

## ARTICLE 5

### ZONING MAP AND TEXT AMENDMENTS

#### **SECTION 500 – General**

This Zoning Ordinance and the Zoning Map may be amended from time to time by ordinance duly enacted by the Board of County Commissioners in accordance with the procedures set forth in Indiana Code Chapter 36-7-4-600. Comprehensive updates of the Zoning Ordinance, Map and the Comprehensive Plan shall be conducted every five (5) years to ensure that these public documents accurately represent the changing needs of the community. The updates shall follow the laws and requirements as outlined in Indiana Code.

#### **SECTION 510 - Initiation of Zoning Text Amendments and Map Amendments**

Amendments to this zoning ordinance's text and map may be initiated in the following manner:

1. Zoning Text: The Plan Commission can initiate a text amendment by holding a public hearing and making a recommendation to the legislative unit. (See Article 27) The legislative unit can initiate a text amendment but must refer the amendment to the Plan Commission for a public hearing and recommendation before the legislative unit can act on the text amendment. Text amendments are to be adopted by a resolution and/or ordinance by the legislative unit.
2. Zoning Map: The Plan Commission can initiate a zoning map amendment by holding a public hearing and making a recommendation to the legislative unit. The legislative unit can initiate a zoning map amendment, but must refer the amendment to the Plan Commission for a public hearing and recommendation before the legislative unit can act on the zoning map amendment. Zoning map amendments can also be initiated by filing an application by at least one (1) majority owner, owner by contract (option) or lessee with permission of the owner/s of property within the area proposed to be changed or affected by said map amendment. Zoning map amendments are to be adopted by a resolution and/or ordinance by the legislative unit.

#### **SECTION 520 - Contents of an Application for a Zoning Map Amendment**

Applications for amendments to the zoning map, adopted as part of this Ordinance by Section 500, shall be completed in full, signed, supplemented with any additional information found appropriate by the Plan Commission, and accompanied by a fee established according to the fee schedule. All petitions not initiated by the Plan Commission must be initiated by a petition or application signed by property owners who own at least fifty percent (50%) of the land involved.

A Development Plan (hereafter referred to as a Concept Development Plan) is strongly encouraged to be submitted for any zoning map amendment. Rezoning applications submitted without a Concept Development Plan shall be reviewed from the perspective of the “maximum allowable use” based upon the requirements, principally permitted uses, and conditional uses of the zoning being requested. The Concept Development Plan, when submitted and agreed upon, shall be followed and be binding as a requirement of the zone map amendment. Any rezoning that is approved with a Concept Development Plan shall be designated on the Official Dearborn County Zoning Map as DP for Development Plan. (For example, Residential (R-DP))

The property owners and any other appropriate persons, such as the applicant(s) or one or more option holder(s) in the property, shall be required to furnish the information necessary to make any written commitments of record and shall sign such written commitments obligating them to comply with the terms of the zoning change and Concept Development Plan, if applicable. This written commitment and the ordinance of the legislative unit for the zone map amendment shall be filed in the office of the Dearborn County Recorder within 30 days of final action, as further specified in Sections 550-570.

All Applicants needing a Variance or Conditional Use Permit must file an application for Board of Zoning Appeals review and must follow the public hearing procedures set forth in Article 3, Sections 315, 320, and 322 of this order.

*Whether a Concept Development Plan is submitted or not, the property owner and any other appropriate person, such as the applicant or an option holder in the property, must supply the Plan Commission all of the information set forth in items 1-9 of the subsection titled ‘Minimum Elements for a Zone Map Amendment Application’ for all proposals involving a rezone, prior to the adopted meeting schedule and deadlines.*

A Concept Development Plan, once submitted, shall include the following minimum, additional elements—as applicable—as well as any other supporting information that the Applicant believes addresses the specific findings used in reviewing a Zoning Map Amendment.

