

## **RULES OF PROCEDURE**

### **WESTFIELD-WASHINGTON TOWNSHIP ADVISORY PLAN COMMISSION**

#### **ARTICLE I: AUTHORITY & JURISDICTION**

##### **Section 1: Authority**

The Westfield-Washington Township Advisory Plan Commission (the "Commission") exists as an Advisory Planning Commission under the authority of I.C. 36-7-4-401 and the Westfield-Washington Township Unified Development Ordinance (the "Unified Development Ordinance"), and any amendments thereto. The Commission shall appoint a Plat Committee (the "Committee") in accordance with I.C. 36-7-4-701. These rules are adopted in accordance with the requirements of I.C. 36-7-4-401.

##### **Section 2: Jurisdiction**

As set forth in Article 2.3 Authority and Purpose; Jurisdiction and defined in Article 12.1 Definitions of the Unified Development Ordinance, the jurisdiction of the Plan Commission and Committee is all land within Washington Township, Hamilton County, Indiana, and all land incorporate into the City of Westfield, Hamilton County, Indiana.

#### **ARTICLE II: DUTIES & RESPONSIBILITIES**

##### **Section 1: Duties**

Article 3.6 Administration; Plan Commission; Duties of the Unified Development Ordinance sets forth the duties and powers of the Commission, as defined by Indiana law (I.C. 36-7-4-400 *et seq.*) or as may otherwise be required by the Unified Development Ordinance, as generally described below:

- 1) The Commission shall be governed by the provisions of the Unified Development Ordinance, as adopted and amended by the City Council of the City of Westfield, Indiana (the "City Council") and the Rules and Procedures set forth herein, as adopted and amended by the Commission;
- 2) Any member of the Commission who has a conflict of interest in a matter before the Commission shall remove him/herself from hearing the matter and not vote thereon, as further described in Article IV, Section 5, Item 3;
- 3) Nothing herein shall be construed to give or grant to the Commission the power of authority to alter or change the Unified Development Ordinance, including all official zoning maps; this authority is reserved for and with the City Council;
- 4) The Commission attorney shall be consulted in all cases where the powers of the Commission are not clearly defined; and,

- 5) The office of the Commission shall be located in the offices of the City of Westfield, Community Development Department, Westfield, Indiana (the "Department").

### **Section 2: Responsibilities**

The responsibilities of the Commission shall be to act in an advisory capacity to the City Council regarding the following:

- 1) The adoption of a Comprehensive Plan and amendments thereto in accordance with I.C. 36-7-4-500 *et seq.*;
- 2) The adoption of a Unified Development Ordinance and Zoning Map and amendments thereto in accordance with IC 36-7-4-600 *et seq.*;
- 3) Any other matter, within the responsibilities of the Commission, authorized by Indiana law or the Unified Development Ordinance.

### **Section 3: Final Decisions**

The Commission shall render final decisions concerning the following matters, unless delegated to the Department or Committee; provided, that the Department has made evidentiary findings as to their compliance with the Unified Development Ordinance:

- 1) Plats or re-plats of Subdivisions (see Article 10.12 Subdivision of the Unified Development Ordinance);
- 2) Vacations of Subdivisions; and,
- 3) Development Plans and amendments to Development Plans (see Article 10.7 Development Plan Review of the Unified Development Ordinance).

## **ARTICLE III: MEMBERSHIP & OFFICERS**

### **Section 1: Commission Membership**

- 1) **Members:** The Commission shall consist of nine (9) voting members as follows:
  - a) Four (4) residents who reside within the corporate limits of the City and are not elected officials or employees of the City. These members shall be appointed by the City's executive officer (Mayor) and shall each serve a four (4) year term.
  - b) One (1) resident who resides within the corporate limits of the City and who is not an elected official or employee of the City. This member shall be appointed by the City Council and shall serve a four (4) year term.
  - c) Two (2) members of the City's legislative body (City Council), who may be appointed by the City Council for a one (1) year term.

