outdated sprawl-biased plans -- from 1975 and 1982, respectively -- Allen County and Fort Wayne leaders are now hoping their first joint comprehensive plan will help them steer growth to designated areas and take advantage of smarter land-use strategies, with Plan-It Allen committee member and Fort Wayne planning director Pam Holochoer saying, "We're looking at how we can promote infill development in a soft economic environment."

The countywide committee still drafting the joint plan found that the number of county permits for new homes exceeded the number of buyers on the market by 35 percent, reports Fort Wayne *Journal Gazette* editorial writer Stacey Stumpf, concerned that officials are still approving not only new residential projects but also commercial ones, even though many local shopping malls are half used or empty.

One of "the most recent and glaring examples of the unbalanced approach to development that had led to sprawl," she writes, was county approval for the Honeysuckle subdivision on pristine wetlands near Leo-Cedarville, some 10 miles northeast of central Fort Wayne. The approval drew a sharp rebuke from local attorney and conservation advocate David Van Gilder. "Officials need to make independent judgments based on what is best for the community as opposed to being led by the nose by developers, which is historically what has occurred in Allen County," he said. "That's not, in my view, leadership in the best interest of the community. It's developers being allowed to do whatever they want to make money."

Commercial real estate expert Steve Zacher felt the same about commercial project approvals. Developers want to make "a quick profit" by selling a center, he pointed out. "And they lose sight of whether there are tenants to fill the space and whether there is a demand for the space. That's what you see with some of these sites that are sitting empty right now."

Its preliminary draft posted online, and the final one expected in July or August, the joint county-city comprehensive plan "has promise," the editorial writer concludes, "but it will only lead to better land use and development if zoning officials and county commissioners follow its guidelines." See the draft at www.planyourcommunity.org -- *Journal Gazette* 6/27/2006



Smart Growth Projects on the Rise in Northwest Indiana

Mixed-use, higher-density, pedestrian-friendly greenfield and redevelopment projects "are gaining a toehold" in Northwest Indiana, especially near the Illinois state line through the extended metro Chicago suburbs, thanks to forward-looking local officials and developers seeking "long-term returns on their investment," even if none call it "new urbanism" and all prefer more conservative "Chicago-style" or "neo-traditional" designations, reports Munster *Times* business writer Keith Benman.

In Dyer, where the widening of U.S. 30 eight years ago destroyed the 54-acre downtown area, Councilman Paul Hayes wished its mixed-use redevelopment had proceeded faster, although patience also has its rewards. "You have these visions and you think people will just come in and it will all just go boom," he tells the writer. "But maybe it's better this way because you have time to think and see what develops. And you're less likely to do the wrong thing."

Galleria Realty Corp. vice president Bud DiMaggio, who invested \$10 million in two downtown Dyer mixed-use multi-story buildings, Galleria I and II -- with law and doctors offices, restaurants, delis, spas and other amenities -- says, "This is their way of not having a traditional suburban blight, which is box stores, set backs and the shopping plaza-type setup."

In Highland, where intense redevelopment of six downtown blocks since the late 1990s has brought in 101 varied businesses and services, lawyer Hugh Bauer, the Highland Downtown Association's president, stresses, "Now I don't have to get in my car to go places. I can walk right out the door to the stationary store, to the bank, or to get something to eat."

In Chesterton, Lake Erie Land Co. Development director Kevin Warren, trying to build "a neo-traditional main street in a cornfield," predicts the mixed-use project's development and profit curves will accelerate as its homes, apartments, offices and stores fill up. "I think in the long term it will become more than the occasional aberration that you currently see only in some communities," he observes. "I think increasingly people will demand to live in places that have a higher quality of life and that is what this is all about." -- *Times* 1/11/2004



School "Walking Districts" Ease Congestion, Provide Much-Needed Exercise for Children While Reducing Transit Costs

Regretting that walking to school no longer is "as much a part of students' educational experience as long division and recess," a recent *Indiana Star* editorial pointed out that "getting children to walk or bicycle to school again would provide most with the 30 minutes of moderate physical activity they need" and save school systems busing money, especially tight in a time of sky-high gas costs, while easing road congestion and air pollution.

Although walking to school isn't "a panacea" for children's inactivity, overweight or obesity and related ailments -- due also to TV or video-game addiction and bad diet -- "walking would be a good first step," the editorial says, welcoming efforts by some metro Indianapolis communities to get students "back on their feet."

Taking the lead in these efforts, described a few days earlier by *Star* reporter Lisa Renze-Rhodes, Carmel Clay Schools officials created "walking districts" at eight of their 10 elementary schools -- areas in a roughly mile radius of the buildings without bus service -- saving about \$980,000.

They will also test a "walking school bus" program at one elementary school next fall, securing a selected route not with low-paid crossing guards, but with parents who volunteer to watch the children as they go to and from school in groups.

After the test, the program may be adopted by other metro school districts, the reporter notes, quoting Hamilton Southeastern Schools Superintendent Concetta Raimondi, who said the district's 1,000 new students each year require another 13 buses annually, at about \$80,000 per bus. The superintendent thinks student walking "will become more of an imperative, as our funding for transportation diminishes." -- *Indiana Star* 5/13/2005

Glendening Urges Indiana Growth Summit Participants to Recognize Sense of Urgency for Smart Growth

Expecting a national population surge from almost 300 million to about 450 million within 50 years, gas prices of \$5 per gallon by the next decade and fuel shortages around 2020, Smart Growth Leadership Institute President, former Maryland Democratic Governor Parris N. Glendening, stressed the need to "recognize the sense of urgency" for smart growth, telling some 100 participants in Jeffersonville Main Street's Smart Growth Summit that Indiana will have another 1.5 million residents by 2030, but one-third of the housing it will then have "isn't even built yet."

The governor, reports Jeffersonville *Evening News* and New Albany *Tribune* writer Larry Thomas, acknowledged the city's progress in downtown revitalization, but added, "We must change the way we think about building and development in Indiana."

Optimistic about the prospects, he pointed out that smart growth has struck a nerve across the political spectrum for a variety of reasons. He mentioned a descendant of Alamo hero Dave Crockett, Chattanooga Councilman David Crockett, who decries sprawl intrusion onto Tennessee hunting grounds and California Republican Governor Arnold Schwarzenegger, who has recently signed a law to facilitate local smart-growth zoning.

Another keynote speaker, former longtime National Trust for Historic Preservation's National Main Street Center Director Kennedy Smith, who co-founded the consulting Community Land Use and Economic Group in 2004, recalled how sprawl hurt her hometown, Salisbury, Maryland, some time ago.

"All of the businesses were starting to die. All of the buildings were starting to look ratty," she said, remembering that communities were often at a loss about remedies. "A lot of communities started tearing down their historic downtowns," she observed. "It didn't make any sense to me that we were recycling cans ... and not buildings." -- *Tribune* 8/5/2006



Regional Vision Needed to Manage Northwest Indiana's Rapid Growth

Fueled by the steady expansion of metropolitan Chicago just across the state line, Northwest Indiana's growth is "out of this world," says Munster *Times* business writer Keith Benman in the daily's lead piece of five articles on the region's recent boom and its long-term outlook, predicting that if interest rates stay low, "the switch from soybeans to subdivisions" in Lake and Porter counties will continue.

But as outer communities benefitted economically, even "the most go-go developers" agree it was "no fun" for municipalities like East Chicago, Hammond or Gary, the writer reports, finding many officials and experts in favor of cross-jurisdictional cooperation.

Former Gary planner and Arsh Group Inc. principal Taghi Arshami says, "There is a lack of direction for Northwest Indiana," attributing it to "the 37 little entities" in the area and calling for "a regional vision." Otherwise, he and other planners warn, residents will face road gridlock, empty second-generation strip malls, and the loss of local identity.

In other articles of the *Times* series, Andrea Holecek quotes Lake Mortgage Co. official Terry Conley, who says the area's residential growth will continue, because buyers find homes "much more affordable" and better built than in other parts of the Chicago region; Debra Gruszecki quotes Northwest Indiana Regional Planning Commission transportation director Steve Strains, who is afraid that sprawl-induced rural road congestion will be getting worse until the region becomes serious about a transit system; and Susan Erler adds that all the new subdivisions strain local schools "to the bursting point," with no sign of state financial aid for school districts. -- *Times* 5/9/2004

Chesterton Tribune.

Porter County Adopts Mandatory Open Space Ordinance

A new open space ordinance just adopted by the Porter County Commissioners requires developers in this mostly rural jurisdiction south of Lake Michigan to set aside at least 10 percent of land in subdivisions lacking environmental features such as woods or wetlands, and at least 20 percent wherever these features are present, with developers who do better entitled to "intensity," that is, density bonuses letting them build more homes on smaller lots.

The ordinance exempts only subdivisions of four or fewer lots, reports *Chesterton Tribune* writer Vicki Urbanik, noting that it "emphasizes the importance of preserving environmentally significant areas for passive recreation, but it also allows developers to build 'active' recreation facilities such as ball fields." In subdivisions with environmental features, portions of land that include forest, steep slopes, wetlands, dunes, lakes and key wildlife habitat, are defined as "priority areas."

To qualify for an "intensity bonus," their developers must not only set aside 20 percent of land, but also preserve either whole priority areas or more than the basic 20 percent. The bonus, she writes, reduces the current minimum lot sizes "based on a formula that takes into account the total number of units, the base density, the unbuildable land and easements." In single-family zones, lots may be cut up to 25 percent, but not under 8,000 square feet. In rural residential zones, lots with wells and septic tanks cannot be cut below 30,000 square feet, but those with municipal utilities can be smaller and their widths cut to 60 feet.

The writer adds the County Plan Commission will use aerial photography to check up sites with significant environmental feature, and if the photos show that a developer clear-cut his site before he petitioned for a building permit, it can demand reforestation. -- *Chesterton Tribune* 9/8/2004

INDYSTAR.COM Indiana's No. 1 local media site

"New Urbanism in the Midwest" Seminar Draws Officials and Activists to Indianapolis' Fast-Growing Suburb of Carmel

Held jointly by the city of Carmel and the nonprofit Seaside Institute -- created in the nation's first post-World War II traditional town of Seaside, master-planned on the Gulf coast near Santa Rosa Beach, Florida in 1982 -- the "Retrofitting the Suburbs: New Urbanism in the Midwest" seminar brought in 175 officials, activists and business leaders, with institute Managing Director Leslie Pickel saying, "In the last 10 years or so, we've been concentrating on training experts in the field on smart growth."

The institute team, reports *Indianapolis Star* writer Gregg Montgomery, came to Carmel, Indianapolis' fast-growing suburb some 10 miles north, to spotlight and encourage its several new-urbanist projects, including the downtown Art & Design District, Clay Terrace mall, the Village of WestClay business and housing construction, and the newly approved 116-acre mixed-use Gramercy development.

Proposed by Indianapolis-based Buckingham Cos. for the Mohawk Golf course and nearby apartment complex, the writer notes, Gramercy will resemble an 1800s Manhattan neighborhood, with housing, offices and retail stores, a mix the Central Carmel Preservation Association would want to dilute. Several of its members picketed two seminar events, with Association President Henry L. Winckler telling the writer, "We don't feel it's a bad project, but we feel it's too dense a project for the area around it."

Picketer Phil Squier was more outspoken. "I am upset that my tax dollars are being used to pay people to come in and have a seminar on urbanization, and (Mayor Jim Brainard) is going to take everyone around on a tour, telling them what a great job he's doing to make a mini-Manhattan, and we don't want it. I don't want Carmel to look like New Jersey or Chicago."

The mayor, reports *Indianapolis Star* writer Bill Ruthhart in the same issue, has significant long-standing support, but also faces additional criticism for escalating costs and delays in construction of the Carmel Performing Arts Center -- with a huge concert hall and theater -- which will anchor his envisioned Town Center now emerging downtown. Unveiled in his 1997 downtown plan, the center was to cost about \$17 million and open between 2000 and 2007; in June 2005, the City Council voted 4-3 to spend \$80 million for the center, much upgraded and expected to be ready by 2008; now further world-class features and amenities are raising its cost to \$140 million, with \$10 million coming from interest on the city's investment and the inauguration expected in 2010.

Mayor Brainard is confident he can raise the additional \$50 million from private donors. The city, the writer reports, is asking \$25 million for concert hall naming rights, while planning to sell private boxes in perpetuity for an average of \$1 million and offer other naming rights.

"You're always going to have people who will be against a project like this," comments Carmel Symphony Orchestra Executive Director Alan Davis on the mayor's critics. "But this will bring visitors and businesses to Carmel and improve the city's quality of life, so I think the mayor's vision is right on target." -- *Indianapolis Star* 9/17/2006

7-4-1503] of this chapter), subdivision control ordinances, historic preservation ordinances, and other land use ordinances.

Authority to Adopt Zoning:

The authority to adopt zoning regulations is conditioned on the prior adoption of a comprehensive plan. See Ind. Code §36-7-4-601(a). Although this provision is widely ignored and there is no penalty in the statute for ignoring it, the best political or legal defense to a challenge to a zoning ordinance is an adopted comprehensive plan.

Authority to Adopt Subdivision Controls:

Under the Indiana Code, the basis for adopting subdivision regulations should be established in the zoning ordinance (see §36-7-4-701(a)), which, as indicated above, is supposed to be adopted only after the adoption of a comprehensive plan.

Authority to Impose Impact Fees:

The authority to impose impact fees is specifically conditioned under the Indiana code on the prior adoption of a comprehensive plan (see Ind. Code §36-7-4-1312).

A LOCAL COMPREHENSIVE PLAN CHECKUP – IS IT TIME TO PLAN AGAIN?

Overview

The general rule is that a new comprehensive plan should be prepared about every 15 years for a community that is growing or changing slowly and every 8 to 10 years for a community that is changing or growing rapidly. Other factors are also important, however, and the checklist below provides a diagnostic tool to assess the need to update a plan in a particular community.

Every community should also engage in periodic reviews of an adopted comprehensive plan – every year for a community that is changing rapidly and every couple of years for a community that is changing more slowly. The review process should include elected officials and members of the plan commission meeting together in an informal setting; it will be a “public meeting” not a public hearing. Staff or an outside facilitator should establish a process for the review. One good technique for a review is to pick out half a dozen decisions in the previous year that have been controversial or on which the elected officials and the plan commission have disagreed; the discussion at the review session should then focus not on who was

“right” but on whether the plan provides adequate guidance to the community in addressing such issues. Each person participating in the work session should also come prepared with comments, questions and concerns.

Such a work session may lead to one of four results:

- Confirmation that the plan is still a good representation of what the community as a whole wants for the future.
- Minor proposed policy or wording changes that can be agreed upon by participants in the work session informally, for formal adoption at subsequent meetings.
- Identification of a small number of substantive issues or geographic areas for which the plan should be updated and establishment of a process for doing so.
- Agreement that there are major deficiencies in the plan and that it should be subject to a major update.

Checkup Questions to Determine a Need for a Comprehensive Plan	Score
Are copies of the plan available to decision-makers? If no, add 20 points.	
Does the plan include a statement of objectives, a statement of policy for land-use, and a statement of policy for public ways, lands and facilities? If the answer to any part of this question is no, add 30 points.	
If the plan is for a municipality, does it include the entire geographic area now under the regulatory control of the municipality, as well as land that the municipality may consider for annexation? If the answer is no, add 10 points.	
How old is your plan? Add one point for each year of age.	
What percentage increase in population has occurred in your community since the plan was adopted? Add one point for each two percent increase.	
How many times did the plan commission refer to the plan at its last meeting? Subtract one point for each case or major issue for which the plan was discussed.	
How many current members of the plan commission and the governing body were in office when the plan was prepared and adopted? Subtract one point for each person, up to 10 points.	
Is the plan consistent with and/or coordinated with the regional transportation plan? If the answer is no, add 10 points.	
Is the plan consistent with and/or coordinated with expansion plans of school corporations serving the area? If the answer is no, add 5 points.	
If there is a "future land use map," compare it to the zoning for areas of the community that have developed since the plan was adopted. For every 20 acres where the future land-use map and the zoning are substantially different, add one point.	
Are copies of the plan available to the public for free or at a cost of less than \$5? If yes, subtract 5 points.	
Is the plan available on-line? If yes, subtract 10 points.	
Has a major industry in the community (employing 500 or more people or more than 10 percent of the local labor force) closed since the plan was adopted? If yes, add 10 points.	
Has a major industry moved to the community since the plan was adopted? If yes, add 10 points.	
If the plan is for a county, does it include specific plans for different types of agricultural and other rural land uses, or are all rural and agricultural uses simply shown in one, large, undifferentiated future land-use? If there are not specific plans for different types of rural and agricultural uses, add 15 points.	
If the plan is an area plan and includes all municipalities in the county, subtract 15 points.	
If the plan is an area plan but does not include all municipalities in the county, add 10 points.	
TOTAL	

Scoring:

Total score	Diagnosis
Below 0	Consider nominating your community for a planning award – and keep up the good work.
0-15	Your community is in good shape. Schedule a review session within the next 12 months
15-29	It is time for a serious review session; schedule it within the next three months.
30-39	It is time to update the plan.
40 or more	Your need for a new plan is critical.

A Plan for Sensible Growth

Overview

A good comprehensive plan is the foundation for a Sensible Growth Program. A plan that simply contains the basic elements of a comprehensive plan may not include all of the elements that are essential to guide a Sensible Growth Program. This section provides a brief overview of some of those elements.

Environmental Analysis

One of the principles of Sensible Growth is to protect and respect natural resources. A plan for Sensible Growth should include an analysis of natural resources in and around the community and establish priorities for those that should be preserved. Planners often use a series of environmental “opportunities and constraints” maps to illustrate and locate natural resource issues. It is essential, however, that the plan address the underlying policy issues. For example, prime agricultural lands are often the lands that can be developed the most easily and with the least impact on other natural resources. If a county wants to protect prime agricultural lands, it may decide that some development on sloping or wooded lands is acceptable, as an alternative to taking more land out of agricultural production. Significant natural wetlands will be a priority for protection in most local plans, but the wetlands have the most value if they are connected by other open lands; such greenways

often follow stream corridors and other natural geographic ways. For a community in which tourism is an important part of the economy, the environmental analysis should also deal with the aesthetic character of the environment and address issues such as the preservation of scenic corridors.

The environmental analysis should also include elements dealing with the management of humans’ impact on the environment. Thus, plans for management of stormwater and wastewater, analysis of the effects of development on the recharge of underground aquifers, and identifying locations for facilities for disposal of household and industrial waste are also essential pieces of the environmental element of the comprehensive plan. Note that addressing these environmental issues will also involve investments in infrastructure (see discussion of Capital Improvements Plan, immediately below), but a Sensible Growth Program will allow environmental goals to help shape the design of the infrastructure.

Capital Improvements Plan Priorities

Investments in major roads and sewer lines are more likely than a future land-use map or a zoning ordinance to shape the growth of a community. In northwestern Indiana, the dramatic growth of Merrillville, an incorporated area, has clearly been shaped in sig-



Marquette Plan Phase I: the planning area lies along the south shore of Lake Michigan, east of Illinois-Indiana state line. It is a collaborative effort between the lakeshore communities of East Chicago, Gary, Hammond, Portage and Whiting, Indiana Department of Natural Resources (IDNR) and the office of Congressman Pete Visclosky. The Marquette Plan is a comprehensive land use vision intended to create a lasting legacy that is community-based, action-oriented to promote quality of life along the Lake Michigan shoreline.

The plan capitalizes on green space linkages and improved infrastructure. The plan establishes a series of achievable short-term projects and long-term vision intended to unite the many stakeholders in the region.

The plan achievements include over 10-mile of reclaimed, publicly accessible lakeshore with up to 2,500 acres of voluntarily reclaimed land for parks and open space and nearly 100-mile of land and water based trails that connect to miles of the Indiana Dunes National Lakeshore to the east and Chicago's 23-mile green ribbon of parks to the west. The plan achieves approximately 1,500 acres of reclaimed industrial brownfields and underutilized lands for economic development including tax based diversification to ease the burden on area homeowners and new job creation in existing and new employment fields. The plan also includes recommendations to buffer in between areas of incompatible uses, reconnecting communities and renew interaction with the lake, which it will achieve an elevated value of life for residents as well as visitors.

