

Section 21-09.05 Development Review Procedures.

Intent - The Development Review Procedures for the City of South Bend are intended to provide for the protection of the public health, safety, morals and general welfare of the residential and business citizens of the City of South Bend by providing for the thorough review of all permit applications and development petitions so that informed decisions regarding such permit applications and development petitions may be rendered while balancing the needs of the development community for the timely review of those permit applications and development petitions.

(a) Improvement Location Permits.

A building permit issued by the Building Department of the City of South Bend, Indiana, which includes: the establishment of a *use*; the alteration, change, enlargement, placement, erection or location of any *building, structure, improvement* or *sign* which results in an increase in the height, area or bulk of such *building, structure, improvement* or *sign*, shall constitute an *improvement location permit* under this Ordinance. Any application for such *building permit* shall include all necessary plans, including without limitation, site plans, landscape plans, lighting plans, building elevation or sign plans necessary to determine compliance with the *permitted use, development standards* and other *development requirements* of this Ordinance.

(1) Improvement Location Permit Required.

No *building, structure, improvement, sign* or *use* of land may be altered, changed, enlarged, placed, erected or located, unless the *building, structure, improvement, sign* or *use* and its location conform to the provisions of this Ordinance and an *improvement location permit* for the alteration, change, placement, erection or location of such *building, structure, improvement, sign* or *use* has been issued.

(2) Duration of Improvement Location Permit.

An improvement location permit shall be valid for the longer of:

- (A) one (1) year after date of issuance; or
- (B) the length of any required Building Permit, if such Building Permit is obtained for the *building, structure, improvement* or *sign* covered by the *improvement location permit* within one (1) year after the date of issuance of the *improvement location permit*.

The *Zoning Administrator* shall have the power to extend the period of validity of any *improvement location permit* one or more times, provided, however, the total time period of all extension(s) shall not exceed six (6) months.

Section 21-09.05
Development Review Procedures

(3) Review of Improvement Location Permit Application.

(A) Improvement Location Permits for Single Family and Two Family Dwellings and Related Accessory Buildings or Structures.

The *Zoning Administrator* may take up to five (5) business days to study an application for an *improvement location permit*. During such five (5) business day period, the *Zoning Administrator* may consult with other *Staff* or appropriate technical consultants. If, after such five (5) day period, the *Zoning Administrator* has not requested any additional information or stated any objections in writing to the applicant, and the proposed *building, structure or improvement*, and the proposed *use* conform in all respects to the provisions of this Ordinance, the *Zoning Administrator* shall issue the *improvement location permit*.

(B) Improvement Location Permits for All: Multifamily, Commercial / Mixed Use, Industrial or Special Exception Buildings, Structures, Improvements or Uses; Signs; and, Accessory Buildings, Structures or Improvements Related to Multifamily, Commercial / Mixed Use, Industrial or Special Exception Uses.

The *Zoning Administrator* may take up to fifteen (15) business days to study the application for an *improvement location permit*. During such fifteen (15) day period, the *Zoning Administrator* may consult with other *Staff* or appropriate technical consultants. If, after such fifteen (15) day period, the *Zoning Administrator* has not requested any additional information or stated any objections in writing to the applicant, and the proposed *building, structure, improvement or sign*, and the proposed *use* conform in all respects to the provisions of this Ordinance, the *Zoning Administrator* shall issue the *improvement location permit*.

(C) *Improvement Location Permits for Buildings, Structures, Improvements, Signs or Uses Authorized by Variance.*

In addition to the requirements above, an *improvement location permit* for a *building, structure, improvement, sign or use* authorized by *variance* shall not be issued until:

- i. receipt by the *Zoning Administrator* of written notice from the *Board of Zoning Appeals* that the application therefore has been approved by the *Board of Zoning Appeals*; and,

- ii. a determination by the *Zoning Administrator* that said *improvement location permit* application is in full compliance with the terms of any conditions which may have been imposed by the *Board of Zoning Appeals* and *commitments* which may have been made by the owner.

(D) *Improvement Location Permits for Buildings, Structures, Improvements, Signs or Uses Authorized by Special Exception.*

In addition to the requirements above, an *improvement location permit* for a *building, structure, improvement, sign or use* authorized by *special exception* shall not be issued until:

- i. receipt by the *Zoning Administrator* of written notice from the Common Council that the application therefore has been approved by the Common Council; and,
- ii. a determination by the *Zoning Administrator* that said *improvement location permit* application is in full compliance with the terms of any conditions which may have been imposed by the Common Council and *commitments* which may have been made by the owner.

(4) Appeal of Determination.

Any determination by the *Zoning Administrator* concerning the issuance of an *improvement location permit* may be appealed to the *Board of Zoning Appeals* by any party claiming to be adversely affected by that decision.

(5) Record of Permits.