**Minimum Elements for a Zone Map Amendment Application:**

1. General Existing Site Characteristics – ownership; topography with a maximum contour interval of ten (10) feet—two (2) foot intervals preferred; soils maps (and legends); applicable floodplain or floodway areas, streams, and other relevant drainage information; vegetation; the location of any cemetery or burial ground onsite and / or within 100 feet of the affected site; and other physical characteristics;
2. Transportation Patterns - public and private roads and internal and external circulation patterns, rights-of-ways, easements and parking;

3. Utilities and Infrastructure: The general location(s) of existing sewer, water, electric, and gas utilities, if applicable, that will serve the proposed development must be shown or referenced on the concept plan. This information shall also be accompanied by written statements from the service providers that address capacity issues as well as affirm the capability of the applicant to have these services extended to the proposed development. A project within the territory of the Dearborn County Regional Sewer District requires written acknowledgement—in addition to acknowledgements of other service providers (where inter-local agreements may exist or be required), where applicable. \*All written statement(s) shall be considered current—if less than 1 year old;
4. Services: General description of the availability of community facilities such as schools, fire protection services, emergency services, and other types of facilities that would serve the development, if any, and how these facilities are affected by this proposal. This information shall also be accompanied by written statements from the applicable service providers (with jurisdiction) that addresses capacity issues as well as affirms the capability of the applicant to have these services extended to the proposed development;
5. Relationship of Proposed Zone Change with Comprehensive Plan - how specifically the proposed zone change would conflict, conform, complement or otherwise affect the Comprehensive Plan as well as any special studies that are designed to further detail the Comprehensive Plan in a specific area;
6. An 8.5" by 11" or 11" by 17" reduction of the plan that can be copied on a standard photocopier;
7. A list of all property owners within 500 feet of the area proposed to be rezoned—or within 660 feet (1/8 mile), or as otherwise prescribed in IC 36-7-4-604, if the affected area proposed to be rezoned abuts or includes a county line (or a county line street or road or county line body of water)—for the purposes of identifying and notifying interested parties for the plan commission's hearing(s) on any matter related to a zone map amendment, including changes to written commitments;
8. A boundary map and legal description of the area proposed to be rezoned, sufficient that the property can be easily identified by the Dearborn County Surveyor's Office and Plan Commission staff;
9. Prepare detailed, preliminary statements regarding Findings of Fact Necessary for a Zone Map Amendment as set forth Section 540 of this Article.

**Additional Elements, if Applicable, for Zone Map Amendments involving a Concept Development Plan**

The following information must be submitted in conjunction with a Concept Development Plan—where applicable to a specific project or site:

10. Land Use Characteristics – Maps illustrating the location, description and size (acreage) of all proposed land uses—as well as maps and accompanying documentation illustrating the following amenities, where applicable: open spaces, neighborhood and / or community amenities, impervious surfaces including streets, parking areas, structures and buildings (general description of size area, intensities/densities). Proposed land use maps should accurately depict average lot sizes and densities on the plan at a scale no larger than 1” = 200’ and should be oriented with north, to the extent feasible, located near the top portion of the plan;
11. Approximate location and number of (both) anticipated residential and non-residential units along with approximate square footage, density and height;
12. If the site has unusual or unique natural features demonstrate how the proposed development preserves and utilizes its natural topography, geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural draining patterns. If appropriate, geotechnical studies should be submitted to indicate soil types, depth of bedrock and slope stability. \*All geotechnical studies should reflect current land conditions;
13. Submit conceptual landscape plan that indicates the locations and sizes of landscape and buffering features. A statement that acknowledges that all landscaping and bufferyard requirements set forth in Article 22 of the Dearborn County Zoning Ordinance will be adhered to by the owners may be submitted in lieu of a conceptual landscaping plan, if the plan commission finds it acceptable. For applications involving PUD overlay (See Article 16), design guidelines that include landscaping standards shall be submitted for multi-phased projects;
14. Calculation of approximate amount of open space both before and after construction. Indicate areas of expected open space and new landscaping. Include maintenance plans for these areas;
15. Approximate location and size of storm water detention and/or retention areas;
16. Information describing proposed signage (types, sizes, materials, and locations on site). For applications involving the PUD overlay, design guidelines that include signage standards shall be submitted for multi-phased projects;
17. Indicate the construction schedule of the project. For multi-phased projects, submit a phasing plan that describes the anticipated timing and geographical extent of each phase;
18. Submit a current, detailed traffic study if the proposed development exceeds 1000 vehicle trips per day on average or if the project would significantly alter existing traffic patterns or volume (See Article 24, Section 2448) \*All traffic studies shall be considered current—i.e. less than 1 year old;