Source: *Marquette Plan*, *The lakeshore Reinvestment Strategy Report*, prepared by JJR, SHE Engineers, and Huff & Huff



Example of an Environmental/Land Use Plan:

Gary downtown lakefront proposed plan– The plan is one of sub-area plans in Phase I. The goal of the plan is to create linkages from downtown Gary to lake Michigan and to create mixed-use development.

nificant part by the intersection of U.S. 30 with I-65.

Too often, road building decisions are made by transportation planners or engineers primarily concerned about moving people by automobile from Point A to Point B in a reasonably direct route, without adequate thought to what may occur in between the two points. Wastewater system designers prefer systems in which everything feeds by gravity to the treatment plant, a design which results in placing major sewer lines in the middle of floodplains (which, by geographical definition, are places lower than the surrounding lands).

The implication of these principles is that decisions about where major roads go will have a major influence on future land-use patterns. Thus, the desirability of development along a particular roadway or sewer line ought to be considered, along with the benefits of having the roadway or the sewer line.

Sometimes a different alignment may serve the purposes of the sanitary engineers or transportation planners reasonably well, with far better implications for the future land-use plan. In other cases, the probable land-use impacts of building a particular facility may be so great that the entire concept of building it ought to be reconsidered.

Transportation Plan

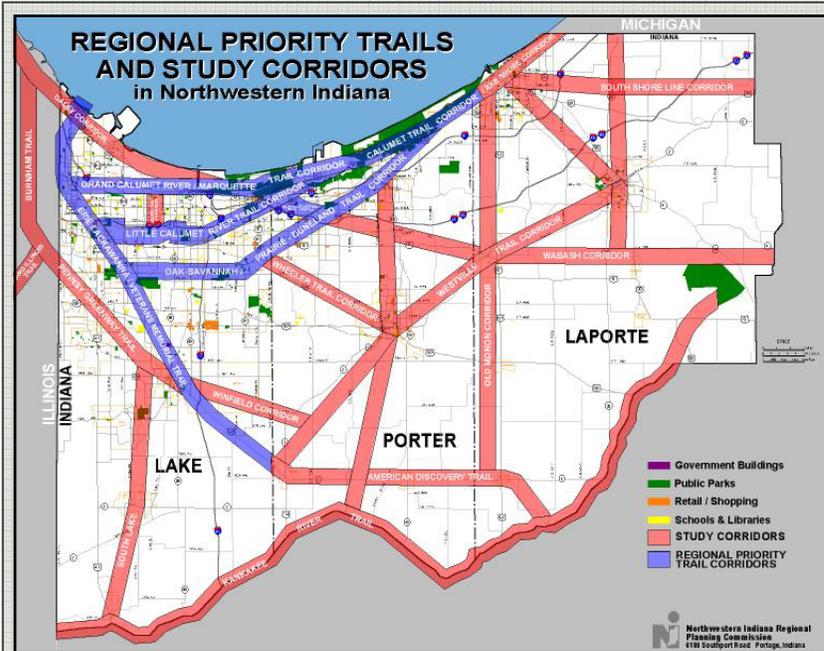
Many communities have “transportation

plans,” which are often just plans for major new streets, roads, and highways. One of the principles of Sensible Growth is to “provide travel choices.” Providing travel choices involves much more than just relying on a regional bus system and pouring strips of sidewalk next to streets planned for automobiles. The transportation plan should provide multiple modes of travel choices and multiple routes for each. At a minimum, a local transportation plan should include a compre-



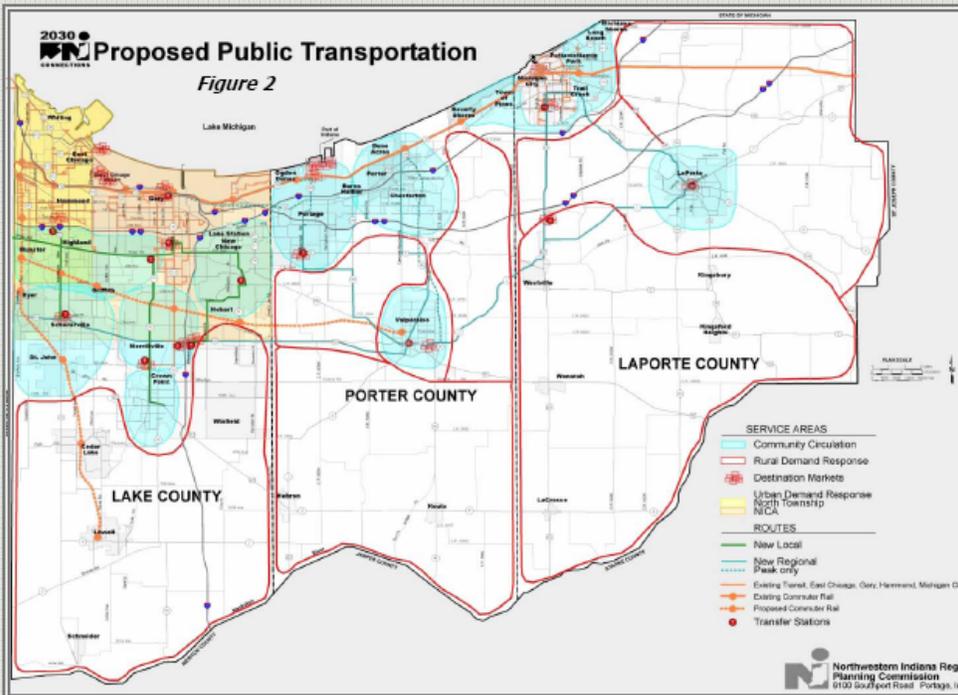
Cardinal Greenway, Muncie, Indiana

hensive network for pedestrian and bicycle circulation, as well as one for automobiles. On local and collector streets, the strip of concrete next to the street may be adequate for pedestrians, and bicycles may be able to share the road with motorized vehicles. On major streets and in shopping centers and industrial parks, it becomes important to consider the design of pedestrian and bicycle facilities separately, to allow pedestrians and bicyclists to coexist safely with cars without unduly impeding the flow of automobile traffic. While the road network is designed largely to connect to other roads and to provide access to the major arterial roads of the community and the state and federal highway system, pedestrian circulation systems should be planned to connect neighborhoods to schools, parks and nearby shop-



The Priority Regional Trails & Corridors (PRTC) map represents the result of collaborations between non-motorized transportation stakeholders in NW Indiana. The PRTC map outlines a vast vision of approximately 500 miles of new, off-road trails in the three-county NIRPC region. In all, 27 corridors have been identified for future development, and prioritized as high, medium, or low in priority. These classifications were based on numerous factors such as population served, environmental justice and feasibility. Nearly all planned corridors will be built where present ones exist for abandoned railroads, waterways, utilities, and roadways. NIRPC's Ped & Pedal Committee (PPC) utilizes the PRTC map in their review and ranking of trail projects eligible for federal funding – most specifically the Transportation Enhancement program.

Courtesy of NIRPC



Courtesy of NIRPC

Public Transportation Demand in Northwest Indiana

Northwest Indiana currently has public transportation with NICTD's South Shore service, fixed route operators in East Chicago, Gary, Hammond and Michigan City, general public demand response in LaPorte City and Lake County, and a range of services oriented to elderly or disabled persons by general purpose and program based providers .

The above map shows a conceptual service plan for Northwest Indiana. It shows existing service, the proposed new commuter rail service to Munster, Valparaiso and Lowell, and recommends new community based service, non-urban services and connecting local and express routes.

ping, as well as to pedestrian and bicycle routes to the rest of the community.

Although most transportation plans emphasize future arterial streets that provide for travel across the community, a Sensible Growth Plan must include an effective network of collector streets and good connections among local and collector streets. People should be able to travel from one neighborhood to an adjoining neighborhood or nearby shopping area with-



Example of a development plan with cul de sacs which provides limited connections to outside. (source: internet)

out using arterial streets. Achieving such connectivity among separate subdivisions and developments requires a plan.

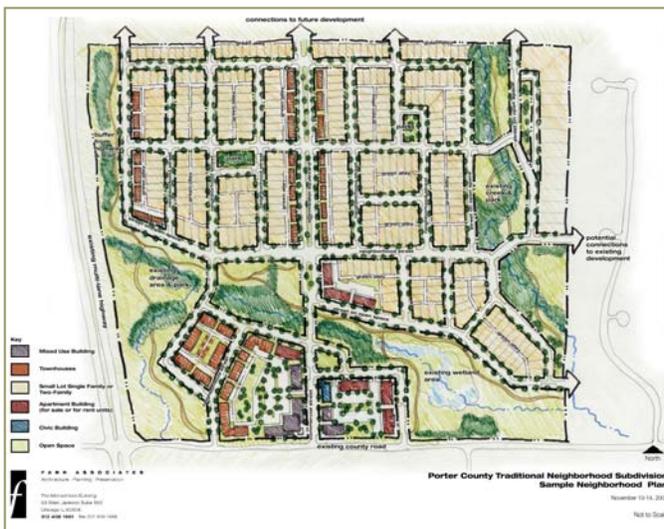
In communities that are served by bus or commuter rail systems, the circulation system should include a “multi-modal” component that addresses how people can move from one mode of transportation to another. That portion of the plan should include both the network connections and such practical issues as where to park a bike at the bus stop or a car at the transit stop.

Much of northwest Indiana is a “non-attainment” area for certain automobile-related types of air pollution. Transportation plans for communities in non-attainment areas thus must include strategies for reducing traffic and improving traffic flow to reduce and mitigate those pollutants.

A Sensible Future Land Use Plan

Common future land use plans for Midwestern communities show already developed areas continuing in whatever the current land uses may be, show a few red (commercial areas), some purple or grey (industrial areas) along railroad tracks or major highways, and large areas of yellow (single-family residential). Often the areas planned for single-family development will say “up to four dwelling units per acre” or something similar.

Such a future land use plan can thwart Sen-



Porter County, IN Proposed TND Plan, which provides an effective connectivity to the surrounding neighborhoods.

sible Growth before it starts, because it is implicitly or explicitly inconsistent with several of the Sensible Growth Principles:

Compact, Contiguous Development.

To ensure “compact” development, the future land-use plan should specify MINIMUM densities as well as maximum ones. To ensure “contiguous” development, the future land-use plan should overlay a timing element to indicate generally which residential areas should develop first.

Redeveloping Built-Up Areas. The redevelopment may be different from the previous land-use. Thus, although it is appropriate to show stable neighborhoods and commercial areas continuing in their current uses, areas that are likely to change should receive new land-use classifications (probably some form of “mixed use” – see next bullet) to indicate the community’s commitment to change.

Encouraging Mixed Uses. Traditional future land-use maps use color codes to distinguish residential from commercial uses. A Sensible Growth future land-use plan should include areas designated for mixed-use; using traditional colors on such a map, such a designation can be noted with cross hatching or alternating lines mixing the appropriate colors.

Creating a Range of Housing Opportunities. Far too few future land-use plans designate undeveloped land for apartments or townhomes. Thus, any developer that wants to build such units must fight the com-

prehensive plan, as well as, in many cases, the neighbors. Further, a range of housing opportunities often works best if there is a mixture of apartments, row houses and single-family houses in the same general neighborhood. Again, the color coding on the future land-use plan should be adjusted to reflect that goal.

Creating Affordable Growth. The kind of low-density, sprawling single-family subdivisions that often develop under such a plan are expensive for the community to serve and rarely generate enough tax revenue to offset those costs.

A Sensible Growth Checkup for Your Comprehensive Plan	Yes/ No?
Does the comprehensive plan include an analysis of environmental opportunities constraints?	
If there is an environmental analysis, was the analysis based on locally established policies about which resources are most important to the community?	
Does the environmental analysis include policies to guide approval of future infrastructure for wastewater (sewer) and stormwater systems?	
Does the environmental analysis address the community’s need for a site(s) for future disposal of solid and industrial waste?	
Does the comprehensive plan establish priorities for capital investments in roads and sewer lines based on the future land-use plan, the environmental analysis and other policy goals of the community?	
Does the plan include a circulation element that addresses multiple modes of transportation?	
Does the plan for future streets and roads provide for connections among developments and subdivisions, as well as for arterial streets and other major roads?	
Does the circulation plan address pedestrian and bicycle circulation specifically?	
Does the pedestrian and bicycle portion of the circulation plan show connections to schools, major parks, and shopping areas?	
Does the circulation plan include park-and-ride facilities and other links between modes of transportation?	
Does the circulation plan address regional air quality issues?	
Does the future land-use plan establish minimum as well as maximum residential densities?	
Does the future land-use plan include a timing overlay to set priorities for development of areas with similar future land-use designations?	
Does the future land-use plan specifically designate areas for multi-family units and town (row) houses?	
Does the future land-use plan designate areas for mixed-use development?	
Does the future land-use plan indicate that neighborhood commercial uses are allowed in areas that are designated “residential”?	
Does the future land-use plan provide for a variety of housing types in the same general areas?	
Were the costs of growth considered in establishing the patterns of development shown in the future land-use plan?	

Scoring

Yes Answers	Rating
15-18	A Super Sensible Comprehensive Plan
11-14	A Sensible Comprehensive Plan
8-10	A Comprehensive Plan with More Sensible Elements than Many – but it Needs Work
<8	Time to Update the Plan

Investing in Sensible Growth

A corollary of the principle that growth is likely to follow major roads and sewer lines – is that investments in roads and sewer lines can be used to guide growth in a region. This type of proactive public investment was once more common than it is today. In part through the Depression-era programs of the Civilian Conservation Corps and the Works Progress Administration, government built parks, roads, and other public facilities on the edge of town or even in what today might be called the exurbs. Not surprisingly, as communities grew, they often grew around these facilities.

Today, many communities expect the state (using federal money) to provide major road investments and developers to provide other road investments and sewer line extensions. A community that is serious about Sensible Growth should consider a different model in which the community proactively invests in infrastructure in the areas where it wants growth. If the community still expects developers to participate in the costs of system expansion, it may be able to recover some of those costs through Impact Fees.

Many major roads in Indiana and in most other states are built, managed and improved by the Indiana Department of Transportation, usually with a significant share of federal money. State officials often have multiple agendas for a road system, and many of those are regional, thereby fulfilling the role of the Interstate highway system in

connecting all parts of the state and nation together. A community's particular concerns with the design or alignment of a new road or the improvement of an old one are most likely to be addressed if the community works actively to make them know. Under federal law, the state must consider local plans and local land-use issues in planning and building new roads. Most of the coordination of these state and federal goals with local ones occurs through the Metropolitan Planning Organizations, which serve as the major regional transportation planning organizations in each region of the state. The best way to ensure that local land-use issues are fully considered in transportation plans is to work through the regional MPO, such as NIRPC.

For local roads and sewer lines, investments to expand the systems must also be local. Deciding to invest in a road or sewer line before it is needed is a good example of proactive planning, but it is a relatively rare occurrence for local governments today. In the abstract, such a decision may not seem to make much sense. In the context of a comprehensive plan, however, and of the principles of Sensible Growth, the cost of such an investment is small in comparison to the costs of the alternatives – low density sprawl, scattered development, and development pressure in exactly the wrong areas.

Purchasing key natural resource areas, such as wetlands and greenway connections, can also be an important investment in Sensible Growth.

A Sensible Growth Checkup for Public Investments	Yes/No?
Do representatives of your community work closely with the MPO and INDOT to ensure that your comprehensive plan priorities are reflected in state and federal highway investment commitments?	
Do you have public sewer service for developing areas?	
Is there an active program to extend sewer lines to priority development areas?	
Does your local provider of sewer service refer to the comprehensive plan to establish priorities for capital investments and service extensions?	
Will your local provider of sewer service refuse to extend service to areas not planned for growth?	
Does your community, or a county or regional agency that serves your community, have an active open-space purchase program?	
Are open-space purchase decisions guided at least in part by priorities established on the comprehensive plan?	
Do open space purchases include lands designated for protection in the environmental portion of the comprehensive plan?	

Scoring

Yes Answers	Rating
7-8	A Sensible Capital Improvements Program
4-6	Some Sense in Expenditure of Public Dollars
<4	Plans Are Only Effective if Implemented

USING ZONING TO IMPLEMENT SENSIBLE GROWTH

Zoning is perhaps the best-known tool in the regulation of land use and development.

Under zoning, the community is divided into districts, or zones. There is a separate set of rules for each zoning district. The three most basic sets of rules in zoning are these:

Use. Different zoning districts typically provide for different uses. The basic use categories in most zoning ordinances are: agricultural, residential, commercial (business), and industrial (manufacturing). A small community may have only one district for each general type of use. A large city may have more residential districts (typically varying by density or intensity of use – see below) and several commercial and industrial districts to meet different community needs.

Intensity. In addition to knowing how a piece of land can be used, it is important to know how much of that use can occur. The intensity of residential uses is typically measured in “density,” or the number of dwelling units per acre; in the zoning ordinance, in lower intensity districts, the rules will be based on the inverse of that, or a minimum lot size (if the minimum lot size is one-quarter acre, there will be about four dwelling units per acre). Traditional suburban areas are often built at densities of three to five units per acre; residential densi-

ties near the heart of a small town may be seven or eight units per acre, and densities in some areas near the core of larger cities may go up to 20 units per acre or more. Commercial and industrial intensities are sometimes limited only indirectly (through setbacks, on-site parking requirements and height limits); when they are regulated directly, it is usually through a Floor Area Ratio (FAR), or the ratio of the number of square feet of building allowed for each square foot of land. Typical FARs range from about 0.25 for a convenience store or big-box store to 0.5 or more for some small office buildings and shopping malls and up to 10 or 20 or even 30 or 40 in some intensely developed downtown areas.

Dimensions. Zoning ordinances typically also include dimensional regulations that limit the height of structures and that require yards or setbacks on particular sides of a structure. Such regulations sometimes also include limits on building coverage, or the percentage of the lot that can actually have a building on it (note that this is different from FAR; a 4-story building covering 10,000 square feet on a 40,000 square-foot lot has a building coverage ratio of 0.25 but an FAR of 1.0).

Modern zoning ordinances typically address a number of other issues, including: require-

ments for on-site (off-street) parking; requirements for landscaping in commercial areas; limitations on signage; limitations on lighting; and requirements for loading areas for major commercial and industrial uses and for “stacking” areas for cars lined up at drive-through facilities.

Many modern zoning ordinances are based on suburban ideals, with large front yards, lots of off-street parking, on-site stormwater detention and significant separation between buildings. Yet walkable communities (a Sensible Growth subset that relates to Mixed Uses Travel Choices, Compact Development and Livable Neighborhoods) typically include pedestrian-friendly commercial areas where the buildings adjoin the sidewalks, people park on the street (or behind the

Zoning issues typically draw public attention and the focus of public officials when a developer asks to have the zoning map changed. Rezoning, however, often draws opposition from neighbors. Rezonings that are particularly likely to draw opposition are those that would allow a use that is different from what surrounds it or that would allow a greater intensity of use than is common in the area. Mixed-use development, apartments, townhomes, neighborhood shopping centers in residential areas, areas of compact (higher density) development, and small transit hubs are all important elements of a community that grows sensibly, but rezoning to allow such uses fall in the category that most often draw opposition. It is difficult for many public officials to approve a project over loud neighborhood objections, so the best way to allow such projects to develop is to provide for them “by right” in the zoning ordinance and on the map.



Renwick, a community located southeast Bloomington IN, is designed as a smart growth community. The above illustration shows the Village Center at Renwick that will feature pedestrian-oriented neighborhood services and multifamily

stores) and the local government handles the stormwater.