- d) Two (2) residents of Washington Township who are not elected officials, or employees of the Township or City. These members shall be appointed by the Township's executive (Township Trustee) with the approval of the Township's legislative body and shall serve a four (4) year term.
- 2) Reappointment: Each Commission member appointed herein is eligible for reappointment.
- 3) Removal for cause: The appointing authority may remove a member pursuant to I.C. 36-7-4-218(f).
- a) In addition, if a member of the Commission has three (3) unexcused absences<sup>1</sup> in any calendar year from a meeting on the Commission's adopted schedule of meetings (see Article 3.1(B) of the Unified Development Ordinance) (the "Schedule of Meeting and Filing Dates"), then that member becomes disenfranchised at the sole discretion of the appointing authority and shall no longer be considered a viable member of the Plan Commission.
- b) In the event of removal by the appointing authority, the Plan Commission member shall receive a mailed notice in accordance with the terms of I.C. 36-7-4-218(f). The appointing authority shall mail notice of the removal, along with written reasons for the removal, to the members at their address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the appointing authority. The appointing authority may consider the appeal and hold a hearing to either uphold or overturn the removal of the member.
- 4) Vacancy:
- a) If a vacancy occurs among the membership, then the appointing authority shall appoint a member for the unexpired term of the vacancy or vacating member.
- b) The President, through the Director, shall inform the appropriate appointing authority as promptly as possible, when a member has three (3) unexcused absences, as outlined herein, for the purpose of considering the replacement of said member so that the appointing authority may appoint a replacement to fulfill the unexpired term. Other vacancies occurring in the Commission shall also be reported to the appropriate appointing authority for similar action.
- 5) Commission Communications: All Commission members are encouraged to discuss any concerns that they may have with a particular petition or application with the Department or legal counsel.

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<sup>1</sup> An excused absence(s) shall be considered as a call, text, or email in to the Director of the Department or Commission President.

- 6) Appointment to the Board of Zoning Appeals:
- a) In accordance with I.C. 36-7-4-902, the Commission shall, from its membership, appoint one representative to serve on the Westfield-Washington Township Board of Zoning Appeals (the "Board of Zoning Appeals"). This appointee shall not hold elective office, other appointive office or be an employee of the City or Township.
  - b) In accordance with I.C. 36-7-4-907, the Commission may, in the absence of its appointment under the above paragraph (a), appoint an alternate member to the Board of Zoning Appeals, as needed.
  - c) In accordance with I.C. 36-7-4-903 this member shall be from the citizen membership appointed by the Township Executive and shall represent the unincorporated area.
  - d) The term of the appointment shall be two (2) years.
- 7) Appointment to the Plat Committee: In accordance with I.C. 36-7-4-701, the Commission shall appoint members to the Plat Committee, in accordance with Section 2 of this Article.

## **Section 2: Plat Committee Membership**

- 1) Members: The Plat Committee shall consist of five (5) voting members as follows:
- a) At least one (1) member of the Commission.
  - b) At least one (1), but not more than two (2), City of Westfield staff members.
  - c) At least one (1) resident who resides within the Jurisdiction.
  - d) All members are appointed by the Commission.
  - e) All membership terms are for one (1) year.
- 2) Reappointment: Each Committee member appointed herein is eligible for reappointment.
- 3) Removal for cause: The Commission may remove a member pursuant to I.C. 36-7-4-701.
- a) In addition, if a member of the Committee has three (3) unexcused absences<sup>2</sup> in any calendar year from a meeting on the Committee's adopted schedule of meetings (see Article 3.1(B) of the Unified Development Ordinance) (the "Schedule of Meeting and Filing Dates"), then that member becomes

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<sup>2</sup> An excused absence(s) shall be considered as a call, text, or email in to the Director of the Department or Committee President.

disenfranchised at the sole discretion of the Commission and shall no longer be considered a viable member of the Committee.

- b) In the event of removal by the Commission, the Committee member shall receive a mailed notice in accordance with the terms of I.C. 36-7-4-701(e). The appointing authority shall mail notice of the removal, along with written reasons for the removal, to the members at their address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the appointing authority. The appointing authority may consider the appeal and hold a hearing to either uphold or overturn the removal of the member.
- 4) Vacancy: If a vacancy occurs among the membership, then the appointing authority shall appoint a member for the unexpired term of the vacancy or vacating member.
- 8) Committee Communications: All Committee members are encouraged to discuss any concerns that they may have with a particular petition or application with the Department or legal counsel.

### **Section 3: Officers**

The Commission and Committee shall, at their first regular meeting each year, elect from its membership a President and Vice-president.