19. Submit a sketch or drawing of the proposed buildings to demonstrate the visual appearance or a type of architecture. For applications involving the PUD overlay, design guidelines that include architectural standards shall be submitted for multi-phased projects;
20. For applications involving the PUD, a table of proposed dimensional standards for the proposed land uses or phases including lot sizes and frontages, building heights and intensities, and setbacks and a description of any requested exceptions to the requirements of the underlying zone;
21. For applications involving the PUD a written narrative shall be submitted that describes how the applicable planned development requirements and standards in Article 16 have been satisfied.

### **SECTION 530 - Public Hearing Procedure**

If the proposal is not initiated by the Plan Commission it must be referred to the Plan Commission for consideration and recommendation before any final action is taken by the legislative unit. Upon receiving or initiating the proposal, the Plan Commission shall, within sixty (60) days, hold a public hearing.

1. The following notice shall be given:
  - a. Notice of the hearing shall be given by the Plan Commission Staff (postmarked and mailed) at least **ten (10) days** in advance of the hearing by certified mail, to the applicant and the owners of all property adjoining the property to be changed. The applicant proposing the amendment shall be required to furnish the names and addresses of the owners of all adjoining property. The Dearborn County Assessor's Office may be relied upon to determine the identity for all adjoining property owners. In the cases where the property requested to be changed abuts or includes a county line, notice shall be given to properties at least 660 feet from the county line or property line into the neighboring county. The notice shall state, at a minimum, the time, place and purpose of the hearing. An application for a Zone Map Amendment may be withdrawn prior to the public notification process set forth herein, at minimum cost to the Owner / Applicant. An application that is withdrawn after the initiation of the public notification process may be withdrawn at full cost to the Owners / Applicants. Applications may be resubmitted under either of these circumstances for Plan Commission review at any subsequent public hearing date.
  - b. Notice of the hearing shall be published in a newspaper of general circulation at least **ten (10) days** prior to the hearing. Said published notice shall state, at a minimum, the time, place and purpose of the hearing.
  - c. Within **ten (10) business days** after the Plan Commission determines its recommendation (if any), the Plan Commission shall **certify** the proposal by providing in writing to the legislative unit the decision made by the Plan Commission with findings. An application that is withdrawn after the Plan Commission determines its recommendation may not be resubmitted or

reconsidered in any form for the same or substantially similar set of properties for a minimum of ninety (90) days, as quantified from the date that the Applicants / Owners formally submit a written withdrawal to the Plan Commission and Board of Commissioners. Applications resubmitted under these circumstances will be required to initiate the Zone Map Amendment process as new requests.