A Sensible Growth Checkup for the Zoning Ordinance	Yes/No?
Does your zoning ordinance allow second-story residential uses downtown?	
Does your zoning ordinance allow downtown infill development without the developer providing on-site parking or stormwater facilities?	
Does your zoning ordinance have one or more mixed-use districts that are not planned development districts?	
Does your zoning ordinance have districts that allow a mixture of residential unit types?	
Does your zoning ordinance have a neighborhood business district that allows neighborhood service uses but that prohibits or limits drive-through uses, gasoline sales and similar high-impact uses?	
If a downtown building burns down, can it be replaced with a similar building without obtaining variances for setbacks, off-street parking, and stormwater detention?	
Does your zoning ordinance encourage or even allow alternatives to strip commercial development along major corridors?	
Do most residential districts in your zoning ordinance specify minimum densities and/or maximum lot sizes, as well as the more traditional maximum densities and minimum lot sizes?	
Does the zoning ordinance establish maximum limits on parking spaces?	
Does the zoning ordinance require, or at least encourage, the use of cluster zoning on sites containing important natural resources, so that developers can “design with nature”?	
Does the zoning ordinance allow low-impact home occupations, such as tele-commuting and knowledge businesses that involve no customers coming to the house and little or no inventory?	
Does the zoning ordinance include a district for a modern business park, in which back offices, small warehouse and distribution facilities, light assembly, and service businesses can co-exist?	

Scoring

Yes Answers	Rating
10-12	A Super Sensible Zoning Code
7-9	A Sensible Zoning Code
<7	Time to Update the Zoning Ordinance*

*These issues in the ordinance itself are so fundamental that there is little hope of achieving Sensible Growth if the ordinance does not include them.

A Sensible Growth Checkup for the Zoning Map	Yes/No?
On a vacant lot in an older residential neighborhood, can someone build a house similar to those on surrounding lots without obtaining variances for setbacks and parking?	
Are there undeveloped areas that are zoned to allow development of multi-family units?	
Are there undeveloped areas that are zoned to allow mixed-use development?	
Is a majority of the land zoned for future residential use where sewer is available zoned to allow development at 4 or more units per acre?	
Is a majority of the land zoned for future residential use where sewer is available zoned to prohibit development at less than an average of 2 or more units per acre?	
Are there designated neighborhood business zoning districts in all large (100 acres or more) areas of the community zoned for future residential use, or does the residential zoning include a simple process for adding neighborhood business uses?	
Are future commercial areas designated in nodes around major intersections, rather than in strips along major roads?	
Is there suitable land (land with good access and potential utilities) already zoned for the type of industry that the community wants to attract?	

Scoring

Yes Answers	Rating
7-9	A Super Sensible Zoning Map
4-6	A Sensible Zoning Map
<4	Sensible Growth Can Happen Only with Changes to the Map

USING SUBDIVISION CONTROLS TO IMPLEMENT SENSIBLE GROWTH

Overview

Subdivision controls might better be called “development controls” because they regulate the development of land. This type of regulation got its name because it is typically triggered by someone dividing a tract of land into multiple lots or parcels. Although some development does not involve subdivision, since the 1920s most development regulations in the United States have been based on the act of subdivision.

The substance of subdivision controls deals primarily with the public aspects of developing land. Thus, subdivision regulations typically address:

- The width and other design features of new streets in the subdivision,
- Design requirements for handling stormwater in the subdivision,
- Basic requirements for including water, sewer and other utility improvements in the subdivision,
- Standards for other public improvements, such as curb and gutter, side-



Coffee Creek, Chesterton: the photo on the top shows level spreader water filtration process, which the stormwater is taken into the underground pipe system. When a pipe is full, the water will seep through the grate and flow over the ground as shown on the above picture.



*Courtesy of Coffee Creek Center:
www.coffeecreekcenter.com*

walks, street lights, and street signs,

- Standards for the connection of subdivision roads to one another (often expressed

in limits on the length of blocks) and to other developments in the area,

- In some communities, requirements to continue planned thoroughfare and collector roads through the subdivision, so that one development cannot block the planned continuation of a major road, and
- Detailed standards for the quality of public improvements are required.

Subdivision ordinances are often relatively short documents that contain minimum requirements for the construction of new streets and installation of other public improvements. They often do not contain the types of standards necessary to ensure that new developments include connections to surrounding developments and a circulation system that works well for pedestrians and bicyclists, as well as for drivers.

Under Indiana law, the plan commission must follow the local subdivision control ordinance in deciding whether to approve or disapprove a proposed subdivision. Thus, it is absolutely essential that Sensible Growth principles be translated into standards in the subdivision ordinance.

Sensible Growth Checkup for Subdivision Ordinance	Yes/No
Does the subdivision ordinance require sidewalks along all major streets, with an option (or requirement) for paths set back from major thoroughfares?	
Does the subdivision ordinance include connectivity requirements for new roads within the subdivision?	
Where block lengths are allowed to be (or may be allowed to be) longer than 700 or 800 feet, does the ordinance include requirements for separate pedestrian connectivity through the long blocks?	
Does the subdivision ordinance require continuity of planned thoroughfares and collector streets through all new subdivisions?	
Even where there are not planned collectors through a particular area, does the subdivision ordinance require connections from each new subdivision to adjoining subdivisions and developments on all sides?	
Are required widths of local streets narrow enough to discourage fast driving and to seem pedestrian friendly?	
If the ordinance allows gated communities, does it require at least ungated pedestrian and bicycle connections through the community and alternative routes for emergency vehicles to get into the development?	
Does the subdivision ordinance require that sensitive lands protected under cluster zoning be made subject to scenic easements at the time of subdivision to ensure that those lands will have long-term protection from development?	
Is the subdivision ordinance without lot design and other barriers that would interfere with the creation of compact developments consistent with the applicable zoning district?	
If the subdivision ordinance requires on-site stormwater detention or retention, are developments downtown and redevelopments consistent with the pattern of development in established areas exempt from that requirement?	
Does subdivision review trigger adequate public facility requirements (discussed following this exercise) on subdivisions above a particular size?	

Scoring

Yes Answers	Rating
9-11	A Super Sensible Subdivision Ordinance
7-8	A Sensible Subdivision Ordinance
<8	Revise the Subdivision Ordinance*

**Because local officials in Indiana can only impose on subdivisions requirements that are included in the ordinance, omissions from the subdivision ordinance are particularly critical.*

Growth Management Tools

Overview

Subdivision controls typically require that a developer build the streets, sidewalks and other public improvements within a new subdivision. Such requirements, however, address only part of the larger issue of providing public facilities to new development. A beautifully planned new subdivision with excellent roads, nice sidewalks, beautiful street trees and street furniture, but with access only onto a gravel county road, no pedestrian connections to the larger community, and no public sewer or water service, is quite different from the same new subdivision built in a contiguous location, with full public services and good connectivity to the larger system. This brief section provides an overview of the use of Adequate Public Facilities Ordinances and Impact Fees to address such issues.

Adequate Public Facilities Ordinances

Most local subdivision ordinances address only the quality of roads and other public improvements in a proposed subdivision. Because there is often nothing in the local ordinance about the adequacy or quality of services outside the subdivision to meet the needs of that subdivision, local officials often have little choice but to approve a proposed project, even if it is in a location that most people would consider to be lousy – or worse.

Adequate public facilities (APF) controls are exactly what they sound like – they establish standards for what services must be available for a development before it can be approved. In most cases, such controls are based on a “Level of Service” (LOS) which is adopted as part of the planning service. Traffic planners have a shorthand system of rating the Level of Service on roads from A to F, with A being very lightly traveled and F, as the letter suggests, indicating failure. No community would specify LOS A for all roads, because it is virtually impossible to achieve, but no community would choose to have failing roads. Nevertheless, there is a reasonable range of choices, particularly among LOS C and D and, at least for certain hours of the day, even E. LOS for fire protection is typically measured in response time from the nearest fire station. LOS for water service is typically based on pressure to the end user and the ability to deliver a specified quantity of water. LOS for sewer service is usually as simple as ensuring that the collection lines and treatment plant serving the site have the capacity to absorb the additional flow.

Other sources provide a more technical treatment of the implementation of APF controls. The important point here is that **adequate public facilities controls encourage compact, contiguous development.** Public services are simply more readily available

near existing communities. Note that one side effect of adopting countywide APF controls in a once-agrarian state like Indiana is that the controls may encourage redevelopment in and near the county's small farming towns, as well as around the larger cities and suburbs; the farming towns often have good infrastructure that is significantly underused due to population losses.

Impact Fees

Impact fees provide a different way of addressing the adequacy of public facilities. With impact fees, a local government attempts to solve the planning issue with money. Under an impact fee system, each developer pays a fee based on a proportionate fair share cost of providing a specific public improvement, and the local government builds the improvement. In many cases, the local government may build the improvement long before it collects enough money in impact fees to do so; in those cases, it can use bonds to borrow the money to build the improvements.

If a community plans a major expansion into an area that lacks one or two major services, such as a sewer line and a fire station, impact fees are by far the most fair way to allocate some of the costs of providing those services among multiple developers in the area. Communities often attempt to accomplish the same thing by negotiating with individual developers to provide particular parts of the system, but such negotiations rarely reach a fair result for all parties and often

yield far less in improvements than are necessary to serve development.

There are significant limitations to the use of impact fees, however. First, special interests were able to have provisions inserted in the impact fee legislation in Indiana that make it very expensive for a local government to adopt an impact fee ordinance – at least as the law is interpreted by many local government attorneys.

Second, impact fees can only be used to meet the growth-related costs of new public facilities. Often a new road or fire station is needed partly to serve new development and partly to serve developments that have already been built; the local government must find other sources of funding to provide the share of the costs unrelated to growth.

Third, in a community that is not growing rapidly, an impact fee may never generate enough money to build anything. Charging a developer a fee does not make the service necessary to serve the development coming into existence. Thus an impact fee system may give a local government a false sense of security and lead it to approve new developments that do not have, and may not ever have, adequate public facilities.

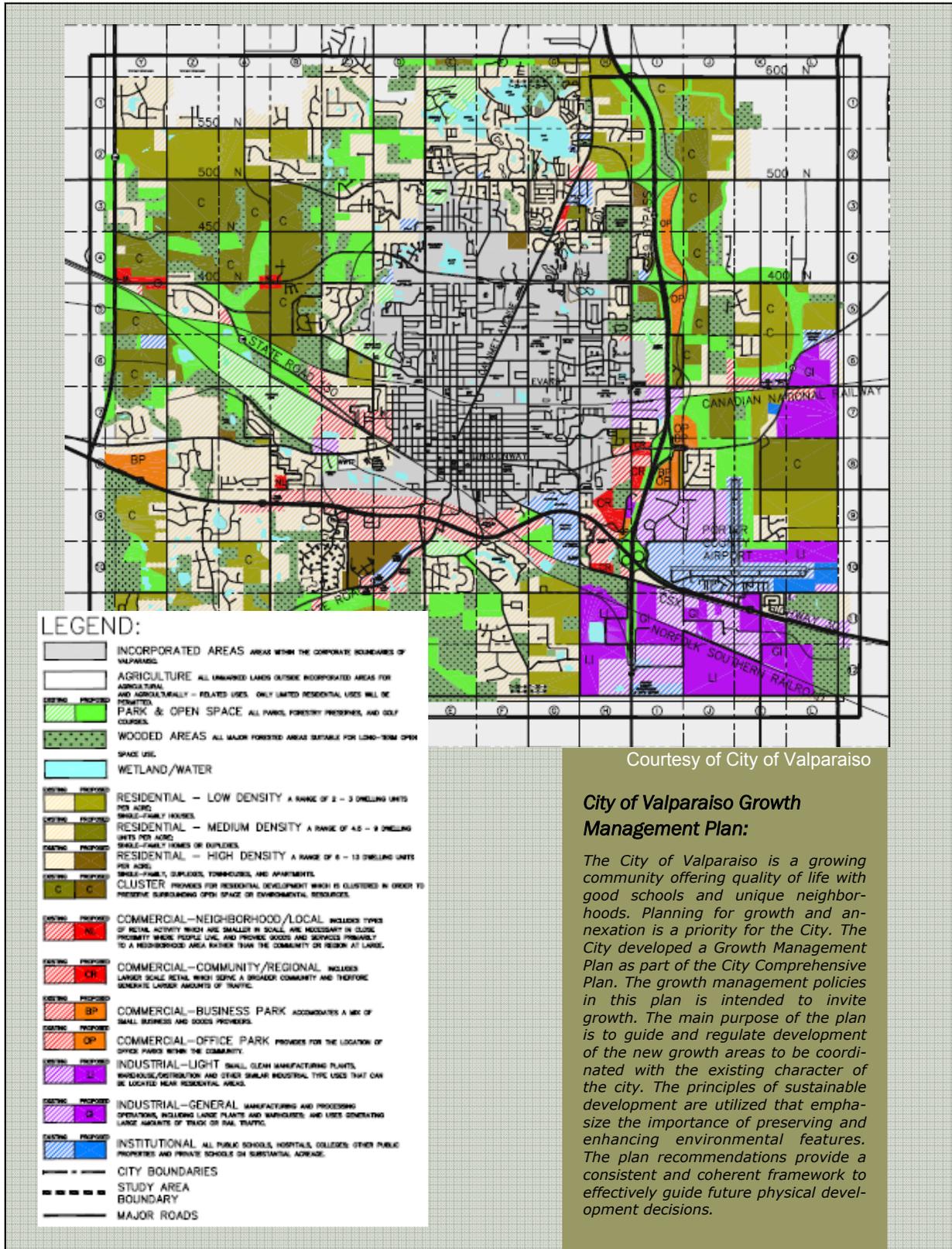
Annexation Policies

Annexation is the process through which a city or town in Indiana (and in many other states) can expand its territorial limits. The process is rigidly controlled by state statutes.

Annexing territory plays a critical role in the growth of a city or town. Annexation should follow an adopted plan and principles of Sensible Growth. For many decades in Indiana and elsewhere, development and annexation to a city or town went hand in hand. Many new subdivisions were called “additions” because they represented not only a subdivision but also an “additions” or annexations to the municipality. By annexing the territory to the municipality, the developer obtained access to public sewer and water services and was able to turn over the streets and sidewalks in the new development to the city or town to maintain. In short, such development was compact and contiguous. During that period, counties largely served their traditional roles as local offices for the state government providing some law enforcement, a location for the courts, and local representation for property tax assessment, recording of land records and other state-defined functions.

By the 1970s, some counties started to provide some urban services. Some county sheriff’s offices became county “police.” Volunteer fire departments run by townships built new stations to serve new development. For quite different reasons, school corporations began to look outward for larger school sites. As all of these forces came together, more and more development occurred in unincorporated areas of the county, with no

relationship to a municipality at all. Once areas developed, it became more difficult to annex them, because the people living there had a voice in the annexation decision. Under the structure of Indiana’s property taxes, annexation to a municipality almost always means a tax increase for the affected property. Thus, local residents often opposed annexation. The General Assembly has compounded the problem from the perspective of municipalities by amending the annexation law to make it even more difficult than it once was for a municipality to annex developed and occupied land and it remains impossible to annex most land that lacks development.



Courtesy of City of Valparaiso

City of Valparaiso Growth Management Plan:

The City of Valparaiso is a growing community offering quality of life with good schools and unique neighborhoods. Planning for growth and annexation is a priority for the City. The City developed a Growth Management Plan as part of the City Comprehensive Plan. The growth management policies in this plan is intended to invite growth. The main purpose of the plan is to guide and regulate development of the new growth areas to be coordinated with the existing character of the city. The principles of sustainable development are utilized that emphasize the importance of preserving and enhancing environmental features. The plan recommendations provide a consistent and coherent framework to effectively guide future physical development decisions.

Sensible Growth Checkup for Growth Management Tools	Points for “Yes”
Does the community have an ordinance establishing minimum levels of service and adequate public facility standards for roads?	15
Does the community have an ordinance establishing minimum levels of service and adequate public facility standards for parks?	10
Does the community have an ordinance establishing minimum levels of service and adequate public facility standards for water and sewer systems?	5*
Does the community have an ordinance establishing minimum levels of service and adequate public facility standards for stormwater?	5*
Does the community use impact fees for roads?	5
Does the community or its service providers have capital investment fees or other fees like impact fees for sewer and water systems?	5
Does the community have impact fees or dedication and fee-in-lieu of dedication requirements for parks?	10
Does the comprehensive plan identify future annexation areas and include appropriate transitional provisions (this is important either for a city or a county)?	15
For a municipality, do you actively annex land as it develops?	10
For a municipality, have you annexed more land than is likely to develop over the next 10 to 15 years	-10
For a municipality, can it afford to extend services to all of the vacant land within its boundaries over the next three to five years, if those areas start to develop?	20
For a municipality, is there a clear, established policy against connecting public sewer or water service to development outside the municipality without a firm agreement to annex that territory?	20
For a municipality, is there a clear, established policy against improving road access to development outside the municipality, unless there is a firm agreement to annex that territory?	10
For a municipality, if there is a need to provide public sewer or water service to a proposed industrial site, or public airport, or some other use outside the municipality, will you consider alternatives to long line extensions that may trigger unwanted development along the route?	10

Scoring – for a County

Points	Rating
40-70	A County that Manages its Growth
20-39	Some Sensible Growth Tools in Place
<20	Review Your Plan and See Which Missing Tools are Really Needed

Scoring – for a Municipality

Yes Answers	Rating
130-160	A Municipality that Manages its Growth
90-129	Some Sensible Growth Tools in Place
<90	Review Your Plan and See Which Missing Tools are Really Needed

**Only a small number of points have been assigned to APF standards for water, sewer and stormwater, because those issues may be addressed through engineering design standards that serve some of the same purposes.*

CHAPTER 3



Making Sensible Decisions about Growth

Making Sensible Decisions about Growth

Introduction

All parts of a development proposal are related both in concept and on the ground. In the review process, however, the issues are somewhat segmented. These questions have been organized around the types of proposal review that occur in local permitting processes:

- Zoning map amendment, or rezoning,
- Concept plan review (typically used for planned unit developments or other large projects),
- Primary plat review,
- Final plat review, and
- Site plan review.

Zoning Map Amendment

Context

This is the stage at which the local government gives its approval – or refuses its approval – for a proposed project to go forward. The zoning district establishes the basic rules for the types of uses allowed, the intensity of those uses, and some basic site design standards, such as rules for landscaping, signs, and yards. Under Indiana law, a project that conforms with the basic rules for

a zoning district must, in most cases, be approved as long as it complies with other, reasonable regulations. Thus, once the map is amended to allow a particular type of project, such a project can go forward on some basis, regardless of the fact that subsequent reviews are required.

Fortunately, at this stage, local governments enjoy broad discretion in making the decision. The final decision on a proposed map amendment will be made by the governing body (board of county commissioners, city council, town council), after a recommendation by the plan commission. Although zoning decisions should be rational and based on the types of issues raised in the questions below, courts will rarely second-guess a governing body's reason for turning down a request for rezoning.

Process

The zoning map is adopted as part of the zoning ordinance. Thus, the process of amending the map is a process of amending the law. It requires careful consideration, published notice and a public hearing. Although this process is often simply called

“rezoning,” it is important to remember that it is actually an amendment to an adopted law.

Most rezonings are initiated by a property owner or prospective purchaser filing an application requesting the map amendment.

Under the Indiana code, such an application is referred first to the Plan Commission, which must hold a hearing and make a recommendation on the proposal within 60 days. Staff to the commission will publish notice of the hearing.

The commission’s recommendation then goes forward to the governing body (board of county commissioners, town council, city council). The governing body may approve or disapprove the proposed map amendment, regardless of the recommendation of the Plan Commission, although in a community that aspires to grow sensibly, one hopes that the elected officials will consider seriously the recommendations of the advisory group. If the governing body fails to act within 90 days, then the recommendation of the Plan Commission (whether to approve or deny) becomes final.