- 1) The President shall preside over all meetings of the Commission or Committee.
- 2) The Vice-president shall have the authority to act as President during the absence or disability of the President.
- 3) In the absence of both the President and Vice-president, the Secretary shall preside over the election of a President pro-tempore who shall have the authority to act as President for the specific meeting of the Commission or Committee at which they are elected.
- 4) Upon resignation or replacement of the President or Vice-president as a member of the Commission or Committee, the Commission or Committee shall elect a successor at its next regularly scheduled meeting.
- 5) In accordance with City of Westfield Ordinance 06-02, members of the City Council who are appointed to serve on the Commission shall not be eligible for the position of President, Vice-president, or Secretary of the Commission.
- 6) The Director of the Department ("Director") shall be permanently appointed as the Secretary of the Commission and Committee. In the event of a vacancy in the position of Director, the office of Secretary shall be transferred to the interim Director as appointed by the Mayor.
- 7) The Director shall be responsible for recording and transcribing all regular and special meeting minutes of the Commission or Committee.

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**Section 4: Training, Seminars, Continuing Education and/or Field Trips**

- 1) Training
  - a) Within the first ninety (90) days of serving on the Commission, each new member shall be given an opportunity to attend an introductory training session conducted by the Department. This session will be offered at least twice during this time period and take place at a scheduled workshop meeting of the Commission.
  - b) If a member fails to attend the initial training requirements, or subsequent scheduled session, then that member and appointing authority shall be duly notified of failure to fulfill requirement.
- 2) Seminars / Conferences / Workshops
  - a) Each member of the Commission appointed to a four (4) year term, is encouraged to attend at least one (1) planning seminar / conference / workshop offered by the Department, other governmental offices, local builders association, American Planning Association or local universities regarding planning principals and how they affect local planning, during each term of service (this excludes the legislative body appointments).
  - b) The cost to participate in one event (per member, per term) shall be fully reimbursable if the event details are reviewed and approved by the Department prior to registration. The cost to participate in additional events may be reimbursable, at the Department's discretion.
- 3) Continuing Education
  - a) Each new member shall become a member of the American Planning Association (APA) and the Indiana Chapter (APA Indiana) through the Department. With this membership, you are encouraged to participate in programming offered by these organizations.

**ARTICLE IV: MEETINGS****Section 1: Monthly Meetings**

- 1) **Schedule of Meetings**: The Commission shall adopt an annual Schedule of Meetings and Filing Dates of the regularly scheduled Commission and Committee meetings each year and deadlines for filing applications for placement on a meeting agenda (the "Schedule of Meeting and Filing Dates"). The Schedule of Meetings and Filing Dates shall be maintained by the Department (see Article 3.1(B) of the Unified Development Ordinance) and shall be approved by the Commission no later than their first December meeting of each year.
- 2) **Commission Meeting Time, Date & Location**: The meetings of the Commission shall be on the first and third Monday of each month at 7:00 p.m. If the date of the meeting

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falls on a legal holiday, or if it is impossible to conduct the meeting at that time or place, then the meeting will be held on the following Tuesday. If that is unavailable, then the Director may administratively set an alternate date, time, or place for the meeting, or the meeting may be postponed with the unanimous consent of the members of the Commission, provided that the notice requirements of I.C. 5-14-1.5 are satisfied.

- a) First Monthly Commission Meeting: The meeting location shall be in the Council Chambers of the City of Westfield, City Hall, Westfield, Indiana.
  - b) Second Monthly Commission Meeting: The meeting location shall be at the Westfield City Services Building, Westfield, Indiana.
- 3) Committee Meeting Time, Date & Location: The meetings of the Committee shall be on the second and fourth Monday of each month at 11:00 a.m. The meeting location shall be at the Westfield City Services Building, Westfield, Indiana. If the date of the meeting falls on a legal holiday, or if it is impossible to conduct the meeting at that time or place, then the meeting will be held on the following Tuesday. If that is unavailable, then the Director may administratively set an alternate date, time, or place for the meeting, or the meeting may be postponed with the unanimous consent of the members of the Committee, provided that the notice requirements of I.C. 5-14-1.5 are satisfied.
- 4) Special Meetings: Special meetings of the Commission or Committee may be called by the President or by two (2) members of the Commission or Committee upon written request to the Secretary (IC 36-7-4-307). The Secretary shall send to all members, at least five (5) calendar days before the special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if:
- a) The date, time, and place of a Special Meeting are already fixed on the Schedule of Meeting and Filing Dates;
  - b) All members of the Commission or Committee are present at a meeting on the Schedule of Meetings and Filing Dates where the Special Meeting was called; and,
  - c) The Secretary complies with the notice requirements of I.C. 5-14-1.5.
- 5) Meeting Purpose & Intent:
- a) First Commission Meeting of Month: The primary purpose of the first Commission meeting of the month is to hold public hearings and take action Items of Business and Consent Agenda Items.
  - b) Second Commission Meeting of Month: The primary purpose of the Second Commission Meeting is to hold workshops for Zoning Map Changes, including Rezone, PUD, and PUD Amendment petitions. The purpose of the workshop is to allow the commission to provide comments on changes that have been made