- d. The legislative unit shall vote on the proposal within ninety (90) days after the Plan Commission certifies the proposal.
2. The following applies if the proposal receives a favorable recommendation from the Plan Commission.
    - a. At the first regular meeting of the legislative unit after the proposal is certified, or at any subsequent meeting within the ninety (90) day period, the legislative unit may adopt, amend or reject the proposal.
    - b. If the legislative unit adopts or amends (as certified) the proposal, it takes effect as other ordinances of the legislative unit.
    - c. If the legislative unit rejects the proposal, it is defeated.
    - d. If the legislative unit fails to act on the proposal within ninety (90) days after certification, the ordinance takes effect as if it had been adopted (as certified).
  3. The following applies if the proposal receives either an unfavorable recommendation or no recommendation from the Plan Commission:
    - a. At the first regular meeting of the legislative unit after the proposal is certified, or at any subsequent meeting within the ninety (90) day period, the legislative unit may adopt or reject the proposal.
    - b. If the legislative unit adopts (as certified) the proposal, it takes effect as other ordinances of the legislative unit.
    - c. If the legislative unit rejects the proposal, it is defeated.
    - d. If the legislative unit fails to act on the proposal within ninety (90) days after certification, it is defeated.

If a zoning map amendment application receives an unfavorable or no recommendation from the Plan Commission and this action is upheld by the legislative unit, the applicant will not be permitted to resubmit an application for this site for a period of ninety (90) days, as quantified from the date that the Board of Commissioners makes its determination.

## **SECTION 540 - Findings Necessary for Map Amendment**

In preparing and considering proposals for zoning text and map amendments, the Plan Commission and the legislative unit shall pay reasonable regard to the following:

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;
5. Responsible development and growth.

The above criteria shall be the basis for findings of fact in a map amendment and shall be recorded in the minutes and records of the Plan Commission and the legislative unit.

## **SECTION 550 - Written Commitments**

The Plan Commission may require a written commitment executed by the applicant/owner in conjunction with a favorable recommendation of a Zoning Map Amendment. Failure to comply with any written commitment shall be considered a violation of this ordinance and shall be governed by Article 6. Any written commitment shall be recorded as described in Section 560 and shall be binding on the owner, subsequent owner, or person who acquires interest in the property.

The Plan Commission shall forward to the legislative unit, as part of the certification of the recommendation, the written commitment incorporated within its motion for approval. The written commitment shall be signed by the owner and any other appropriate person indicating agreement with the terms of the written commitment. The legislative unit may adopt or reject the application and written commitment pursuant to IC 36-7-4-608. Any written commitments made as part of the Ordinance/Resolution for approval of the rezoning by the legislative unit shall be prepared in writing and signed, as stated above, and recorded as identified in Section 560 by the Planning Department. The enforcement, interpretation and administration of the written commitments shall be the responsibility of the Plan Commission.

### **SECTION 560 – Official Record and Certificate of Land Use Restriction**

The Official Record of action taken by the Plan Commission, or legislative unit within Dearborn County and any adopted written commitments, shall be filed in the form of a Certificate of Land Use Restrictions with the County Recorder's office as permitted by IC 36-7-4-615.

Filing shall occur within 30 days of the date from which approval was granted. The certificates shall be completed by the Planning Department and filed with the Recorder as required. The County Recorder shall index the certificates by property owner and, if applicable, name of subdivision or development. The Dearborn County Plan Commission office shall maintain the files of written commitments, which require certificates. When all written commitments have been complied, the Planning Department shall release the certificate in the same manner as releases of encumbrances upon real estate. Certificates of Land Use Restrictions shall be filed in the Dearborn County Recorder's Office for the following reviews: Zoning Map Amendments, Concept Development Plans, Planned Unit Developments and other items requiring recording of restrictions.

### **SECTION 570 – Effect of Approval of Amendment**

When an amendment to the Zoning Map is adopted by resolution/ordinance of the legislative unit the resolution/ordinance is the official map amendment. The incorporation of this amendment onto the official zoning map shall be an administrative act performed in a timely manner by the Plan Commission Staff. When an amendment to the Zoning Text is approved, the change shall be incorporated into this Ordinance and maintained by the Planning Department.

### **SECTION 580 – Amendment to the Comprehensive Land Use Plan**

When the legislative unit approves a Zoning Map Amendment, the Future Land Use Plan of the Comprehensive Plan is thereby amended.