Zoning Map Amendment Decision and Guidelines

The Plan Commission may recommend approval, approval with conditions, or denial of the proposed map amendment. The governing body has the same range of choices. Although it is often tempting to public officials to impose conditions on a proposed map amendment to make it more palatable to neighbors, if such conditions are not a part of the zoning ordinance, they may not be enforceable.

The most basic guideline for a rezoning under Indiana law is that the decision makers must, in making such decisions, “give consideration to the general policy and pattern of development set out in the comprehensive plan” (see Burns Ind. Code §36-7-4-504). A separate section of the Indiana code requires that the decision-makers give “due regard” to the following factors in considering a rezoning:

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.

Burns Ind. Code § 36-7-4-603. Note, however, that the other criteria are rather general ones and that it is really the comprehensive plan that provides the context that give them meaning.

DETAILED QUESTIONS—ZONING MAP AMENDMENT

Transportation
How will the proposed development connect to the transportation systems of the larger community?
Is there adequate capacity in the main roads that will serve the development to absorb the additional traffic without a degradation in the level of service? If there is not adequate capacity, is the developer proposing to provide improvements that will address that issue? <i>Note that transportation linkages and capacity are general issues at this point; street design, locations of specific connections, turning lanes, traffic signals and other issues will be addressed later.</i>
If the proposed development includes residential uses, will it have – or does it have the potential for – pedestrian access to other neighborhoods and to public and private services?
If there is a mass transportation system in the community, is the development in a location that is served by that system or that can easily be served by it if there is a future need? <i>This question is most relevant for larger housing projects, commercial centers and employment centers.</i>
Infrastructure
What will be the source of water for the proposed development? If it will not be provided by a local government or an existing public utility, does this appear to be a viable long-term source of water, or is it likely that the development may need an upgraded system later? <i>Note that a detailed review of proposed water systems will occur in the subdivision review process; all that is important at this stage is to understand whether there is a good source of water available to serve the development.</i>
What will be the source of sewage treatment for the proposed development? If it will not be provided by a local government or an existing public utility, does this appear to be a viable long-term system, or is it likely that the development may need an upgraded system later? If it proposes the use of septic tanks, are the soils in that area really suitable for them? Have older developments in similar soil conditions in the area experienced septic problems? <i>Note that a detailed review of proposed sewer systems will occur in the subdivision review process; all that is important at this stage is to understand whether there is a good source of water available to serve the development.</i>
For a business or industrial development in particular, will there be fiber-optic or some other form of high-speed Internet access available? If not, are the types of businesses locating there likely to be ones that can get by without such service?
For a residential development, will it be within a reasonable distance of existing or planned parks and schools? If not, is the developer proposing to help meet the cost of expanding the parks and schools? If the community is short on parks or the schools are all over-crowded, that is not really the developer's problem – it is the community's. But if the community has empty space in schools and excellent, under-used parks in some areas and the developer has proposed to build in another, that is the developer's choice – and that choice should be weighed heavily in making the decision.

Land Use
<p>What is the nature of the land-use proposed for the development? Is it generally compatible with the “character of current structures and uses in each district”? Note that, despite what neighbors may say, single-family residential uses are almost always compatible with other residential uses, even if some of them are on smaller lots or have smaller houses.</p>
<p>Is this an appropriate location for mixed uses? If so, will the proposal – or this proposal combined with uses of surrounding land, whether current or proposed – help to achieve the goals of mixed uses?</p>
<p>Does the proposed project help the community to meet its goal of providing a range of housing types?</p>
<p>If this is an infill project, will the proposed map amendment maintain the established character of current structures and uses in the area?</p>
Environmental
<p>Does the proposed site include lands that the community has designated as having a high priority for protection or preservation? If the answer is yes, is the developer proposing – or, better, will the local development regulations require – that the developer use cluster development or other techniques to protect the most sensitive areas?</p>
<p>If the site is environmentally sensitive, is the type of development that would be allowed under the proposed map amendment a type of development that is reasonably compatible with the environmental character of the site? If the site is in an area facing development pressure, the alternative of having it remain in agriculture is not a realistic one, unless the community or a land trust plans to buy it and maintain it as a farm. Thus, the question here is not whether it is better to have it in its current zoning (which may be agricultural or large-lot rural residential) or in the newly proposed zoning, but whether the proposed zoning is the form of zoning that allows development that makes the most sense.</p>
Economic
<p>Is this project supportive of or at least compatible with the long-term economic goals of the community? Remember that housing development does not bring long-term jobs, but people need places to live. Having housing for people who work in factories is just as important to economic growth as having sites for the factories.</p>
<p>If the proposed project is a large project, will the development regulations require some sort of phasing? Markets change, and the market conditions that may justify a project today may change radically over the next several years. Small projects are often built completely with little change in conditions. If a developer is launching a long-term project, the community may benefit from the larger scale; but, in case the project gets into financial trouble later, it is desirable to have the project phased rather than to have a large area of ground disturbed or partially developed and then abandoned.</p>
Fiscal
<p>For the type of development, does this project make fiscal sense? That is, is it located in an area where it will be easy and cost-effective to provide necessary infrastructure? Is it reasonably compact? New housing development, particularly if it meets the needs of the middle class, will rarely produce a net fiscal benefit for a community and should not be expected to do so. But serving the same new housing development in two different locations can involve radically different cost structures.</p>

Secondary Review for a Planned Unit Development

Context

Local governments in Indiana have great flexibility in adopting local ordinances to regulate planned unit developments (see Burns Ind. Code §36-7-4-1501 et seq.). Many local planned unit development ordinances will establish provisions for “secondary review” of a proposed planned development (see §36-7-4-509). The planned unit development process is designed to give a developer flexibility in lot sizes and arrangements, the mixture of uses and other design considerations within the development; the secondary review process gives the local government the opportunity to evaluate whether the developer’s proposal is consistent with the community’s objectives in creating the planned unit development process. This type of review is often called a “concept plan” review, although the legal term for it in Indiana is “secondary review.”

Process

The process for secondary review must be established by the local planned unit development ordinance (see §36-7-4-1509). In the planned unit development ordinance, the local governing body can provide that it will conduct the secondary review itself, or it can delegate the secondary review to the Plan Commission or to some other person or committee (see §36-7-4-1511).

Decision and Guidelines

The decision in the secondary review process will be a decision to approve the proposed plan, approve it subject to conditions, or deny it. Approvals with conditions are common at this stage; through the imposition of conditions, the reviewing body can help to fine-tune the proposed development plan so that it better meets the communities goals and objectives.

The guidelines for the secondary review process will include:

- The basic standards of the planned unit development district within which the project will be developed,
- Other standards set out in the local planned unit development ordinance, and, generally,
- The comprehensive plan.

Basic Questions

Does this proposed concept plan conform to the basic rules of the zoning district that now apply to the site and to any conditions imposed on the current zoning of the property?

- If the answer is YES, then move on to the other questions.
- If the answer is NO, this application should be denied without further discussion.

DETAILED QUESTIONS -- SECONDARY REVIEW FOR A PUD

Transportation
How will the proposed development connect to the transportation systems of the larger community?
Does the concept plan propose road and pedestrian linkages to adjoining developments, whether current or proposed?
Does the concept plan show that it will continue existing or planned thoroughfares or collectors through the site, to maintain the larger-scale connectivity of the community?
Does the concept plan indicate that there will be multiple connections between the street system in the development and the major road system in the community?
Is there adequate capacity in the main roads that will serve the development to absorb the additional traffic without a degradation in the level of service? If there is not adequate capacity, how is the developer proposing to help to address those unmet needs?
If there is a mass transportation system in the community, does the concept plan show locations for bus stops or other future linkages to mass transit?

Infrastructure
Are the general proposed connections and additions to the water system logical in the context of the larger system?
Are the general proposed connections and additions to the public sewer system logical in the context of the larger system? If the project will use septic tanks or other on-site systems, are the affected lots and sites large enough for such systems and logically located?
What is the proposed system for managing stormwater? Will stormwater be held on site and released slowly or allowed to seep back into the ground? If stormwater will be discharged, is there adequate capacity in the receiving ditches or streams to handle the probable peak flow?
For a residential development, will it be within a reasonable distance of existing or planned parks and schools? If not, is the developer proposing park sites and school sites or is the developer addressing these issues in other ways?

Land Use
If the project is a mixed-use project, is the arrangement of uses logical and orderly? For example, are commercial uses located along the main road to serve the traveling public, or are they integrated into the proposed neighborhood? Are more intensive uses located on minor thoroughfares or major collectors, with multiple points of access?
If the project does not include mixed uses and the zoning would allow some mixing, should this project include mixed uses?
Does the proposed project help the community to meet its goal of providing a range of housing types?
For an infill project, how does the concept plan reflect positive aspects of the established character of the area??

Environmental
Does the proposed site include lands that the community has designated as having a high priority for protection or preservation? If the answer is yes, does the concept plan show appropriate use of clustering to protect the most sensitive environmental areas?
Does the proposed project include a continuation of existing or planned greenways with connections to parks or other open spaces on the site?

Economic
If the proposed project is a large project, is the developer proposing a reasonable phasing schedule? This is the critical stage for establishing project phasing. Ideally, a developer should not undertake more development at one time than is likely to sell or lease over a two-year or three-year period.
If the proposed project is phased, are the major facilities of concern to the public phased appropriately? A developer may propose a phased development in which the affordable housing, park, and public recreation area are included in the last phase; whether by plan or mischance, the developer may never reach that last phase. Features of the development that are particularly important to the public should be developed throughout the phasing schedule.
Fiscal
Is the proposed plan one that appears to maintain a reasonably compact form of development that will be efficient to serve over the long run?

SUBDIVISION -- PRIMARY PLAT REVIEW

Context

The primary plat is the document on which a proposed subdivision is first formally presented to a public body. In many communities, the developer or the developer's planners and engineers will have presented "sketch" or other preliminary plans to the community's staff engineers and planners for discussion and informal review before preparing a primary plat (see Burns Ind. Code §36-7-4-705).

Process

This stage of review is the responsibility of the Plan Commission or a plat committee appointed by the Plan Commission in most Indiana communities (see Burns Ind. Code §36-7-4-701). There must be notice of the date of consideration of the application and there must be a formal hearing on that date (see Burns Ind. Code §36-7-4-707). Because the primary purpose of such a hearing is to provide formal due process to the applicant and other persons directly involved in the process, the notice for such a hearing is typically mailed to surrounding property owners and posting on the site is required by state law.

The plat may ultimately go forward to the governing body for consideration of proposed dedications of streets or public facilities, but the major decision at this stage is made by the Plan Commission or plat committee.

Decision and Guidelines

Under Indiana law, at this stage the Plan Commission or plat committee has very little discretion – if the proposed plat conforms with the zoning and subdivision ordinances, it must be approved; if not, it must be denied (see §36-7-4-707). The Indiana Code does, however, provide

(d) As a condition of primary approval of a plat, the commission may specify:

1. the manner in which public ways shall be laid out, graded, and improved,
2. a provision for water, sewage, and other utility services,
3. a provision for lot size, number, and location,
4. a provision for drainage design, and
5. a provision for other services as specified in the subdivision control ordinance.

Burns Ind. Code §36-7-504(d).

The questions that follow are intended to help the plan commission to examine the details of whether the proposal conforms to the subdivision ordinance. **Note, however, that, even if the commission does not like the answer to one of the questions, if the subdivision ordinance does not impose a related requirement on the developer, it may be very difficult for the plan commission to do so.**



Basic Questions

Does this proposed primary plat conform to the basic rules of the zoning districts that now apply to the site, to any conditions imposed on the current zoning of the property, and to the approved concept plan and applicable conditions (if any)?

- If the answer to all parts of the question is YES, then move on to the other questions.
- If the answer to any part of the question is NO, this application should be denied without further discussion.

DETAILED QUESTIONS-SUBDIVISION PRIMARY PLAT REVIEW

Transportation
How will the proposed development connect to the transportation systems of the larger community?
Does the proposed primary plat conform to the standards of the subdivision ordinance for:
<input type="checkbox"/> Street design?
<input type="checkbox"/> Right-of-way width?
<input type="checkbox"/> Inclusion and design of sidewalks?
<input type="checkbox"/> Road and pedestrian linkages to adjoining developments, whether current or proposed?
<input type="checkbox"/> Continuation of existing or planned thoroughfares or collectors through the site, to maintain the larger-scale connectivity of the community?
<input type="checkbox"/> Multiple connections between the street system in the development and the major road system in the community?
<input type="checkbox"/> Adequacy of the road system to absorb traffic from the development?
<input type="checkbox"/> Provisions for transit connections?
Are the connections between the street system in the development and the road system of the larger community logical ones that conform with the best practices of modern transportation planning, as well as with details of the subdivision ordinance?
Infrastructure
Does the proposed primary plat conform to the standards of the subdivision ordinance for:
<input type="checkbox"/> Water service or other water sources for individual buildings?
<input type="checkbox"/> Fire hydrants?
<input type="checkbox"/> Sewer connections to individual buildings?
<input type="checkbox"/> Street lighting?
<input type="checkbox"/> Street naming, numbering and street signs?
<input type="checkbox"/> Street trees?
<input type="checkbox"/> Bus stops?
<input type="checkbox"/> Stormwater facilities on-site?
<input type="checkbox"/> Necessary improvements to off-site stormwater facilities?
<input type="checkbox"/> Stormwater quality?
<input type="checkbox"/> Dedication of park or school sites?
Are the locations and designs of any major facilities, such as water towers, lift stations, detention ponds, and electric substations, compatible with the proposed land uses and neighborhood design?

Land Use
If the project is a mixed-use project, is the arrangement of uses logical and orderly? For example, are commercial uses located along the main road, to serve the traveling public, or are they integrated into the proposed neighborhood? Are more intensive uses located on minor thoroughfares or major collectors with multiple points of access?
If the project does not include mixed uses and the zoning would allow some mixing, should this project include mixed uses?
For an infill project, does the proposed plat show a logical continuity of existing streets, alleys, and sidewalks?

Environmental
Does the proposed site include lands that the community has designated as having a high priority for protection or preservation? If the answer is yes, does the primary plat show appropriate use of clustering to protect the most sensitive environmental areas?
Does the proposed project include a continuation of existing or planned greenways with connections to parks or other open spaces on the site?

Economic
If the proposed project is a large project, is the developer proposing a reasonable phasing schedule? This is the critical stage for establishing project phasing. Ideally, a developer should not subdivide more development at one time than is likely to sell or lease over a two-year or three-year period. A primary plat may show a larger area with a phasing plan for several secondary plats under a single primary plat.
If the proposed project is phased, are the major facilities of concern to the public phased appropriately? A developer may propose a phased development in which the affordable housing, park, and public recreation area are included in the last phase; whether by plan or mischance, the developer may never reach that last phase. Features of the development that are particularly important to the public should be developed throughout the phasing schedule.

Fiscal
Is the proposed plat one that appears to maintain a reasonably compact form of development that will be efficient to serve over the long run?

SUBDIVISION -- SECONDARY PLAT REVIEW

Context

This step in the process is a more detailed review of the plat (or a portion of the plat) previously approved through the Primary Plat Review process. Thus, the plan shown by the secondary plat has already been approved; if the proposed secondary plat does not follow that plan (along with any conditions imposed on the approval of the preliminary plat), it should receive no further consideration. This stage of review focuses heavily on the engineering details that flesh out the plan approved through the Primary Plat review.

Process

This step in the process requires no hearing and does not even require a public meeting, although in many communities the Secondary Plat will be acted on by the Plan Commission at one of its regular public meetings.

One process issue that often confuses people unfamiliar with the system, however, is that the proposed plat must go before the governing body to consider whether it wishes to accept the dedication (a form of transfer of ownership) for the streets, park sites, utilities and other public facilities in the development. That is the only issue that the governing body is supposed to consider; the other issues are addressed by the plan commission and staff.

Decision and Guidelines

This stage of review is largely technical and is often handled primarily by staff. Under Indiana law, the actual decision can be delegated to staff or can be made by the Plan Commission or a plat committee, in accordance with local rules (see §36-7-4-710).

If the proposed Secondary Plat does not conform with the approved Primary Plat, it must be rejected. If it does conform with that approved document, then the only questions here are detailed questions related to engineering specification.

Basic Question

Does this proposed secondary plat conform with the primary plat, any conditions imposed on the approval of the primary plat, and with the detailed engineering requirements of the subdivision ordinance and related design manuals for public improvements?

- If the answer to all parts of the question is YES, then the plat must, in almost all cases, be approved.
- If the answer to any part of the question is NO, this application should be denied without further discussion.

The questions that follow are simply intended to help highlight some of the issues that arise in the review of secondary plats.

DETAILED QUESTIONS– SUBDIVISION SECONDARY PLAT REVIEW

Transportation
Does the street design conform with the requirements of the subdivision ordinance and the design manual?
Does the design of sidewalks and pedestrian pathways conform with the requirements of the subdivision ordinance and design manual?
Infrastructure
Does the proposed site plan include appropriate easements to serve the needs of:
<input type="checkbox"/> The water provider?
<input type="checkbox"/> Sewer service provider?
<input type="checkbox"/> Electric and gas utilities?
<input type="checkbox"/> Communications providers?
<input type="checkbox"/> Fire hydrants and other connections?
<input type="checkbox"/> Stormwater facilities (if not part of the street system)?
Do the designs of each of the following proposed systems conform with the requirements of the subdivision ordinance and design manual?
<input type="checkbox"/> Water lines?
<input type="checkbox"/> Fire hydrants?
<input type="checkbox"/> Sewer lines and lift stations?
<input type="checkbox"/> Street lights?
<input type="checkbox"/> Street names?
<input type="checkbox"/> Street signs?
<input type="checkbox"/> Addressing and street numbering?
<input type="checkbox"/> Street trees?
<input type="checkbox"/> Bus stops?
<input type="checkbox"/> Stormwater facilities on-site?
<input type="checkbox"/> Necessary improvements to off-site stormwater facilities?
<input type="checkbox"/> Systems to maintain stormwater quality?
<input type="checkbox"/> Dedication of park or school sites?

Land Use

These questions had to be asked earlier.

Environmental

If the site includes environmentally sensitive lands and the developer has used clustering or other techniques to protect them and obtain approval of the primary plat, are the conservation easements or other instruments proposed to protect those lands consistent with the *requirements* of the subdivision ordinance and with the unique character of the site?

Economic

If the developer is not proposing to build all of the public improvements before beginning to build private structures, is the form of guarantee of the construction of those improvements consistent with the requirements of the subdivision ordinance and state law? Has the local government attorney approved the guarantee instruments?

Fiscal

See question under "Economic," immediately above.

DEVELOPMENT PLAN (SITE PLAN) REVIEW

Context

For a development consisting primarily of single-family homes, with a few small businesses on small lots, the subdivision (Primary Plan and Secondary Plat) review process represents the final public review of project design.

For projects involving large sites, however, such as those serving apartment projects, industrial buildings, shopping centers or even smaller commercial developments, the subdivision review provides only the larger framework for infrastructure and design. The details of traffic patterns, parking, pedestrian circulation, stormwater management, landscaping, and other design details must be determined in conjunction with the design and location of buildings on the site. The approved plats typically show these sites simply as large lots, without any details. Within such a site, it is important that issues like stormwater and emergency access be addressed.

Note that under Indiana law, the requirement for development plans must be set out in the provisions for the affected districts within the zoning ordinance (see Burns Ind. Code §36-7-4-1401.5).

Process

Under the Indiana Code, the review of de-

velopment plans normally is the responsibility of the Plan Commission (see §36-7-4-1401, 1401.5), but, through the local ordinance, the legislative body may alternatively assign this responsibility to planning staff, a hearing examiner, or a committee of the Plan Commission (see §36-7-4-1402(d)). As with Secondary Plat review, this stage of review is largely technical; thus, even where the required review is by the Plan Commission, much of the work is handled primarily by staff. If the decision is to be made by the Plan Commission, there should be a public hearing, although the Indiana Code is not as clear as it might be on the subject (see §36-7-4-1404). If the decision is made by staff or a hearing examiner or a committee, no public hearing is necessary if there is a right of appeal to the Plan Commission.