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following the public hearing and to allow the petitioner to gain final comments prior to returning for a recommendation. Consent Agenda Items may be acted upon at this meeting.

- c) Committee Meetings: The purpose of Plat Committee meetings is to hold public hearings and take action on Primary Plat and Overall Development Plan petitions. This will typically occur at the same meeting, but it is possible that some items will need to attend more than one meeting.

### **Section 2: Order of Business (Agenda):**

1) The order of business at **First Monthly Commission Meetings** shall be as follows:

- Call to Order
- Roll Call
- Determination of a Quorum
- Meeting Announcements:
  - Changes to the Agenda
  - Continuance Requests
  - Withdrawal Requests
- Consideration / Approval
  - Minutes of Previous Meetings
  - Procedural Items
  - Items of Discussion
- Review Meeting Rules & Procedures
- Consent Agenda Items
- Items of Business
- Public Hearing Items
- Reports:
  - Commission Members
  - City Council Liaison
  - Board of Zoning Appeals Liaison
  - Plat Committee Liaison
  - Department

- Adjournment
- 2) The order of business at **Second Monthly Commission Meetings** shall be as follows:
- Call to Order
  - Roll Call
  - Determination of a Quorum
  - Meeting Announcements:
    - Changes to the Agenda
    - Continuance Requests
    - Withdrawal Requests
  - Consideration / Approval
    - Minutes of Previous Meetings
    - Procedural Items
    - Items of Discussion
  - Review Meeting Rules & Procedures
  - Consent Agenda Items
  - Workshop Items
  - Reports:
    - Commission Members
    - City Council Liaison
    - Board of Zoning Appeals Liaison
    - Plat Committee Liaison
    - Department
  - Adjournment
- 3) The order of business at **Committee Meetings** shall be as follows:
- Call to Order
  - Roll Call
  - Determination of a Quorum
  - Meeting Announcements:
    - Changes to the Agenda
    - Continuance Requests

- Withdrawal Requests
- Consideration / Approval
  - Minutes of Previous Meetings
  - Procedural Items
  - Items of Discussion
- Review Meeting Rules & Procedures
- Items of Business
- Public Hearing Items
- Reports:
  - Committee Members
  - Plan Commission Liaison
  - Department
- Adjournment

### **Section 3: Quorum and Decisions**

#### **1) Quorum:**

- a) **Commission:** A majority of five (5) of the Commission membership shall constitute a quorum. No action, however, is official unless authorized at a workshop, regular, or properly called special meetings by a majority of the Commission.

**Committee:** A majority of three (3) of the Committee membership shall constitute a quorum. No action, however, is official unless authorized at a regular or properly called special meetings by a majority of the Committee.

#### **2) Voting:**

- a) Except as otherwise provided below, decisions of the Commission or Committee shall be by roll call vote of the members. The first roll of each meeting shall be called in alphabetical order of the member's last names. Each successive roll call shall be called in the same order as the immediately preceding roll except that the member who voted first in the immediately preceding roll call shall vote last. For example: 1<sup>st</sup> Roll Call = 1,2,3,4,5,6,7,8,9; 2<sup>nd</sup> Roll Call = 2,3,4,5,6,7,8,9,1; 3<sup>rd</sup> Roll Call = 3,4,5,6,7,8,9,1,2; and, etc.
- b) Approval of minutes and adjournment may be conducted by voice vote unless a roll call vote is requested by a member of the Commission or Committee, or any member is attending virtually.