Decision and Guidelines

The Development Plan review is simply a means for reviewing whether a proposed project conforms with the detailed site planning requirements of the zoning ordinance.

Thus, there is no separate ordinance to provide guidelines for Development Plan review. Some Development Plan require-

ments may be set out in a separate section of the zoning ordinance that applies to large projects. The Indiana Code suggests three such general standards that might be made to apply to all projects subject to Development Plan review:

1. Compatibility of the development with surrounding land uses,
2. Availability and coordination of water, sanitary sewers, storm water drainage, and other utilities,
3. Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.

Burns Ind. Code §36-7-4-1403(a).

Most of the development standards listed in the Indiana Code as possible subjects for review at this stage are typically woven into the text and tables of the various districts that allow the development of projects on larger sites. Those include (numbering is continued from the list above):

4. Building setback lines,
5. Building coverage,
6. Building separation,
7. Vehicle and pedestrian circulation,
8. Parking,
9. Landscaping,
10. Height, scale, materials, and style of improvements,

11. Signage,
12. Recreation space,
13. Outdoor lighting,
14. Other requirements considered appropriate by the legislative body.

Burns Ind. Code §36-7-4-1403(a).

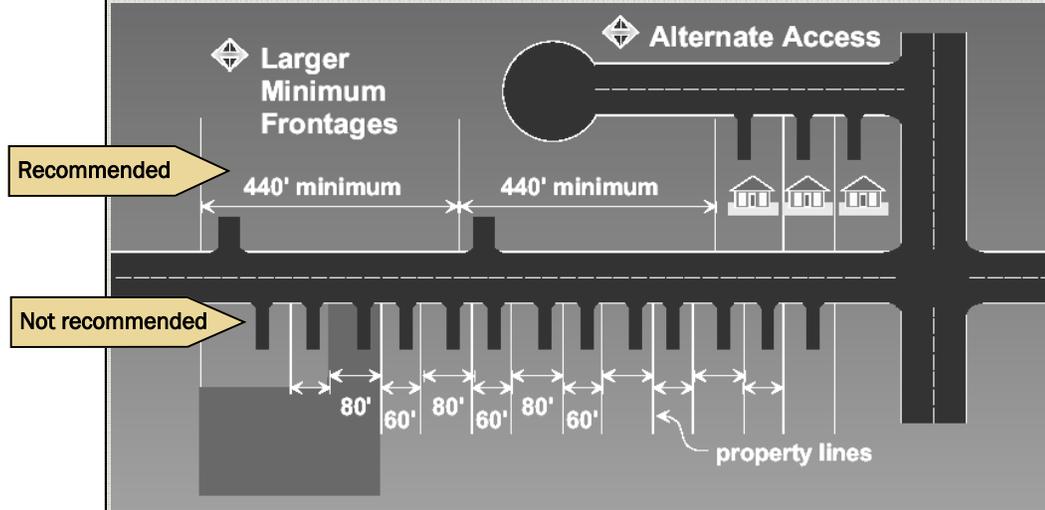
The basic decisions available to the reviewing person or body are to approve, approve subject to conditions, or deny. Approvals with conditions are common at this stage; through the imposition of conditions, the reviewing body can help to fine-tune the proposed development plan so that it better meets the communities goals and objectives.

Basic Questions

Does this proposed site plan or development plan conform to the basic rules of the zoning district(s) that now apply to the site, to any conditions imposed on the current zoning of the property, and to any conditions imposed on the approval of the primary and/or secondary plat which created the parcel?

- If the answer to all parts of the question is YES, then move on to the other questions.
- If the answer to any part of the question is NO, this application should be denied without further discussion.

INDOT ACCESS MANAGEMENT STUDY



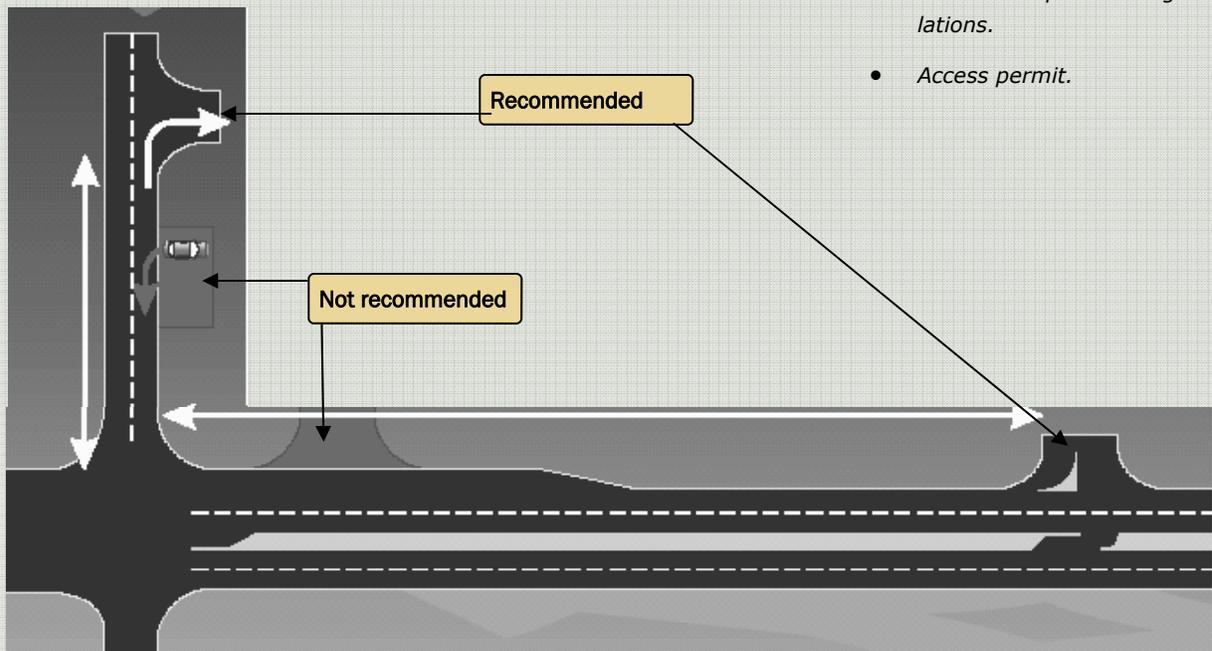
The Indiana Department of Transportation (INDOT) conducted a new access management study to manage access to land development while at the same time allow managing traffic congestion in terms of safety, capacity and speed. The study provides strategies to control access to roadway adjacent land use

The following actions are recommended by INDOT to coordinate with local governments:

- Coordinate for Re-zoning Actions and Land Use Approvals.
- Coordinate for Residential Subdivisions.
- Coordinate for Commercial Developments.
- Coordinate for Site Plan Review.

and a model access management ordinance to be used by local government. INDOT is seeking coordination with local governments before approval of:

- Site plan.
- Subdivision plat and regulations.
- Access permit.



Courtesy of Indiana Department of Transportation, INDOT Access Management Study.

<http://www.in.gov/dot/div/planning/iams/index.html>

DETAILED QUESTIONS — SITE PLAN REVIEW

Transportation
How will the proposed development connect to the transportation systems of the larger community? In particular:
<input type="checkbox"/> Are there an appropriate number of driveways for the site? Developers will often propose too many; more driveways have more impact on how the adjoining street operates.
<input type="checkbox"/> Does the proposal include appropriate turning and acceleration and deceleration lanes?
<input type="checkbox"/> Does the site plan show appropriate pedestrian connections to adjoining properties and developments?
<input type="checkbox"/> Is there good pedestrian accessibility on the site?
<input type="checkbox"/> Does the proposed automobile parking meet the standards of the ordinance?
<input type="checkbox"/> Are there adequate parking spaces for persons with disabilities?
<input type="checkbox"/> Does the proposed site plan include too much parking? Have the parking calculations considered the opportunities for shared parking?
<input type="checkbox"/> Does proposed bicycle parking meet the standards of the ordinance? Is it appropriately located?
<input type="checkbox"/> Is the proposed parking lot landscaped in accordance with the standards of the ordinance?
<input type="checkbox"/> Will proposed landscaping create unintended places for muggers and other criminals to hide?
<input type="checkbox"/> Will pedestrians have reasonably safe and protected ways to get between public sidewalks and buildings in the project, buildings in the project and parking areas on the site, and buildings in the project and proposed bus or transit stops?

Environmental
Does the proposed site include lands that the community has designated as having a high priority for protection or preservation? If the answer is yes, does the site plan show appropriate use of clustering to protect the most sensitive environmental areas?
Does the proposed project include a continuation of existing or planned greenways with connections to parks or other open spaces on the site?
Is the proposed landscaping for the project consistent with the requirements of the ordinance?
Does the combination of plant materials and landscaping design reflect a plan for landscaping that will thrive over many years, even without a lot of maintenance?
Should the site plan review committee consider some adjustments to basic parking or landscaping requirements to encourage the developer to preserve an important site feature, such as a stand of trees or a small wetland that may not be in the exact place where the ordinance would typically require landscaping?

Land Use
If the land uses on the site are significantly different in intensity or character from adjoining land uses, does the proposed site plan include appropriate buffers or other design features to limit issues that may arise from incompatibility?

Infrastructure
Does the proposed site plan include appropriate easements to serve the needs of:
<input type="checkbox"/> The water provider?
<input type="checkbox"/> Sewer service provider?
<input type="checkbox"/> Electric and gas utilities?
<input type="checkbox"/> Communications providers?
<input type="checkbox"/> Fire hydrants and other connections?
Do the proposed stormwater plans conform to the requirements of the ordinance for on-site detention or retention, discharge, and quality of discharge?
Are the locations and designs of any major facilities, such as water towers, lift stations, detention ponds, and electric substations, compatible with the proposed land uses, and neighborhood design?

APPENDIX A



Principles for Sensible Growth



For more information, see <http://www.growingsensibly.org/whoware/steering.asp> (accessed June 2006).

This handbook is based on *Sensible Tools for Healthy Communities: A Decision-Making Workbook for Local Officials, Developers, and Community Leaders*. Douglas R. Porter, Principal Author, Metropolitan Planning Council, Campaign for Sensible Growth and, Metropolitan Mayors Caucus, 2004.

Principles for Sensible or Smart Growth: Various Views

Illinois Handbook

This handbook is based on a model prepared for the Campaign for Sensible Growth, Metropolitan Mayors Caucus and Metropolitan Planning Council, *Sensible Tools for Healthy Communities: A Decision-Making Workbook for Local Officials, Developers, and Community Leaders*. All three organizations work throughout the greater Chicago region. That handbook contained the following list of principles of sensible growth:

1. **Mix land uses:** New, clustered development works best if it includes a mix of stores, jobs, and homes. Single-use districts make life less convenient and require more driving.
2. **Strengthen and direct development toward existing communities:** From local parks to neighborhood schools to transit systems, public investments should focus on getting the most out of what we've already built. Before we plow up more forests and farms, we should look for opportunities to grow in already built-up areas.
3. **Create a range of housing opportunities and choices:** not everyone wants the same thing. Communities should offer a range of options: houses, condominiums, affordable homes for low-income families, and "granny flats" for empty nesters.
4. **Create walkable neighborhoods:** Livable places offer not just the opportunity to walk — sidewalks are a necessity — but something to walk to, whether it's the corner store, the transit stop, or a school. A compact, walkable neighborhood contributes to people's sense of community because neighbors get to know each other, not just each other's cars.
5. **Foster distinctive, attractive places with a strong sense of place:** In every community, there are things that make each place special, from train stations to

Under a previous state administration, members of the *Indiana Land Resources Council* spent several months studying issues related to Smart Growth and created a consensus document on the subject; that document is presented here. The Council was reconstituted by the Daniels administration in 2006 and is likely to revisit many of these issues during 2007. In the meantime, the document presented here presents the thinking of a bipartisan, legislatively established, gubernatorially appointed group of Indiana citizens on issues discussed in this report. [Ed. Note: The author of this handbook was a member of the Council that created this document and was appointed by Governor Daniels to the reconstituted Council].

Consensus Draft Document of
Indiana Land Resources Council,
November 2004

local businesses. These should be protected and celebrated.

6. **Take advantage of compact building design:** Development should take into account the ecology of a site and protect the most valuable natural resources.
7. **Preserve open space, farmland, natural beauty, and critical environmental areas:** People want to stay connected to nature and are willing to take action to protect farms, waterways, ecosystems, and wildlife.
8. **Provide a variety of transportation choices:** People can't get out of their cars unless we provide them with another way to get where they're going. More communities need safe and reliable public transportation, sidewalks, and bike paths.
9. **Make development decisions predictable, fair, and cost-effective:** Builders wishing to implement smart growth should face no more obstacles than those contributing to sprawl. In fact, communities may choose to provide incentives for smarter development.
10. **Encourage community and stakeholder collaboration:** Plans developed without strong citizen involvement don't have staying power. When people feel left out of important decisions, they won't be there to help when tough choices have to be made.

Indiana Land Resources Council

The Indiana Land Resources Council developed proposed principles of smart growth as a possible guide for Indiana communities. The body has since been reconstituted with only two carry-over members.

"Smart growth" is in many ways a restatement of a commitment to planning. The Indiana Land Resources Council recognizes the need for such a restatement in Indiana for multiple reasons:

- The recognition that land is a scarce resource and that better choices among competing uses for that resource can be made through planning,
- The commitment to encourage patterns of new urban and suburban development that leave large land areas available for active agricultural use,

- The fiscal challenges faced by state and local governments in attempting to provide essential facilities and services to new development,
- The need to balance funding replacements and upgrades to systems in existing communities with requests to fund similar facilities and services in undeveloped and developing areas,
- The desire to facilitate quality development – particularly development that supports the state’s economic base – in locations in which state and local agencies can easily and cost-effectively provide essential public services,
- Concern about the long-term environmental implications of the continued development of scattered subdivisions that lack community wastewater treatment plants, and
- The desire to revitalize existing communities and to redevelop and reuse Brownfields and existing buildings (infill) of all sizes at the same time that we expand other communities and build new ones.



National Association of Home Builders, August 2002; <http://www.nahb.org/generic.aspx?sectionID=216&genericContentID=384> (accessed June 2006).

Note that the NAHB has also posted on its website a later “Smart Growth Policy Summary” that is similar in approach but that differs in some details. See Smart Growth Policy Summary, April 2005; <http://www.nahb.org/generic.aspx?>

National Association of Home Builders

The key elements of NAHB’s Smart Growth strategy include the following:

- Anticipating and planning for economic development and growth in a timely, orderly and predictable manner;
- Establishing a long-term comprehensive plan in each local jurisdiction that makes available an ample supply of land for residential, commercial, recreational and industrial uses as well as taking extra care to set aside meaningful open space and to protect environmentally sensitive areas;
- Removing barriers to allow innovative land-use planning techniques to be used in building higher density and mixed use developments as well as Take Advantage of Compact Building Design
- Planning and constructing new schools, roads, water



Smart Choices or Sprawling Growth: a Fifty-State Survey of Development (the Sierra Club Report on Sprawl), Sierra Club, September 2000, <http://www.sierraclub.org/sprawl/50statesurvey/> (accessed June 2006).



Smart Growth Principles; introductory web page is at <http://www.smartgrowth.org/about/default.asp>; links from that page go to individual principles, with descriptions (accessed June 2006).

and sewer treatment facilities and other public infrastructure in a timely manner to keep pace with the current and future demand for housing, and finding a fair and broad-based way to underwrite the costs of infrastructure investment that benefits the entire community;

- Achieving a reasonable balance in the land-use planning process by using innovative planning concepts to protect the environment and preserve meaningful open space, improve traffic flow, relieve overcrowded schools and enhance the quality of life for all residents; and
- Ensuring that the process for reviewing site-specific land development applications is reasonable, predictable and fair for applicants and contiguous neighbors.

Most important, Smart Growth is understanding the aspirations of Americans – the very people comprehensive growth plans are intended to serve – while protecting the environment and quality of life for all Americans.

Sierra Club

What is Smart Growth?

Smart growth is intelligent, well-planned development that channels growth into existing areas, provides public-transportation options, and preserves farm land and open space.

What Is Suburban Sprawl?

Suburban sprawl is irresponsible, poorly planned development that destroys green space, increases traffic and air pollution, crowds schools, and drives up taxes.

Smart Growth Network

[Smart Growth Principles include:]

- Mix Land Uses
- Take Advantage of Compact Building Design
- Create Range of Housing Opportunities and Choices
- Create Walkable Neighborhoods



Smart Growth America,
“What is Smart
Growth?” (accessed June
2006).

- Preserve Open Space, Farmland, Natural Beauty and Critical Environmental Areas
- Strengthen and Direct Development Towards Existing Communities
- Make Development Decisions Predictable, Fair and Cost Effective
- Encourage Community and Stakeholder Collaboration.

Smart Growth America

Desired Outcomes

We define smart growth according to its outcomes that mirror the basic values of most Americans. Smart growth is growth that helps to achieve these six goals:

1. Neighborhood livability
2. Better access, less traffic
3. Thriving cities, suburbs, and towns
4. Shared benefits
5. Lower costs, lower taxes
6. Keeping open space open.

Implementation Techniques:

To achieve smart growth, communities should:

1. Mix Land Uses.
2. Take Advantage of Existing Community Assets.
3. Create a Range of Housing Opportunities and Choices.
4. Foster “Walkable,” Close-Knit Neighborhoods.
5. Promote Distinctive, Attractive Communities with a Strong Sense of Place, Including the Rehabilitation and Use of Historic Buildings.
6. Preserve Open Space, Farmland, Natural Beauty, and Critical Environmental Areas.
7. Strengthen and Encourage Growth in Existing Communities.

Smart Growth America, "How is Smart Growth Achieved?" (no date), <http://www.smartgrowthamerica.com/sghowto.html> (accessed June 2006).



Urban Land Institute (no date); http://www.uli.org/AM/Template.cfm?Setion=Smart_Growth2&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=110&ContentID=13924

8. Provide a Variety of Transportation Choices.
9. Make Development Decisions Predictable, Fair, and Cost-Effective.
10. Encourage Citizen and Stakeholder Participation in Development Decisions.

Urban Land Institute

The Urban Land Institute defines smart growth as development that is environmentally sensitive, economically viable, community-oriented, and sustainable. We do not dictate what to do or how to do it. We offer guidance to help move smart growth from rhetoric to reality, and help communities determine what type of growth best serves their needs. And, that's what you'll find at this web site.

Although every area must define what Smart Growth means to them at the local and regional levels, most proponents agree on some common characteristics:

- Development is economically viable and preserves open space and natural resources.
- Land use planning is comprehensive, integrated, and regional.
- Public, private, and nonprofit sectors collaborate on growth and development issues to achieve mutually beneficial outcomes.
- Certainty and predictability are inherent to the development process.
- Infrastructure is maintained and enhanced to serve existing and new residents.
- Redevelopment of infill housing, brownfield sites, and obsolete buildings is actively pursued.
- Urban centers and neighborhoods are integral components of a healthy regional economy.
- Compact suburban development is integrated into existing commercial areas, new town centers, and/or near existing or planned transportation facilities.
- Development on the urban fringe integrates a mix of



US Environmental Protection Agency; "Smart Growth Policies" <http://cfpub.epa.gov/sgpdb/sgdb.cfm>

land uses, preserves open space, is fiscally responsible, and provides transportation options.

U.S. Environmental Protection Agency

Smart Growth Policies Glossary:

- Community and Stakeholder Collaboration in Development Decisions
- Compact Building Design
- Direct Development Towards Existing Communities
- Distinctive and Attractive Places
- Mix Land Uses
- Predictable and Cost Effective Development Decisions
- Preserve Open Space and Farmland
- Range of Housing Choices
- Variety of Transportation Choices
- Walkable Neighborhoods.

	Illinois Hand-book	ILRC	NAHB	Sierra Club	Smart Growth Amer-	Smart Growth Net-	Urban Land Insti-	U.S. EPA
Location and Pattern of								
Use comprehensive planning as the basis for decisions about		Y	Y				Y	
Direct growth toward existing	Y	I		Y	Y	Y		Y
Preserve open space and farm-	Y			Y	Y	Y		
Encourage infill and redevelopment of brown-fields and other		Y	Y				Y	
Character of Growth								
Mix land uses	Y		I		Y	Y	Y	
Create a range of housing op-	Y		Y	Y	Y	Y		
Create walkable neighborhoods	Y				Y	Y		
Create a “sense of place”	Y	I			Y		Y	Y
Use compact building designs	Y						Y	Y
Create a variety of transportation	Y			Y	Y			
Encourage compact develop-							Y	

Process Issues								
Make development decisions fair and predictable	Y		Y		Y	Y	Y	
Encourage stakeholder participation	Y				Y		Y	Y
Other Policy Issues								
Recognize land as a scarce resource		Y						
Reduce tax burdens		Y			Y			

“Y” indicates that principle is addressed directly; “I” indicates that principle appears to be implied by express policies.

APPENDIX B



Excerpts from the Indiana Code

Excerpts from the Indiana Code, with Commentary

Creation and Organization of Plan Commission

Overview

Indiana has three forms of plan commissions, of which the “advisory” plan commission is the most common. An advisory plan commission serves an individual city or county, providing advice to the elected officials and fulfilling some other substantive duties. An area plan commission is created by a county in association with one or more municipalities in the county; other municipalities may join that commission at the same time or later.

The area plan commission provides essentially the same functions as an advisory plan commission, but it serves more than one local government and, presumably, provides for some regional coordination. Because it serves several local governments, the area plan commission has the authority to hire its own staff. Under Indiana law, however, such a commission can contract with one of its member local governments to provide the staff, an approach that often provides for increased efficiency and better benefits for staff.

The term “metropolitan” is used in two different ways in the statute. Delaware and Vanderburgh Counties are each allowed to create a “metropolitan plan commission” as a department of county government.” Indianapolis/Marion County is authorized to have a “metropolitan development commission,” which, throughout the statutes, has some unique powers.

USER NOTE: *There are subheadings throughout the Indiana planning law indicating that certain sections or sub-sections apply only to specific types of plan commissions. Subheadings that say “area” indicate that the particular section or subsection applies to area plan commissions and to the metropolitan plan commissions in Delaware and Vanderburgh Counties; subheadings that say “metro” apply only to the Metropolitan Development Commission for Indianapolis and Marion County; subheadings that say “advisory” apply to all other plan commissions. Sections, subsections, or paragraphs with no subheadings apply to all plan commissions. Where the term “county executive” appears in the statutes, it means the board of county commissioners (see Ind. Code §36-2-2-2).*

The statutory excerpts provided here are just a few of the hundreds of sections included in Chapter 4. Local Planning and Zoning, of Article 7. Planning And Development, of Title 36. Local Government of the Indiana Code. Sections here include the original numbering from the Indiana Code; they are presented here in what the author hopes is a logical order for the user and not in numerical order. The Indiana Code is more formally called “Burns Indiana Code” after an early codifier, but the simpler “Indiana Code” is used throughout. Excerpts from Statutes – Creation and Organization

§ 36-7-4-202. Advisory plan commission – Metropolitan plan commission in

Delaware and Vanderburgh counties -- Area planning department -- Metropolitan development commission -- Establishment

- (a) **ADVISORY.** The legislative body of a county or municipality may establish by ordinance an advisory plan commission. In addition, in a county having a population of:
- (1) more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000); or
 - (2) more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000);

the legislative bodies of that county and of the city having the largest population in that county may establish by identical ordinances a metropolitan plan commission as a department of county government. These ordinances must specify the legal name of the commission for purposes of section 404(a) [IC 36-7-4-404(a)] of this chapter.

- (b) **AREA.** There may be established in each county an area planning department in the county government, having:
- (1) an area plan commission,
 - (2) an area board of zoning appeals,
 - (3) an executive director, and
 - (4) such staff as the area plan commission considers necessary.

Each municipality and each county desiring to participate in the establishment of a planning department may adopt an ordinance adopting the area planning law, fix a date for the establishment of the planning department, and provide for the appointment of its representatives to the commission. When a municipality or a county adopts such an ordinance, it shall certify a copy of it to each legislative body within the county. When a county and at least one (1) municipality within the county each adopt an ordinance adopting the area planning law and fix a date for the establishment of the department, the legislative body of the county shall establish the planning department.

- (c) **METRO.** A metropolitan development commission is established in the department of metropolitan development of the consolidated city. The legislative body of the consolidated city may adopt ordinances to regulate the following:
- (1) The time that the commission holds its meetings.
 - (2) The voting procedures of the commission.

§ 36-7-4-204. Adoption of area planning law by other municipalities -- Effect AREA.

After the planning department is established, other municipalities within the county may adopt ordinances adopting the area planning law and provide for the appointment of their representatives to the area plan commission. In such a case, the membership of the commission shall be increased according to the formula provided in sections 207, 208, 209, and 211 [IC 36-7-4-207, IC 36-7-4-208, IC 36-7-4-209, and IC 36-7-4-211] of the area planning law, and the authority of a municipal plan commission and municipal board of zoning appeals ceases, except as provided in section 918 [IC 36-7-4-918; repealed] of the area planning law, as of the time specified in that ordinance. The composition of any such municipal board of zoning appeals, or of any such board later organized, under the advisory planning law, must conform with that law, except that those members of such a board to be appointed from the municipal plan commission shall instead be appointed from the area plan commission.

Excerpts from Statutes – Plan Commission Membership

§ 36-7-4-207. Membership of city plan commission – Representation on area plan commission – Membership of metropolitan development commission

- (a) **ADVISORY.** – In a city having a park board and a city civil engineer, the city plan commission consists of nine (9) members, as follows:
- (1) One (1) member appointed by the city legislative body from its membership.
 - (2) One (1) member appointed by the park board from its membership.
 - (3) One (1) member or designated representative appointed by the city works board.
 - (4) The city civil engineer or a qualified assistant appointed by the city civil engineer.
 - (5) Five (5) citizen members, of whom no more than three (3) may be of the same political party, appointed by the city executive.
- (b) **ADVISORY.** – If a city lacks either a park board or a city civil engineer, or both, subsection (a) does not apply. In such a city or in any town, the municipal plan commission consists of seven (7) members, as follows:
- (1) The municipal legislative body shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.
 - (2) The municipal executive shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party.
- (c) **AREA.** – To provide equitable representation of rural and urban populations, representation on the area plan commission is determined as follows:

- (1) Seven (7) representatives from each city having a population of more than one hundred five thousand (105,000).
 - (2) Six (6) representatives from each city having a population of not less than seventy thousand (70,000) nor more than one hundred five thousand (105,000).
 - (3) Five (5) representatives from each city having a population of not less than thirty-five thousand (35,000) but less than seventy thousand (70,000).
 - (4) Four (4) representatives from each city having a population of not less than twenty thousand (20,000) but less than thirty-five thousand (35,000).
 - (5) Three (3) representatives from each city having a population of not less than ten thousand (10,000) but less than twenty thousand (20,000).
 - (6) Two (2) representatives from each city having a population of less than ten thousand (10,000).
 - (7) One (1) representative from each town having a population of more than two thousand one hundred (2,100), and one (1) representative from each town having a population of two thousand one hundred (2,100) or less that had a representative before January 1, 1979.
 - (8) Such representatives from towns having a population of not more than two thousand one hundred (2,100) as are provided for in section 210 [IC 36-7-4-210] of this chapter.
 - (9) Six (6) county representatives if the total number of municipal representatives in the county is an odd number, or five (5) county representatives if the total number of municipal representatives is an even number.
- (d) METRO. – The metropolitan development commission consists of nine (9) citizen members, as follows:
- (1) Four (4) members, of whom no more than two (2) may be of the same political party, appointed by the executive of the consolidated city.
 - (2) Three (3) members, of whom no more than two (2) may be of the same political party, appointed by the legislative body of the consolidated city.
 - (3) Two (2) members, who must be of different political parties, appointed by the board of commissioners of the county.

§ 36-7-4-208. Membership of county and metropolitan plan commissions – County representatives – Alternate member

- (a) ADVISORY. The county plan commission consists of nine (9) members, as

follows:

- (1) One (1) member appointed by the county executive from its membership.
- (2) One (1) member appointed by the county fiscal body from its membership.
- (3) The county surveyor or the county surveyor's designee.
- (4) The county agricultural extension educator. However, if the county does not have a county agricultural extension educator, the county extension board shall select a resident of the county who is a property owner with agricultural interest to serve on the commission under this subdivision for a period not to exceed one (1) year.
- (5) Five (5) members appointed in accordance with one (1) of the following:
 - (A) Four (4) citizen members, of whom no more than two (2) may be of the same political party. Each of the four (4) members must be:
 - (i) a resident of an unincorporated area of the county, or
 - (ii) a resident of the county who is also an owner of real property located in whole or in part in an unincorporated area of the county,

appointed by the county executive. However at least two (2) of the citizen members must be residents of the unincorporated area of the county. Also one (1) township trustee, who must be a resident of an unincorporated area of the county appointed by the county executive upon the recommendation of the township trustees whose townships are within the jurisdiction of the county plan commission.

- (B) Five (5) citizen members, of whom not more than three (3) may be of the same political party. Each of the Five (5) members must be:
 - (i) a resident of an unincorporated area of the county, or
 - (ii) a resident of the county who is also an owner of real property located in whole or in part in an unincorporated area of the county,

appointed by the county executive. However at least two (2) members must be residents of the unincorporated area of the county.

If a county executive changes the plan commission from having members described in clause (B) to having members described in clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member

appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 [IC 36-7-4-222.5] of this appendix.

- (b) **ADVISORY.** The metropolitan plan commission consists of nine (9) members, as follows:
- (1) One (1) member appointed by the county legislative body from its membership.
 - (2) One (1) member appointed by the second class city legislative body from its membership.
 - (3) Three (3) citizen members who
 - (A) reside in an unincorporated area of the county, or
 - (B) reside in the county and also own real property located in whole or in part in an unincorporated area of the county; of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively engaged in farming.
 - (4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.
- (c) **AREA.** When there are six (6) county representatives, they are as follows:
- (1) One (1) member appointed by the county executive from its membership.
 - (2) One (1) member appointed by the county fiscal body from its membership.
 - (3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission.
 - (4) One (1) of the following appointed by the county executive:
 - (A) The county agricultural extension educator.
 - (B) The county surveyor or the county surveyor's designee.
 - (5) One (1) citizen member who is:
 - (A) a resident of the unincorporated area of the county, or
 - (B) a resident of the county who is also an owner of real property located

- in whole or in part in the unincorporated area of the county;
 appointed by the county executive.
- (6) One (1) citizen member who is
- (A) a resident of the unincorporated area of the county, or
- (B) a resident of the county who is also an owner of real property located in whole or in part in the unincorporated area of the county,
 appointed by the county fiscal body.
- (d) AREA. When there are five (5) county representatives, they are the representatives listed or appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6):
- (1) the county surveyor or the county surveyor's designee if the county executive appoints the county agricultural extension educator under subsection (c)(4), or
- (2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).
- (e) AREA. The appointing authority may appoint an alternate member to participate on a commission established under section 204 [IC 36-7-4-204] of this chapter in a hearing or decision if the regular member it has appointed is unavailable. An alternate member shall have all of the powers and duties of a regular member while participating on the commission.

§ 36-7-4-216. Qualifications of citizen members

Each citizen member shall be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area. A citizen member may not hold other elective or appointive office in municipal, county, or state government, except in the case of an area plan commission membership on the school board, the park board, or the board of directors for public utilities or board of trustees for utilities created under IC 8-1-11.1. A citizen member must be a resident of the jurisdictional area of the plan commission.

Excerpts from Statutes – Plan Commission Duties

§ 36-7-4-203. Functions of metropolitan plan commission and area planning department

- (a) ADVISORY. After a metropolitan plan commission is established, it shall exercise

exclusively the planning and zoning functions of the county and of the second class city, and the separate planning and zoning functions of the county plan commission and the city plan commission cease.

- (b) AREA. After the planning department is established and the participating legislative bodies have adopted a zoning ordinance, the planning department shall exercise exclusively the planning and zoning functions of the county and of the participating municipalities, except as provided in section 918 [IC 36-7-4-918; repealed] of the area planning law. Where other statutes confer planning and zoning authority on a participating municipality or a county, their plan commissions shall continue to exercise that authority until such time as the planning department is established and the participating legislative bodies adopt a zoning ordinance.

The Comprehensive Plan – Creation, Adoption

Overview

Indiana law uses the term “comprehensive plan” to describe a document that, in some jurisdictions, is called a “master plan” or “general plan.” These differences in nomenclature are not significant – the purpose of all such plans is relatively simple.

A comprehensive plan in Indiana is required for any jurisdiction with a plan commission. Although the language of the statute is widely ignored, it clearly says that a basic comprehensive plan in Indiana has only three required elements:

- (1) A statement of objectives for the future development of the jurisdiction.
- (2) A statement of policy for the land use development of the jurisdiction.
- (3) A statement of policy for the development of public ways, public places, public lands, public structures, and public utilities.

A subsequent section of the statute provides a long and essentially exhaustive list of permissible elements that may be included in the plan. There is a separate section that sets out the permissible contents of a thoroughfare plan element of a comprehensive plan, although those elements seem to be well within the scope of the language of the other sections.

There are no format requirements in the state law. Thus, a local government may make a local plan as long or as short as it wishes, using maps, graphics, text, or any combination of the above.

The statute provides that the plan commission “shall prepare” the plan. In practice, local plan commissions typically rely on professional staff and/or consultants to assist them with the preparation of the plan. In many jurisdictions, the plan commission guides the process

of preparation of the plan, meeting regularly with staff and consultants and holding public workshops to provide content for the plan. In a jurisdiction where the plan commission has heavy agendas of projects to review, the plan commission may use a steering committee or advisory committee to provide much of the guidance and support for the preparation of the plan. Regardless of what strategic approach is used locally, the responsibility for the preparation of the plan belongs to the plan commission.

The first official action required for a comprehensive plan under the statute is the conduct of a public hearing on the proposed plan. The plan enters into local public policy through the “adoption and certification” of the plan by the plan commission. In Indiana, however, the comprehensive plan does not take effect until and unless it is approved by a resolution of the governing bodies of the jurisdictions for which the plan has been prepared. A plan approved and certified by the plan commission but ignored or rejected by the governing body has no legal status in Indiana.

The amendment process for the plan is similar to the adoption process.

Excerpts from Statutes -- Plan Required; Contents

§ 36-7-4-501. Comprehensive plan required – Policies

A comprehensive plan shall be approved by resolution in accordance with the 500 series for the promotion of public health, safety, morals, convenience, order, or the general welfare and for the sake of efficiency and economy in the process of development. The plan commission shall prepare the comprehensive plan.

§ 36-7-4-502. Elements required in plan

A comprehensive plan must contain at least the following elements:

- (1) A statement of objectives for the future development of the jurisdiction.
- (2) A statement of policy for the land use development of the jurisdiction.
- (3) A statement of policy for the development of public ways, public places, public lands, public structures, and public utilities. § 36-7-4-503. Permissible contents of plan

A comprehensive plan may, in addition to the elements required by section 502 [IC 36-7-4-502] of this chapter, include the following:

- (1) Surveys and studies of current conditions and probable future growth within the jurisdiction and adjoining jurisdictions.
- (2) Maps, plats, charts, and descriptive material presenting basic information, locations, extent, and character of any of the following:

- (A) History, population, and physical site conditions.
 - (B) Land use, including the height, area, bulk, location, and use of private and public structures and premises.
 - (C) Population densities.
 - (D) Community centers and neighborhood units.
 - (E) Areas needing redevelopment and conservation.
 - (F) Public ways, including bridges, viaducts, subways, parkways, and other public places.
 - (G) Sewers, sanitation, and drainage, including handling, treatment, and disposal of excess drainage waters, sewage, garbage, refuse, and other wastes.
 - (H) Air, land, and water pollution.
 - (I) Flood control and irrigation.
 - (J) Public and private utilities, such as water, light, heat, communication, and other services.
 - (K) Transportation, including rail, bus, truck, air and water transport, and their terminal facilities.
 - (L) Local mass transit, including taxicabs, buses, and street, elevated, or underground railways.
 - (M) Parks and recreation, including parks, playgrounds, reservations, forests, wildlife refuges, and other public places of a recreational nature. Public buildings and institutions, including governmental administration and service buildings, hospitals, infirmaries, clinics, penal and correctional institutions, and other civic and social service buildings.
 - (O) Education, including location and extent of schools, colleges, and universities.
 - (P) Land utilization, including agriculture, forests, and other uses.
 - (Q) Conservation of energy, water, soil, and agricultural and mineral resources.
 - (R) Any other factors that are a part of the physical, economic, or social situation within the jurisdiction.
- (3) Reports, maps, charts, and recommendations setting forth plans and policies for the development, redevelopment, improvement, extension,

and revision of the subjects and physical situations (set out in subdivision (2) of this section) of the jurisdiction so as to substantially accomplish the purposes of this appendix.

- (4) A short and long range development program of public works projects for the purpose of stabilizing industry and employment and for the purpose of eliminating unplanned, unsightly, untimely, and extravagant projects.
- (5) A short and long range capital improvements program of governmental expenditures so that the development policies established in the comprehensive plan can be carried out and kept up-to-date for all separate taxing districts within the jurisdiction to assure efficient and economic use of public funds.
- (6) A short and long range plan for the location, general design, and assignment of priority for construction of thoroughfares in the jurisdiction for the purpose of providing a system of major public ways that allows effective vehicular movement, encourages effective use of land, and makes economic use of public funds.

§ 36-7-4-506. Thoroughfare plan

- (a) A thoroughfare plan that is included in the comprehensive plan may determine lines for new, extended, widened, or narrowed public ways in any part of the territory in the jurisdiction.
- (b) The determination of lines for public ways, as provided in subsection (a), does not constitute the opening, establishment, or acceptance of land for public way purposes.
- (c) After a thoroughfare plan has been included in the comprehensive plan, thoroughfares may be located, changed, widened, straightened, or vacated only in the manner indicated by the comprehensive plan.
- (d) After a thoroughfare plan has been included in the comprehensive plan, the plan commission may recommend to the agency responsible for constructing thoroughfares in the jurisdiction the order in which thoroughfare improvements should be made.

Excerpts from Statutes -- Adoption

§ 36-7-4-507. Notice, publication, and hearing before approval of plan

Before the approval of a comprehensive plan, the plan commission must:

- (1) Give notice and hold one (1) or more public hearings on the plan,

- (2) Publish, in accordance with IC 5-3-1, a schedule stating the times and places of the hearing or hearings. The schedule must state the time and place of each hearing, and state where the entire plan is on file and may be examined in its entirety for at least ten (10) days before the hearing.

§ 36-7-4-508. Approval and certification of plan

- (a) After a public hearing or hearings have been held, the plan commission may approve the comprehensive plan.
- (b) **ADVISORY AREA.** Upon approval, the plan commission shall certify the comprehensive plan to each participating legislative body.
- (c) The plan commission may approve each segment of the comprehensive plan as it is completed. However, that approval does not preclude future examination and amendment of the comprehensive plan under the 500 series.
- (d) **METRO.** As used in this subsection, "comprehensive plan" or "plan" includes any segment of a comprehensive plan. Approval of the comprehensive plan by the metropolitan development commission is final. However, the commission may certify the comprehensive plan to the legislative body of each municipality in the county, to the executive of the consolidated city, and to any other governmental entity that the commission wishes. The commission shall make a complete copy of the plan available for inspection in the office of the plan commission. One (1) summary of the plan shall be recorded in the county recorder's office. The summary of the plan must identify the following:
 - (1) The major components of the plan.
 - (2) The geographic area subject to the plan, including the townships or parts of townships that are subject to the plan.
 - (3) The date the commission adopted the plan.