**3) Conflict:**

- a) No member of the Commission or Committee shall participate in the hearing or in any decision on any zoning matter, other than the preparation and enactment of a comprehensive plan, in which the member has a direct or indirect financial interest in a petition or application that is being presented to the Commission or Committee for consideration.
- b) A member of the Commission or Committee is disqualified and may not participate in a hearing if the member is biased or prejudiced or otherwise unable to be impartial. Any concerns regarding impartiality should be discussed with legal counsel.
- c) In the event of a conflict, then the member shall describe the conflict immediately after the matter is introduced by the presiding officer and take no part in the discussion and/or decision-making process described herein.
- d) The presiding officer shall note the existence and description of the conflict and it shall be entered into the record.

**Section 4: Minutes**

- 1) The Commission and Committee shall keep minutes of its proceedings showing the vote of each member on each question presented, or indicating that the member is absent or not voting.
- 2) The Director, or their designee, shall keep a record of all proceedings (minutes) of the Commission and Committee which shall be presented to the Commission at the next regular succeeding meeting for review and acceptance into the record. Upon acceptance, the record shall be signed by the President and attested by the Secretary.

**Section 5: Decisions**

All members present shall vote on every question unless prevented by conflict or excused by the presiding officer.

**Section 6: Adjournment**

The Commission or Committee may adjourn so long as all business has been conducted in accordance with these Rules of Procedure. The Commission may, by a majority vote, continue any case(s) that have not been called onto the floor by 10:30 p.m. to allow for adjournment. Such cases shall be continued to a subsequent meeting.

## ARTICLE V: DOCKET

Each petition that is to be publicly heard before the Commission or Committee shall be filed in proper form with the required data, shall be numbered serially and placed on the docket of the Commission (see Chapter 10: Processes and Permits of the Unified Development Ordinance). The docket numbers shall include the year and begin anew with the January filing deadline.

As soon as the petition receives a docket number, then it shall be placed on the docket of the Commission or Committee and a date set for hearing, in accordance with the Schedule of Meeting and Filing Dates. Petition items shall come before the Commission or Committee in the regular order of their consecutive docket numbers unless otherwise ordered by the Department or changed by the Commission or Committee at the beginning of a meeting.

## ARTICLE VI: NOTICES

In the event that a public hearing is required, the following requirements for notice must be met:

### Section 1: General Requirements

- 1) All public hearings shall be noticed using each of the following means of communication:
  - a) Letter mailed via First Class U.S. Mail to Interested Parties (as defined in Section 3 of this Article);
  - b) Yard Sign(s) posted on the subject property; AND
  - c) Newspaper Publication, per IC 5-3-1.
- 2) All three (3) forms of notice shall be postmarked/posted/published at least ten (10) calendar days before the scheduled public hearing.
- 3) For all Commission or Committee meetings other than public hearings, a 48-hour notice shall be made by posting the meeting time and location at the entrance of the building where the meeting will occur and at City Hall. No other notice shall be required.
- 4) The Department may cause notice to be posted on the official City of Westfield website.
- 5) Appearance at any hearing on an application or proposal, in person or by representative, shall waive any defect in notice unless the alleged defect is raised at the beginning of the hearing.
- 6) In the event that a petition which has met all public notice requirements, as set forth herein, is postponed or continued for any reason prior to a public hearing being held,

no further public notice shall be necessary, so long as at the meeting for which the public hearing was noticed and scheduled, the President has announced the date, time and place of the new public hearing.

### **Section 2: Exemptions**

- 1) A public hearing shall not be required for Secondary Plat approval, per I.C. 36-7-4-710.
- 2) A public hearing shall not be required for a Detailed Development Plan, per Article 10.7(G)(3) of the Unified Development Ordinance.
- 3) Applications to change, repeal, replace or amend all or portions of the Unified Development Ordinance or Comprehensive Plan (docketed as ZOA or CPA petitions) shall only be required to give notice of the hearing by newspaper publication, as set forth herein. Additionally, information regarding these petitions shall be made available on the City's Website.

### **Section 3: Public Notice by First Class Mail**

- 1) Interested Parties: Public notice in accordance with this article and with I.C. 5-3-1-2 and I.C. 5-3-1-4 and due notice to interested parties. Interested parties shall be:
  - a) The owners of real property adjacent to the property subject of the petition to a depth of two (2) ownerships of no direct or indirect financial or other interest to the petitioner or property owner unless otherwise reduced by the Director.
  - b) Additional parties deemed advisable by the Director.

A list of the interested parties' last known address shall be obtained from the Hamilton County Auditor, Office of Transfers and Mapping. The list of interested parties should be obtained and dated no earlier than ninety (90) days prior to the postmarked date of the mailed public notice. A good faith effort shall be made to investigate and resolve any discrepancies or omissions in or among such records in order to determine the name and address of the current owner of record.
- 2) The applicant shall provide notice to all Interested Parties. Such notice shall state:
  - a) The general location by address or other identifiable geographic description of the subject property or area.
  - b) A summary of the subject matter contained in the proposal and/or a description of the proposed change in the zone maps, where the proposal involves a change to the zone maps.
  - c) Docket number of the petition or appeal.
  - d) The name of the applicant(s).
  - e) The time, date and place that the petition has been set for hearing.

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- f) That the application and file may be examined in the office of the Department.
  - g) That written objections to the proposal may be filed in the office of the Department before the hearing will be considered.
  - h) That oral comments concerning the proposal will be heard at the public hearing.
  - i) That the hearing may be continued from time to time as may be found necessary.
- 3) The manner in which notice must be sent to Interested Parties shall be as follows:
- a) Required notices to Interested Parties shall be sent by First Class U.S. Mail (or an equivalent alternative accepted by the Director) and postmarked at least ten (10) calendar days before the public hearing. The Department will advise the Commission at the public hearing of any deficiencies in providing notice.
  - b) Proof that notice has been mailed shall consist of a verified affidavit by the applicant or the Petition Representative indicating compliance with the notice requirements (or an equivalent alternative accepted by the Director) and shall be sufficient proof of notice under these rules regardless of actual receipt by the intended recipient. Said affidavit and a copy of the mailing list from the County Mapping and Transfers Office, must be filed in the office of the Department four (4) calendar days prior to the public hearing.
- 4) The applicant shall bear the cost of and responsibility for all mailed notice to Interested Parties.

#### **Section 4: Public Notice by Yard Sign(s)**

- 1) The applicant shall post a sign or signs on the subject property in a location clearly visible to passing traffic.
- 2) The sign(s) shall not obstruct vehicular line of site, in compliance with the City of Westfield's Construction Standards and Specifications.
- 3) The Department shall determine sign locations with not less than one (1) sign placed on the property per street frontage, per block.
- 4) Signs shall be available in the office of Department.
- 5) The Department shall bear the cost of the initial sign(s). The cost for any subsequent replacement signage shall be borne by the applicant. The responsibility of sign placement shall be borne by the applicant.

**Section 5: Public Notice by Newspaper Publication**

- 1) The Department shall cause a legal notice to be published in a newspaper(s) qualified to publish legal notices as established by Council, in accordance with I.C. 5-3-1. Such notice shall state:
  - a) The general location by address or other identifiable geographic description of the subject property or area.
  - b) A summary of the subject matter contained in the proposal and/or a description of the proposed change in the zone maps, where the proposal involves a change to the zone maps.
  - c) Docket number of the petition or appeal.
  - d) The name of the applicant(s).
  - e) The time and place that the petition has been set for hearing.
  - f) That the application and file may be examined in the office of the Department.
  - g) That written objections to the proposal may be filed in the office of the Department before the hearing will be considered.
  - h) That oral comments concerning the proposal will be heard at the public hearing.
  - i) That the hearing may be continued from time to time as may be found necessary.
- 2) The applicant shall bear the costs of and responsibility for all newspaper notices.

**Section 6: INDOT Notice**

- 1) In accordance with City of Westfield Ordinance 07-09, all development proposals which are located within the area designated as the U.S. Highway 31 Overlay Zone, as defined in the Unified Development Ordinance, that require a public hearing or action by the Commission shall provide notice to the Indiana Department of Transportation in accordance with the requirements established on the INDOT Notice Form.
- 2) In accordance with City of Westfield Ordinance 07-15, all development proposals which are located within the area designated as the State Highway 32 Overlay Zone, as defined in the Unified Development Ordinance, that require a public hearing or action by the Commission shall provide notice to the Indiana Department of Transportation in accordance with the requirements established on the INDOT Notice Form.