§ 36-7-4-509. Resolution by legislative body concerning plan – Status of plan

- (a) **ADVISORY AREA.** After certification of the comprehensive plan, the legislative body may adopt a resolution approving, rejecting, or amending the plan. Such a resolution requires only a majority vote of the legislative body, and is not subject to approval or veto by the executive of the adopting unit, and the executive is not required to sign it.
- (b) **ADVISORY AREA.** The comprehensive plan is not effective for a jurisdiction until it has been approved by a resolution of its legislative body. After approval by resolution of the legislative body of the unit, it is official for each unit that approves it. Upon approval of the comprehensive plan by the legislative body, the clerk of the legislative body shall place one (1) copy of the comprehensive

plan on file in the office of the county recorder.

§ 36-7-4-510. Rejection or amendment of plan

- (a) **ADVISORY AREA.** If the legislative body, by resolution, rejects or amends the comprehensive plan, then it shall return the comprehensive plan to the plan commission for its consideration, with a written statement of the reasons for its rejection or amendment.
- (b) **ADVISORY AREA.** The commission has sixty (60) days in which to consider the rejection or amendment and to file its report with the legislative body. However, the legislative body may grant the commission an extension of time, of specified duration, in which to file its report. If the commission approves the amendment, the comprehensive plan stands, as amended by the legislative body, as of the date of the filing of the commission's report with the legislative body. If the commission disapproves the rejection or amendment, the action of the legislative body on the original rejection or amendment stands only if confirmed by another resolution of the legislative body.
- (c) **ADVISORY AREA.** If the commission does not file a report with the legislative body within the time allotted under subsection (b), the action of the legislative body in rejecting or amending the comprehensive plan becomes final.

§ 36-7-4-511. Approval of amendments

- (a) Each amendment to the comprehensive plan must be approved according to the procedure set forth in the 500 series.
- (b) **ADVISORY AREA.** If the legislative body wants an amendment, it may direct the plan commission to prepare the amendment and submit it in the same manner as any other amendment to the comprehensive plan. The commission shall prepare and submit the amendment within sixty (60) days after the formal written request by the legislative body. However, the legislative body may grant the commission an extension of time, of specified duration, in which to prepare and submit the amendment.

Legal Effect of Adopted Comprehensive Plan

Overview

Indiana law requires that, after a comprehensive plan becomes effective, “each governmental entity within the territorial jurisdiction where the plan is in effect shall give consideration to the general policy and pattern of development set out in the comprehensive plan governmental entity” in making decisions on water and sewer facilities, public lands, public structures, roads, utilities, and the adoption and amendment of zoning ordinances and maps.

This is broad but not constraining language, leaving governmental entities the discretion to make decisions that may not exactly follow the plan or that even contradict the plan but requiring that they give “consideration” to the plan in doing so. Note that zoning is the third item in the list – water, sewer, public lands, public ways, public structures and public utilities appear in the two items before zoning. Although this language is widely ignored, it is clearly the intent of the law that local governments should refer to adopted comprehensive plans in deciding when and where to extend utilities, what roads should be built or expanded, where new jails and courthouses should go – and, yes, even where schools should go, because school corporations are clearly governmental entities.

As discussed in the next section, a local government must adopt a comprehensive plan before adopting zoning. Like some other provisions of the statute, this provision appears to be widely ignored. A local government that adopts zoning without first adopting a comprehensive plan, however, may be subject to a successful facial challenge to its zoning ordinance, possibly resulting in a court decision holding that the zoning ordinance is not valid. As discussed in the previous paragraph, the zoning ordinance and map need not follow the comprehensive plan exactly; the local government is simply required to “give consideration to” the plan in adopting the zoning ordinance and map.

Note that a separate provision requires that a local government adopt a comprehensive plan before adopting impact fees. Impact fees are not treated in depth in this handbook, but, for those communities that may consider the use of that tool, it is important to understand that a comprehensive plan is a prerequisite to the studies required for impact fees.

A comprehensive plan for a municipality is effective everywhere within the city or town limits. In a county that has not adopted a comprehensive plan, a municipal government may adopt a comprehensive plan that is effective for an area outside the municipal boundaries for an area that “bears reasonable relation to the development of the municipality.” There are specific provisions for resolving conflicts over extraterritorial jurisdiction by competing municipalities and for dealing with the subsequent adoption of a comprehensive plan by a county. A separate provision allows a county to give a municipality planning authority over specified land outside the municipal boundaries.

Excerpts from Statutes – Effects on Governmental Decisions

§ 36-7-4-504. Governmental consideration of general policy and pattern of development set out in plan – Validation of plans adopted or approved under prior law – Consolidation of plans and ordinances

- (a) After the comprehensive plan is approved for a jurisdiction, each governmental entity within the territorial jurisdiction where the plan is in effect shall give consideration to the general policy and pattern of development set out in the comprehensive plan in the:
 - (1) Authorization, acceptance, or construction of water mains, sewers,

- connections, facilities, or utilities,
- (2) Authorization, construction, alteration, or abandonment of public ways, public places, public lands, public structures, or public utilities; and
 - (3) Adoption, amendment, or repeal of zoning ordinances, including zone maps and PUD district ordinances (as defined in section 1503 [IC 36-7-4-1503] of this chapter), subdivision control ordinances, historic preservation ordinances, and other land use ordinances.
- (b) A comprehensive plan or master plan adopted or approved under any prior law is validated and continues in effect as the comprehensive plan for the plan commission in existence on September 1, 1986, or any successor plan commission until the plan becomes a part of or is amended or superseded by the comprehensive plan of the latter plan commission. In addition, a thoroughfare plan adopted or approved under any prior law is validated and continues in effect as a part of the comprehensive plan on and after September 1, 1986, until the thoroughfare plan is amended or superseded by changes in the comprehensive plan approved under this appendix.
- (c) AREA. To effect the consolidation of the various plans and ordinances in force in the county and in the participating municipality into one (1) comprehensive plan, the area plan commission shall approve the comprehensive plans of the participating municipalities as its first comprehensive plan. The commission shall also recommend under applicable law to the participating legislative bodies, without amendment, the adoption of the zoning, subdivision control, thoroughfare, and other ordinances relating to the jurisdiction of the participating legislative body. If lands within the jurisdiction of the commission are not regulated by zoning ordinances, the commission shall classify those lands as residential or agricultural, until they can conduct such land use studies as are necessary for reclassification and zoning. Because the unification of the planning and zoning function is of an emergency character, the commission and the participating legislative bodies shall initially adopt these preliminary plans and ordinances by simple resolution, to continue in effect until finally adopted in conformity with the area planning law.

§ 36-7-4-512. Capital improvement projects

METRO. This section applies only to capital improvement projects consisting of real or personal property (or improvements) that have a useful life of more than one (1) year and a value of more than one hundred thousand dollars (\$ 100,000). At least thirty (30) days before a governmental entity within the county:

- (1) Undertakes or acquires any such capital improvement project,
- (2) Starts the required proceedings to spend money or let contracts for such

a project, or

- (3) Authorizes the issuance of bonds for the purpose of financing such a project,

the governmental entity must notify the metropolitan development commission in writing of the location, cost, and nature of the project. The commission may by rule limit the kinds of capital improvement projects that are subject to the notification requirement of this section. The commission may designate an agency responsible for fiscal analyses or control to receive notifications required by this section.

§ 36-7-4-1312. Comprehensive plan required

- (a) A unit may not adopt an impact fee ordinance under section 1311 [IC 36-7-4-1311] of this series unless the unit has adopted a comprehensive plan under the 500 SERIES of this chapter for the geographic area over which the unit exercises planning and zoning jurisdiction.
- (b) Before the adoption of an impact fee ordinance under section 1311 of this chapter, a unit shall establish an impact fee advisory committee. The advisory committee shall:
- (1) Be appointed by the executive of the unit;
 - (2) Be composed of not less than Five (5) and not more than ten (10) members with at least forty percent (40%) of the membership representing the development, building, or real estate industries; and
 - (3) Serve in an advisory capacity to assist and advise the unit with regard to the adoption of an impact fee ordinance under section 1311 of this appendix.
- (c) A planning commission or other committee in existence before the adoption of an impact fee ordinance that meets the membership requirements of subsection (b) may serve as the advisory committee that subsection (b) requires.
- (d) Action of an advisory committee established under subsection (b) is not required as a prerequisite for the unit in adopting an impact fee ordinance under section 1311 of this appendix.

Excerpts from Statutes – Territorial Effect

§ 36-7-4-205. Extent of territorial authority of comprehensive plan

- (a) **ADVISORY.** A municipal plan commission shall adopt a comprehensive plan, as

provided for under the 500 series of the advisory planning law, for the development of the municipality. For comprehensive plans adopted after July 1, 1999, if:

- (1) the municipality provides municipal services to the contiguous unincorporated area, or
- (2) the municipal plan commission obtains the approval of the county legislative body of each affected county,

the municipal plan commission may provide in the comprehensive plan for the development of the contiguous unincorporated area, designated by the commission, that is outside the corporate boundaries of the municipality, and that, in the judgment of the commission, bears reasonable relation to the development of the municipality.

- (b) **ADVISORY.** Except as limited by the boundaries of unincorporated areas subject to the jurisdiction of other municipal plan commissions, an area designated under this section may include any part of the contiguous unincorporated area within two (2) miles from the corporate boundaries of the municipality. If, however, the corporate boundaries of the municipality or the boundaries of that contiguous unincorporated area include any part of the public waters or shoreline of a lake (which lies wholly within Indiana), the designated area may also include:
 - (1) any part of those public waters and shoreline of the lake, and
 - (2) any land area within two thousand five hundred (2,500) feet from that shoreline.
- (c) **ADVISORY.** Before exercising their rights, powers, and duties of the advisory planning law with respect to an area designated under this section, a municipal plan commission must file, with the recorder of the county in which the municipality is located, a description or map defining the limits of that area. If the commission revises the limits, it shall file, with the recorder, a revised description or map defining those revised limits.
- (d) **ADVISORY.** If any part of the contiguous unincorporated area within the potential jurisdiction of a municipal plan commission is also within the potential jurisdiction of another municipal plan commission, the first municipal plan commission may exercise territorial jurisdiction over that part of the area within the potential jurisdiction of both municipal plan commissions that equals the product obtained by multiplying a fraction, the numerator of which is the area within the corporate boundaries of that municipality and the denominator of which is the total area within the corporate boundaries of both municipalities times the area within the potential jurisdiction of both municipal plan commissions. Furthermore, this commission may exercise territorial

jurisdiction within those boundaries, enclosing an area reasonably compact and regular in shape, that the municipal plan commission first acting designates.

- (e) **ADVISORY.** If the legislative body of a county adopts a comprehensive plan and ordinance covering the unincorporated areas of the county, a municipal plan commission may not exercise jurisdiction, as provided in this section, over any part of that unincorporated area unless it is authorized by ordinance of the legislative body of the county. This ordinance may be initiated by the county legislative body or by petition duly signed and presented to the county auditor by:
- (1) not less than fifty (50) property owners residing in the area involved in the petition,
 - (2) the county plan commission, or
 - (3) the municipal plan commission.

Before final action on the ordinance by the county legislative body, the county plan commission must hold an advertised public hearing as required for other actions of the county plan commission under the advisory planning law. Upon the passage of the ordinance by the county legislative body and the subsequent acceptance of jurisdiction by the municipal plan commission, the municipal plan commission shall exercise the same rights, powers, and duties conferred in this section exclusively with respect to the contiguous unincorporated area. The jurisdiction of a municipal plan commission, as authorized under this subsection, may be terminated by ordinance at the discretion of the legislative body of the county, but only if the county has adopted a comprehensive plan for that area that is as comprehensive in scope and subject matter as that in effect by municipal ordinance.

- (f) **ADVISORY.** Each municipal plan commission in a municipality located in a county having:
- (1) a population of less than ninety-five thousand (95,000), and
 - (2) a county plan commission that has adopted, in accord with the advisory planning law, a comprehensive plan and ordinance covering the unincorporated areas of the county,

may, at any time, after filing notice with the county recorder and the county plan commission, exercise or reject territorial jurisdiction over any part of the area within two (2) miles of the corporate boundaries of that municipality and within that county, whether or not that commission has previously exercised that jurisdiction, if the municipality is providing municipal services to the area. Within sixty (60) days after receipt of that notice, the county plan commission and the county legislative body shall have the county comprehensive plan and

ordinance revised to reflect the decision of the municipal plan commission exercising the option provided for in this subsection. If the municipality is not providing municipal services to the area, the municipal plan commission must obtain the approval of the county legislative body of each affected county before exercising jurisdiction.

- (g) AREA. Wherever in the area planning law authority is conferred to establish a comprehensive plan or an ordinance for its enforcement, the authority applies everywhere:
 - (1) within the county that is outside the municipalities, and
 - (2) within each participating municipality.
- (h) ADVISORY--AREA. Whenever a new town is incorporated in a county having a county plan commission or an area plan commission, that plan commission and its board of zoning appeals shall continue to exercise territorial jurisdiction within the town until the effective date of a town ordinance:
 - (1) establishing an advisory plan commission under section 202(a) [IC 36-7-4-202(a)] of this chapter, or
 - (2) adopting the area planning law under section 202(b) or 204 [IC 36-7-4-202(b) or IC 36-7-4-204] of this appendix.

Beginning on that effective date, the planning and zoning functions of the town shall be exercised under the advisory planning law or area planning law, as the case may be.

§ 36-7-4-206. Extent of territorial authority of nonparticipating municipalities – Area planning

AREA. After the planning department is established, a nonparticipating municipality may not exercise planning and zoning powers outside its corporate boundaries.

Zoning

Overview

Zoning is the best-known form of land-use control. Zoning regulations divide a community into zoning districts and, for each district, specify: what uses are allowed, the density or intensity of uses allowed, height and bulk of buildings, yard and setback requirements, and, in many cases, the types of signs, amount of parking and types of landscaping required on a particular site.

Zoning itself is a complex topic, and not all aspects of it are treated in this handbook. The aspects of zoning that are most relevant to principles of Sensible Growth are:

- Rezoning or map amendments, which often represent the first stage of the local review of a development proposal. Once the zoning map has been changed to allow a particular type of development, the property owner has the right to build such a development, with some limits under other regulations. Thus, rezoning is a critical stage in the process. When a local government rezones property far from the existing community for new development, it may be promoting leapfrog development. When neighborhood protests make it difficult to obtain rezoning for new development close to an existing community, it has exactly the same effect.
- Permitted uses. Traditionally, zoning has been used to separate incompatible uses, but modern zoning ordinances often slice uses into a number of very narrow groups. Thus, many communities today do not allow people to live above downtown stores or to build small corner stores in a residential area without a rezoning. Mixing such uses within reason is an important part of many Sensible Growth programs.
- Residential densities. A major principle of most sensible or smart growth programs is to create compact, generally walkable communities. A great deal of new development today takes place with densities of 1 or 2 units per acre, which simply do not create Sensible Growth. Traditionally, zoning has been used to impose maximum densities; today, some communities focused on Sensible Growth also impose **minimum** densities, to ensure that new development really is compact.
- Yards and setbacks. Traditional downtowns were built with buildings next to the sidewalk and many traditional neighborhoods had relatively narrow front yards. Many zoning ordinances today create large front yards and require large parking lots in front of commercial both concepts that advocates of Sensible Growth question.

The statutes for which there are excerpts here include the section establishing the basic parameters for zoning and the sections dealing with map amendments. There are a number of sections of the statute that deal with enforcement and administration as well as other sections that deal with the Board of Zoning Appeals and its authority to grant variances and exceptions and to hear appeals. Those provisions of the statute are important to the day-to-day operation of the zoning ordinance and to the details of its implementation, but they have little to do with the principles of Sensible Growth; for that reason, and because of their bulk and length, they are omitted here.

Map amendments in Indiana occur through essentially the same process as the adoption of a zoning ordinance – a review and recommendation by the plan commission, with final action to amend the map (which is a part of the ordinance) by the local governing body.

Excerpts from Statutes -- Generally

§ 36-7-4-601. Purpose – Classification and regulation

- (a) The legislative body having jurisdiction over the geographic area described in the zoning ordinance has exclusive authority to adopt a zoning ordinance under the 600 series. However, no zoning ordinance may be adopted until a comprehensive plan has been approved for the jurisdiction under the 500 series of this appendix.
- (b) When it adopts a zoning ordinance, the legislative body shall:
 - (1) Designate the geographic area over which the plan commission shall exercise jurisdiction, and
 - (2) Incorporate by reference into the ordinance zone maps, as prepared by the plan commission under subsection (e). When it adopts a zoning ordinance, the legislative body shall act for the purposes of:
 - (1) Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
 - (2) Lessening or avoiding congestion in public ways;
 - (3) Promoting the public health, safety, comfort, morals, convenience, and general welfare; and
 - (4) Otherwise accomplishing the purposes of this chapter.
- (c) For the purposes described in subsection (c), the legislative body may do the following in the zoning ordinance:
 - (1) Establish one (1) or more districts, which may be for agricultural, commercial, industrial, residential, special, or unrestricted uses and any subdivision or combination of these uses. A district may include geographic areas that are not contiguous. A geographic area may be subject to more than one (1) district.
 - (2) In each district, regulate how real property is developed, maintained, and used. This regulation may include:
 - (A) Requirements for the area of front, rear, and side yards, courts, other open spaces, and total lot area;
 - (B) Requirements for site conditions, signs, and nonstructural improvements, such as parking lots, ponds, fills, landscaping, and utilities;
 - (C) Provisions for the treatment of uses, structures, or conditions that are in existence when the zoning ordinance takes effect;

- (D) Restrictions on development in areas prone to flooding;
 - (E) Requirements to protect the historic and architectural heritage of the community;
 - (F) Requirements for structures, such as location, height, area, bulk, and floor space; Restrictions on the kind and intensity of uses;
 - (H) Performance standards for the emission of noises, gases, heat, vibration, or particulate matter into the air or ground or across lot lines;
 - (I) Standards for population density and traffic circulation; and
 - (J) Any other provisions that are necessary to implement the purposes of the zoning ordinance.
- (3) Designate zoning districts in areas having special development problems or needs for compatibility in which a plan commission shall:
 - (A) Approve or disapprove development plans under the 1400 series of this chapter, and
 - (B) Ensure that a development plan approved under this subdivision is consistent with the comprehensive plan and the development requirements specified in the zoning ordinance.
 - (4) Provide for planned unit development through adoption and amendment of zoning ordinances, including PUD district ordinances (as defined in section 1503 [IC 36-7-4-1503] of this appendix).
 - (5) Establish in which districts the subdivision of land may occur.
- (e) When it prepares a proposal to initially adopt a zoning ordinance for a jurisdiction, the plan commission shall also prepare zone maps. The purpose of the zone maps is to indicate the districts into which the incorporated areas and unincorporated areas, (if any), are divided.

Excerpts from the Statutes – Map Amendments

§ 36-7-4-608. Proposals to change zone maps incorporated by reference into zoning ordinances – Legislative procedures.

- (a) This section applies to a proposal, as described in section 602(c) [IC 36-7-4-602(c)] of this chapter, to change the zone maps incorporated by reference into the zoning ordinance.
- (b) If the proposal is not initiated by the plan commission, it must be referred to the commission for consideration and recommendation before any final action

is taken by the legislative body. On receiving or initiating the proposal, the commission shall, within sixty (60) days, hold a public hearing in accordance with section 604 [IC 36-7-4-604] of this chapter. Within ten (10) business days after the commission determines its recommendation (if any), the commission shall certify the proposal under section 605 [IC 36-7-4-605] of this appendix.