## ARTICLE VII: HEARINGS & CONDUCT OF HEARINGS

### Section 1: Hearings

- 1) Public hearings shall be held on the adoption or amendment of a Comprehensive Plan, the adoption or amendment of the Unified Development Ordinance or Zoning Map, vacation of Subdivisions and the approval of a Primary Plat, Overall Development Plan and other petitions as presented to or required by the Unified Development Ordinance or Indiana law.
- 2) A petitioner who seeks to amend the Unified Development Ordinance, Zoning Map, or the Comprehensive Plan or to gain approval of a Primary Plat, as may be required by the Unified Development Ordinance, shall file such petition with the Department on forms provided by the Department, with documentation and supporting information set forth in the Unified Development Ordinance, and in accordance with the Schedule of Meeting and Filing Dates. Upon the receipt of such petition, the Department shall prepare a notice in accordance with these Rules of Procedure.
- 3) In order for a petition to be heard, the Petition Representative, shall be in attendance to present the petition and answer questions about the petition. If no Petition Representative is present at the meeting, then the Commission or Committee may dispose of the petition in accordance with Section 3 of this Article.

### Section 2: Conduct of Hearings

- 1) Public Hearings: Public hearings shall be conducted according to the following procedure. Please note the time limitations for each hearing segment.
  - a) The President of the Commission or Committee will introduce the agenda item, followed by a report from the Department.
  - b) After being recognized by the President, the Petition Representative will step up to the podium, and state their name and address.
  - c) The Petition Representative shall present the facts and arguments in support of the case (15 minutes maximum, without interruption).
  - d) Commission or Committee members and Department staff may request clarification on items discussed in the presentation prior to the public hearing.
  - e) The official public hearing shall then be opened. Comments from organized groups, committees (5 minutes maximum, 1 member per group), and individuals, other than the petitioner, shall then follow (3 minutes maximum per speaker). Speakers should present new points and not repeat comments from previous speakers. The public hearing shall then be closed.

- f) The Petition Representative shall then respond to comments (10 minutes maximum, without interruption). Additional discussion may occur between Commission or Committee members and the Petition Representative.
  - g) To maintain orderly procedure, parties should proceed without interruption by other interested parties.
  - h) After the discussion of the petition has concluded:
    - i) The Commission may consider the petition; however, action will typically occur at a future meeting.
    - ii) The Committee will typically take action on a petition; however, petitions may be continued if it is determined to be noncompliant.
- 2) Presentations: In the presentation of a petition:
- a) The burden shall be upon the Petition Representative to supply all information, including charts, diagrams, and other exhibits necessary for a clear understanding of the petition.
  - b) Statements and/or discussions to the Commission or Committee made by the Petition Representative at the meeting regarding anticipated methods of operation, site design/layout, or other details relevant to the decision may be incorporated into a binding agreement between the applicant and Commission or Committee (see Article 10.6: Processes and Permits; Commitments of the Unified Development Ordinance), or they may be included as conditions to any Commission or Committee motion to approve. Such commitments or conditions shall be reflected in the minutes of that meeting.
- 3) Conduct: Every person appearing before the Commission or Committee shall abide by the orders and directions of the President. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of the privileges of the Commission and shall be dealt with as the President directs.

### **Section 3: Failure to Appear**

Failure on behalf of an application or Petition Representative to appear during a public hearing shall be dealt with as follows:

- 1) The President may entertain a motion from the Commission or Committee to dismiss the case for failure to appear. In the absence of a motion by the Commission or Committee, the petition shall be continued to the subsequent meeting.
- 2) If a petition is dismissed for failure to appear, then the applicant will be furnished with a written notice by the Department.

- 3) The applicant shall have thirty (30) days from the date of the notice of dismissal to apply for reinstatement of the petition by submitting a written request with the Department for reinstatement. Reinstatement shall be at the discretion of the President for good cause shown, and upon payment of the appropriate fees by the applicant.
- 4) In all reinstated petitions, the petition will be treated as a new petition and shall be re-filed in proper form with the required data, numbered serially and placed on the docket of the Commission or Committee by the Department. The applicant shall be responsible for paying all associated fees with the new petition. Advertisement and public notifications as required herein shall be required as if the petition were a new application.

### **ARTICLE VIII: FINAL DISPOSITION OF CASES**

- 1) After Commission or Committee consideration of any reports, testimony (written or verbal) and the recommendations of the Department, the final disposition of any petition shall be in the form of a decision or report, setting forth, when deemed appropriate, the recommendation (if any), findings and determinations of the Commission or Committee, together with any modifications, specifications or limitations which it makes.
- 2) The disposition of petitions requiring final approval from the Council shall be in the form of a recommendation to the Council.
- 3) A Petition Representative may not withdraw a petition after a roll call vote has been ordered by the President.
- 4) Petitions Withdrawn.
  - a) A petition which has been withdrawn shall not be placed on the docket again for consideration within a period of six (6) months after the date of withdrawal.
  - b) A new application involving the same property that was the subject of a petition which has been withdrawn shall not be placed on the docket for consideration within a period of three (3) months after the date of withdrawal.
- 5) Petitions Decided Upon.
  - a) A petition which has been decided adversely to the petitioner shall not be placed on the docket again for consideration until the legality of the Commission's or Committee's decision is finally determined pursuant to IC 36-7-4-1000 *et seq.*, or for a period of twelve (12) months following the date of the adverse decision previously rendered, whichever is later.
  - b) A new petition involving the same property that was the subject of a case which has been decided adversely to any petitioner shall not be placed on the docket for

consideration until the legality of the Commission's or Committee's decision is finally determined pursuant to IC 36-7-4-1000 *et seq.*, or for a period of six (6) months following the date of adverse decision previously rendered, whichever is later.

- 6) The Commission's recommendation is advisory in matters of Zoning Map changes and amendments to the Unified Development Ordinance or Comprehensive Plan. As a result, all such matters shall be certified to the Council for its consideration in accordance with Indiana law. The Commission's recommendation on any such matter may then be followed or overturned by the Council in accordance with Indiana law and the rules of the Council.

### ARTICLE VIII: ADMINISTRATIVE DISMISSAL

- 1) Petitions that require a Public Hearing:
  - a) Petitions which have not received a public hearing will be administratively dismissed six (6) months after the date of filing unless the Commission or Committee approves an extension. Requests for an extension shall be made in person by the Petition Representative at a Commission or Committee meeting prior to the dismissal date.
  - b) Petitions which have received a public hearing will be administratively dismissed six (6) months after the public hearing unless the Commission or Committee approves an extension. Requests for an extension shall be made in person by the Petition Representative at a Commission or Committee meeting prior to the dismissal date.
- 2) Petitions that do not require a Public Hearing: Petitions for which no action has been taken will be administratively dismissed one (1) year after the date of filing unless the Director approves an extension. Secondary Plats are exempt from this rule.
- 3) All Petitions: Any Petition may also be dismissed by the Commission or Committee for lack of jurisdiction or for lack of representation by the Petition Representative at a meeting where the item appears on the agenda (as a non-continued item).

### ARTICLE X: VIRTUAL MEETING POLICY

Plan Commission Resolution 21-01 (the "Virtual Meeting Policy") is hereby incorporated into these rules. If a provision of the Virtual Meeting Policy conflicts with these rules, then the Virtual Meeting Policy shall supersede.

### **ARTICLE XI: TRANSITION RULES**

Petitions submitted prior to the adoption of these amended rules, will be subject to the previously approved rules (dated March 18, 2013).

### **ARTICLE XII: AMENDMENTS**

Amendments to these Rules of Procedure may be made by the Commission at any meeting of the Commission with and upon the affirmative vote of a majority of the members of the Commission.

A suspension of any rule herein may be so ordered by the Commission or Committee at any meeting by a majority vote of the members present.

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**ARTICLE XIII: ADOPTION**

These Rules of Procedure are for and of the "Westfield-Washington Township Advisory Plan Commission", Westfield, Indiana have been approved by the affirmative vote of the membership of said Commission (2) - (0) - (0) at a meeting of the Commission held on the 6<sup>th</sup> day of September, 2022. This approval repeals any prior Rules of Procedure.

R. Y. Hokey  
President

9.6.22  
Date

[Signature]  
Vice-president

9-6-22  
Date

[Signature]  
Commission member

9-6-22  
Date

Kristen Burkman  
Commission member

9-6-22  
Date

[Signature]  
Commission member

9-6-22  
Date

[Signature]  
Commission member

9-6-22  
Date

[Signature]  
Commission member

9/6/22  
Date

[Signature]  
Commission member

[Signature]  
Date

[Signature]  
Commission member

[Signature]  
Date

[Signature]  
Commission member

[Signature]  
Date

Attested by:

[Signature]

[Signature]

Secretary,  
Director of the Community Development Department

Approved: 01/28/08;  
Amended: 01/04/10; 01/18/11; 03/18/13, 09/06/22