- (c) METRO. This subsection applies if the proposal receives a favorable recommendation from the plan commission:
- (1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter, the legislative body may, by a majority of those voting, schedule the proposal for a hearing on a date not later than its next regular meeting.
 - (2) If the legislative body fails to schedule the proposal for a hearing under subdivision (1), the ordinance takes effect as if it had been adopted at the first regular meeting of the legislative body after the proposal is certified under section 605 of this appendix.
 - (3) For purposes of this subdivision, the final action date for a proposal is the date thirty (30) days after the date that the proposal is certified under section 605 of this chapter, or the date of the second regular meeting after the proposal is certified under section 605 of this chapter, whichever is later. If the legislative body schedules the proposal for a hearing under subdivision (1) but fails to act on it by the final action date, the ordinance takes effect as if it had been adopted (as certified) on the final action date. However, the period of time from certification under section 605 of this chapter to the final action date may be extended by the legislative body, with the consent of the initiating plan commission or the petitioning property owners. If the legislative body fails to act on the proposal by the final action date (as extended), the ordinance takes effect as if it had been adopted (as certified) on that extended final action date.
 - (4) If the legislative body schedules the proposal for a hearing under subdivision (1), 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 legislative body or with the county auditor will be heard; and
 - (D) That the hearing may be continued from time to time as may be

found necessary.

- (5) If the legislative body rejects the proposal at a hearing scheduled under subdivision (1), it is defeated.
- (d) METRO. The plan commission may adopt a rule to limit further consideration, for up to one (1) year after its defeat, of a proposal that is defeated under subsection (c)(5).
- (e) ADVISORY AREA. The legislative body shall vote on the proposal within ninety (90) days after the plan commission certifies the proposal under section 605 of this chapter.
- (f) ADVISORY AREA. This subsection applies if the proposal receives a favorable recommendation from the plan commission:
 - (1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the legislative body may adopt or reject the proposal. The legislative body shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.
 - (2) If the legislative body adopts (as certified) the proposal, it takes effect as other ordinances of the legislative body.
 - (3) If the legislative body rejects the proposal, it is defeated.
 - (4) If the legislative body fails to act on the proposal within ninety (90) days after certification, the ordinance takes effect as if it had been adopted (as certified) ninety (90) days after certification.
- (g) ADVISORY AREA. This subsection applies if the proposal receives either an unfavorable recommendation or no recommendation from the plan commission:
 - (1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the legislative body may adopt or reject the proposal. The legislative body shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.
 - (2) If the legislative body adopts (as certified) the proposal, it takes effect as other ordinances of the legislative body.
 - (3) If the legislative body rejects the proposal, it is defeated.
 - (4) If the legislative body fails to act on the proposal within ninety (90) days after certification, it is defeated.
- (h) ADVISORY AREA. The plan commission may adopt a rule to limit further

consideration, for up to one (1) year after its defeat, of a proposal that is defeated under subsection (f)(3), (g)(3), or (g)(4).

Planned Unit Development

Overview

Zoning ordinances are often very rigid in both the patterns of use that they allow and in the size and shape of lots. Through planned unit development (PUD), some local governments allow developers more flexibility to mix uses and to create a development design that differs from what might evolve under a traditional zoning ordinance. Planned unit development regulations are particularly useful for dealing with projects on lands containing wetlands and other environmental features; on such a site, traditional zoning might encourage the developer to try to bulldoze the environmental features to create more straight streets and rectangular blocks, whereas, with PUD, the developer can “design with nature.”

The Indiana Code contains broad provisions for planned unit development regulations. Under the statutory schemes, such regulations are to be integrated into the zoning ordinance, with specific standards.

Excerpts from Statutes

§ 36-7-4-1504. Regulation of planned unit development – Requirements of zoning ordinance

- (a) A zoning ordinance may provide for and regulate planned unit development.
- (b) A zoning ordinance that provides for and regulates planned unit development must meet the requirements of this series.
- (c) A zoning ordinance that meets the requirements of this series is the exclusive means for exercising zoning control over planned unit development.

§ 36-7-4-1505. Establishment of planned unit development district – PUD district ordinance.

- (a) A planned unit development is allowed only for real property zoned to be a planned unit development district.
- (b) A planned unit development district is established by the adoption of a PUD district ordinance.
- (c) Except as provided in section 1511 [IC 36-7-4-1511] of this chapter, the legislative body shall adopt and amend a PUD district ordinance in the same manner as a zone map change that is initiated under section 602(c)(1)(B) [IC 36-7-4-602(c)(1)(B)] of this

chapter is adopted or amended. The legislative body may not adopt or amend a PUD district ordinance unless a zoning ordinance that meets the requirements of section 1506 [IC 36-7-4-1506] of this chapter is in effect.

§ 36-7-4-1506. Text amendment to zoning ordinance required – Contents

Before a PUD district ordinance may be adopted, a text amendment to the zoning ordinance must be adopted. The text amendment must do all of the following:

- (1) Specify any limitation on planned unit development in the jurisdiction.
- (2) Specify standards, requirements, and procedures that:
 - (A) Are consistent with this series, and
 - (B) Govern the establishment and administration of planned unit development districts,
 including any appropriate regulation of reviews and the consideration of approvals and modifications to planned unit development districts under section 1511 [IC 36-7-4-1511] of this appendix.

§ 36-7-4-1508. Development requirements in PUD district ordinance

Development requirements specified in a PUD district ordinance may:

- (1) Use requirements, restrictions, provisions, and standards authorized under section 601(d)(2) [IC 36-7-4-601(d)(2)] of this chapter; and
- (2) Specify development requirements authorized under section 1403 [IC 36-7-4-1403] of this appendix.

Subdivision Control

Overview

As the name suggests, subdivision control is the process through which local governments regulate the division of land into lots and parcels. Although the use and intensity and the general pattern of development is typically regulated through the zoning ordinance, it is the subdivision ordinance that addresses such design issues as street patterns and the inclusion of sidewalks in a project. Patterns of circulation are critical elements of plans for Sensible Growth. Making a community walkable requires frequent connections among streets, rather than the use of long cul-de-sacs or meandering parallel roads. Traffic on a wide street will move faster than traffic on a narrow street, so street design, which is controlled through subdivision review, is a critical element in determining the character of streets.

Note that in Indiana the authority to approve or reject a subdivision proposal rests with the plan commission. The plan commission, however, must follow the standards included in the subdivision control ordinance and must approve any subdivision that meets those standards.

The Indiana process, described in the excerpts below, is a two-part process, with a “primary plat” review that deals with the general pattern of development and a ‘secondary plat” review that deals with specific engineering design issues.

Excerpts from Statutes

§ 36-7-4-701. Exclusive control over approval of plats and replats -- Primary approval of certain subdivisions without notice and hearing -- Appointment of plat committee

- (a) The legislative body shall, in the zoning ordinance adopted under the 600 series of this chapter, determine the zoning districts in which subdivision of land may occur.
- (b) The plan commission shall then recommend to each participating legislative body an ordinance containing provisions for subdivision control, which ordinance shall be adopted, amended, or repealed in the same manner as the zoning ordinance. After the subdivision control ordinance has been adopted and a certified copy of the ordinance has been filed with the county recorder, the plan commission has exclusive control over the approval of all plats and replats involving land covered by the subdivision control ordinance, subject to subsection (c) and subsection (f).
- (c) **ADVISORY.** The municipal plan commission has exclusive control over the approval of plats and replats involving unincorporated land within its jurisdiction, unless the legislative body of the county has adopted a subdivision control ordinance covering those lands. In this case, the county plan commission has exclusive control over the approval.
- (d) The subdivision control ordinance may provide that the subdivision of land that does not involve the opening of a new public way and that complies in all other respects with the subdivision control ordinance and the zoning ordinance may be granted primary approval by the plat committee without public notice and hearing, subject to appeal to the plan commission. Within ten (10) days after primary approval under this subsection, the plan commission staff shall provide for due notice to interested parties of their right to appeal to the plan commission. The notice shall be given in the manner set forth in section 706(2) and 706(3) [IC 36-7-4-706(2) and IC 36-7-4-706(3)] of this appendix.
- (e) The plan commission may appoint a plat committee to hold hearings on and approve plats and replats on behalf of the commission. The plat committee

consists of three (3) or five (5) persons, with at least one (1) of the members being a member of the commission. Each appointment of a member of the plat committee is for a term of one (1) year, but the commission may remove a member from the committee. The commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his residence address. A member who is removed may not appeal the removal to a court or otherwise. The plat committee may take action only by a majority vote.

- (f) AREA. A participating legislative body may, in the subdivision control ordinance, reserve to itself the power to waive any condition that is imposed upon primary approval of a plat by the plan commission under section 702 [IC 36-7-4-702] of this chapter. The legislative body shall prescribe the procedure under which a person may apply for a waiver of a condition under this subsection.

§ 36-7-4-702. Primary plat approval – Standards under subdivision control ordinance

- (a) In determining whether to grant primary approval of a plat, the plan commission shall determine if the plat or subdivision qualifies for primary approval under the standards prescribed by the subdivision control ordinance.
- (b) The subdivision control ordinance must specify the standards by which the commission determines whether a plat qualifies for primary approval. The ordinance must include standards for:
- (1) minimum width, depth, and area of lots in the subdivision;
 - (2) public way widths, grades, curves, and the coordination of subdivision public ways with current and planned public ways; and
 - (3) the extension of water, sewer, and other municipal services.

The ordinance may also include standards for the allocation of areas to be used as public ways, parks, schools, public and semipublic buildings, homes, businesses, and utilities, and any other standards related to the purposes of this appendix.

- (c) The standards fixed in the subdivision control ordinance under subsection (b) may not be lower than the minimum standards prescribed in the zoning ordinance for a similar use.
- (d) As a condition of primary approval of a plat, the commission may specify:
- (1) the manner in which public ways shall be laid out, graded, and improved;
 - (2) a provision for water, sewage, and other utility services;
 - (3) a provision for lot size, number, and location;
 - (4) a provision for drainage design; and

- (5) a provision for other services as specified in the subdivision control ordinance.
- (e) The subdivision control ordinance may not regulate condominiums regulated by IC 32-25.

§ 36-7-4-705. Review of application for primary approval -- Preliminary procedures

Upon receipt of an application for primary approval, the plan commission staff shall review the application for technical conformity with the standards fixed in the subdivision control ordinance. Within thirty (30) days after receipt, the staff shall announce the date for a hearing before the plan commission or plat committee and provide for notice in accordance with section 706 [IC 36-7-4-706] of this chapter. The plan commission shall, by rule, prescribe procedures for setting hearing dates and for the conduct of hearings.

§ 36-7-4-706. Notice of hearing

After the staff has announced a date for a hearing before the plan commission or plat committee, it shall:

- (1) Notify the applicant in writing,
- (2) Give notice of the hearing by publication in accordance with IC 5-3-1; and Provide for due notice to interested parties at least ten (10) days before the date set for the hearing. The plan commission shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.

§ 36-7-4-707. Action after hearing

- (a) If, after the hearing, the plan commission or plat committee determines that the application and plat comply with the standards in the subdivision control ordinance, it shall make written findings and a decision granting primary approval to the plat. This decision must be signed by an official designated in the subdivision control ordinance.
- (b) If, after the hearing, the plan commission or plat committee disapproves the plat, it shall make written findings that set forth its reasons and a decision denying primary approval and shall provide the applicant with a copy. This decision must be signed by the official designated in the subdivision control ordinance.
- (c) Primary approval or disapproval of a plat by the plat committee may be appealed only under section 708 [IC 36-7-4-708] of this chapter. However, it may not be taken directly to court for review under section 1016 [IC 36-7-4-

1016] of this chapter until administrative remedies are exhausted.

- (d) This section applies to any subdivision of land, whether or not it is exempted from the notice and hearing requirements of this series under section 701(d) [IC 36-7-4-701(d)] of this appendix.

§ 36-7-4-709. Secondary approval of plat before completion of improvements

- (a) Secondary approval under section 710 [IC 36-7-4-710] of this chapter may be granted to a plat for a subdivision in which the improvements and installments have not been completed as required by the subdivision control ordinance, if:
 - (1) The applicant provides a bond, or other proof of financial responsibility as prescribed by the legislative body in the subdivision control ordinance, that:
 - (A) Is an amount determined by the plan commission or plat committee to be sufficient to complete the improvements and installations in compliance with the ordinance, and
 - (B) Provides surety satisfactory to the plan commission or plat committee, or
 - (2) With respect to the installation or extension of water, sewer, or other utility service:
 - (A) The applicant shows by written evidence that it has entered into a contract with the political subdivision or utility providing the service, and
 - (B) The plan commission determines based on written evidence that the contract provides satisfactory assurance that the service will be installed or extended in compliance with the subdivision control ordinance.
- (b) Any money received from a bond or otherwise shall be used only for making the improvements and installments for which the bond or other proof of financial responsibility was provided. This money may be used for these purposes without appropriation. The improvement or installation must conform to the standards provided for such improvements or installations by the municipality in which it is located, as well as the subdivision control ordinance.
- (c) The plan commission shall, by rule, prescribe the procedure for determining whether all improvements and installations have been constructed and completed as required by the subdivision control ordinance. The rule must designate the person or persons responsible for making the determination.

§ 36-7-4-710. Secondary approval of plat – Filing and recording

- (a) The plan commission may grant secondary approval of a plat under this section or may delegate to the plat committee or staff the authority to grant such secondary approvals.
- (b) Secondary approval may be granted, after expiration of the time provided for appeal under section 708 [IC 36-7-4-708] of this chapter. No notice or hearing is required, and the provisions of this series concerning notice and hearing do not apply to secondary approvals.
- (d) A plat of a subdivision may not be filed with the auditor, and the recorder may not record it, unless it has been granted secondary approval and signed and certified by the official designated in the subdivision control ordinance governing the area. The filing and recording of the plat is without legal effect unless approved by the commission or committee.

§ 36-7-4-711. Exclusive control by plan commission or plat committee

ADVISORY AREA. The plan commission (or plat committee acting on its behalf), proceeding in accordance with IC 36-7-3, has exclusive control over the vacation of plats or parts of plats.

Development [Site] Plan Review

Overview

What Indiana calls “development plan” review is perhaps more accurately – and certainly more typically – referred to as “site plan review.” As the more common name suggests, it is the process through which the local government reviews the proposed development details for a specific site.

Site plan review serves two basic purposes. First, it parallels the subdivision review process in addressing issues like traffic circulation and pedestrian circulation on a large site. In a single-family residential development, those issues are addressed entirely through the subdivision review process. For a shopping center or complex of apartment buildings or group of office buildings, there is a good deal of pedestrian and vehicular traffic that will move around the site without using the public streets and roads that are created through subdivision review.

Second, site plan review deals with the implementation of requirements of the zoning ordinance related to off-street parking, on-site landscaping, the location of signs and relationship of the proposed site to its neighbors. Sensible growth typically focuses on creating patterns of uses that make viable communities, rather than a series of separate buildings on individual sites. Site plan review is critical in ensuring that the development of

one site is compatible with the desired character and pattern of development and with its neighbors.

Development plan review in Indiana, like subdivision review, is typically a duty of the plan commission, although it can also be delegated to staff. The statutes contain detailed procedural requirements for the implementation of development plan review.

Excerpts from Statutes

§ 36-7-4-1403. Development requirements – Plan documentation and supporting information

- (a) The development requirements that must be specified under section 1402(b) (1) [IC 36-7-4-1402(b)(1)] of this chapter may include the following:
 - (1) Compatibility of the development with surrounding land uses.
 - (2) Availability and coordination of water, sanitary sewers, storm water drainage, and other utilities.
 - (3) Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.
 - (4) Building setback lines.
 - (5) Building coverage.
 - (6) Building separation.
 - (7) Vehicle and pedestrian circulation.
 - (8) Parking.
 - (9) Landscaping.
 - (10) Height, scale, materials, and style of improvements.
 - (11) Signage.
 - (12) Recreation space.
 - (13) Outdoor lighting.
 - (14) Other requirements considered appropriate by the legislative body.
- (b) The development requirements specified under subsection (a)(3) concerning the management of traffic may ensure the following:
 - (1) That the design and location of proposed street and highway access points minimize safety hazards and congestion.

- (2) That the capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development.
- (3) That the entrances, streets, and internal traffic circulation facilities in the development plan are compatible with existing and planned streets and adjacent developments.
- (c) The plan documentation and supporting information that must be supplied under section 1402(b)(2) [IC 36-7-4-1402(b)(2)] of this chapter may include the following:
 - (1) The location and character of the following:
 - (A) Existing and proposed primary structures and accessory structures.
 - (B) Utilities.
 - (C) Signage.
 - (D) Landscaping.
 - (2) The nature and intensity of uses in the development.
 - (3) The condition and size of public thoroughfares and parking, vehicle, and pedestrian facilities.
 - (4) The location and capacity of drainage facilities and sewer systems serving the development.
 - (5) Other information considered appropriate by the legislative body.
- (d) In specifying development requirements or plan documentation and supporting information for development plan approval under section 1402(b)(1) through 1402(b)(2) [IC 36-7-4-1402(b)(1) through IC 36-7-4-1402(b)(2)] of this chapter, the zoning ordinance may incorporate by reference provisions in the subdivision control ordinance.

§ 36-7-4-1404. Contents of zoning ordinance -- Review of development plan -- Hearing procedure

- (a) If a zoning ordinance designates a zoning district under section 1401.5(a) [IC 36-7-4-1401.5(a)] of this chapter and authority is delegated under section 1402(c) [IC 36-7-4-1402(c)] of this chapter, the zoning ordinance must describe the following:
 - (1) The duties of the plan commission staff, hearing examiner, or committee in reviewing a development plan.
 - (2) The procedures for review of a development plan by the plan commission

staff, hearing examiner, or committee.

- (3) The procedures for an appeal to the plan commission of a decision made by the plan commission staff, hearing examiner, or committee.
- (b) A plan commission staff, hearing examiner, or committee to which authority has been delegated under section 1402(c) of this chapter may make a decision concerning a development plan without a public hearing if the zoning ordinance provides for an appeal of the decision directly to the plan commission.
- (c) The zoning ordinance may provide for a hearing procedure for review of a development plan that is similar to the hearing procedure for review of subdivision plats under the 700 series of this chapter. If such a procedure is adopted, the zoning ordinance may provide that public notice and hearing are not required for secondary review of a development plan. If notice and hearing are not required for secondary review of a development plan, the primary approval or disapproval of a development plan is a final decision of the plan commission that may be reviewed only as provided in section 1016 [IC 36-7-4-1016] of this appendix.

§ 36-7-4-1405. Review of development plan by plan commission

- (a) The plan commission shall review a development plan to determine if the development plan:
 - (1) Is consistent with the comprehensive plan, and
 - (2) Satisfies the development requirements specified in the zoning ordinance under sections 1402 and 1403 [IC 36-7-4-1402 and IC 36-7-4-1403] of this chapter.
- (b) The plan commission may do the following:
 - (1) Impose conditions on the approval of a development plan if the conditions are reasonably necessary to satisfy the development requirements specified in the zoning ordinance for approval of the development plan.
 - (2) Provide that approval of a development plan is conditioned on the furnishing to the plan commission of a bond or written assurance that:
 - (A) Guarantees the timely completion of a proposed public improvement in the proposed development, and
 - (B) Is satisfactory to the plan commission.
 - (3) Permit or require the owner of real property to make a written commitment under section 613 [IC 36-7-4-613] of this appendix.

§ 36-7-4-1406. Written findings concerning decisions of plan commission – Review of decision

- (a) A plan commission shall make written findings concerning each decision to approve or disapprove a development plan. The zoning ordinance must designate an official who is responsible for signing written findings of the plan commission.
- (b) Except as provided in section 1404(c) [IC 36-7-4-1404(c)] of this chapter, a decision of the plan commission approving or disapproving a development plan or a decision made under section 1405(b) [IC 36-7-4-1405(b)] of this chapter is a final decision of the plan commission that may be reviewed only as provided in section 1016 [IC 36-7-4-1016] of this appendix.

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