A record of all *improvement location permits* shall be kept on file in the Office of the *Zoning Administrator* and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the *building* or land affected and shall be available for public inspection and copying as provided by applicable State law.

(6) Amended Improvement Location Permit.

When a builder, developer or owner of any *building, structure, improvement or sign* for which an *improvement location permit* has been obtained, for any reason, proposes that the construction of said *building, structure, improvement or sign* deviate from the plans filed with the *improvement location permit* application and approved by the *Zoning Administrator*, the builder, developer or owner shall

Section 21-09.05
Development Review Procedures

make application for an Amended Improvement Location Permit. The *Zoning Administrator* shall review the application for the Amended Improvement Location Permit in accordance with the procedures set forth above to determine compliance of the Amended Improvement Location Permit application with the provisions of this Ordinance and any other applicable conditions, *commitments* or restrictions. If such Amended Improvement Location Permit application is found to be in compliance, the *Zoning Administrator* shall issue an Amended Improvement Location Permit. Any determination by the *Zoning Administrator* with respect to an Amended Improvement Location Permit shall be subject to the same appeal rights and procedures as set forth above for an initial application for an *improvement location permit*.

(7) Revocation in Event of Violation.

If the *Zoning Administrator* determines that construction or development is proceeding or has proceeded in violation of any applicable law, ordinance, rule, regulation, site plan, or condition approval, or that the *improvement location permit* has been issued in violation of any applicable law, ordinance, rule, regulation, site plan, zoning commitment, or condition of approval, the *Zoning Administrator* may revoke said *improvement location permit*. In the event that an *improvement location permit* is revoked, the *Zoning Administrator* shall send written notice of the revocation to the permit applicant.

(8) Fees.

Fees for improvement location permits shall be as established in Title 6 of the South Bend Municipal Code.

(b) Compliance With Other Laws, Ordinances, Rules or Regulations.

The issuance of an *improvement location permit* does not substitute for or supersede the requirement to obtain approvals specified in other laws, ordinances, rules and regulations, as the same may be amended from time to time, before the construction of any *building, structure, improvement* or *sign*, including, but not limited to:

- (1) City of South Bend Building Code;
- (2) City of South Bend Subdivision Control Ordinance;
- (3) Any other applicable federal, state or local law, ordinance, rule or regulation, including, but not limited to:
 - (A) Rule 5 Erosion Control Regulations;

- (B) Article 12. Floodplain Regulations (Sections 21-178 through 21-190) of the Municipal Code for the City of South Bend, St. Joseph County, Indiana;
- (C) *Driveway* permit regulations for the City of South Bend, Indiana; and,
- (D) State or Federal Environmental Permits.

(c) **Application Form and Plan Requirements.**

All improvement location permit applications shall comply with the form of application specified by the Building Department of the City of South Bend, Indiana. When an improvement location permit is required by this Ordinance, additional site plans, landscape plans, lighting plans, *sign* plans and *building* elevations, as described below, may be required to determine compliance with the requirements of this Ordinance.

- (1) A site plan for a *single family dwelling* or a *two-family dwelling* on a *platted lot*.
 - (A) North arrow.
 - (B) Address of the *lot*.
 - (C) Scale (not more than 1"=100').
 - (D) Legal description of the *lot*.
 - (E) Names, center-lines and *right-of-way* widths of all *streets, alleys, thoroughfares, public ways, water ways, or railroad right-of-ways* abutting or within the *lot*.
 - (F) The location and dimensions of all *buildings, structures or improvements* currently existing on the *lot*.
 - (G) *Structures* proposed for demolition should be indicated as such.
 - (H) The location and dimensions of all proposed *buildings, structures or improvements*, including fences, sheds, paved areas, storage areas, *parking areas* (indicate if parking is hard surfaced). Cross-hatch or shade lightly all proposed *buildings*.
 - (I) Location of any proposed or existing *driveway* and its width at the property line. (Any connection to an *alley* must also be indicated).

Section 21-09.05
Development Review Procedures

- (J) The distance from *lot lines* for all existing and proposed *buildings, structures* or *improvements* (this distance is measured as a line from the point where the *building, structure* or *improvement* is closest to the property line. This measurement is taken perpendicular to the property line.).
- (K) The height of the existing and proposed *buildings, structures* or *improvements*.
- (L) All other information required by the *Zoning Administrator* for the proper administration of this Ordinance.

The *Zoning Administrator* may waive or relax any of the site plan requirements listed above, as circumstances dictate.

- (2) A site plan for any Commercial / Mixed Use, Industrial or Special Exception Use.
 - (A) North arrow.
 - (B) Address of the site.
 - (C) Scale (not more than 1"=100').
 - (D) The actual shape, size and dimensions of the *lot*.
 - (E) Area map or sketch to indicate the location of the *lot*.
 - (F) Names, center-lines and *right-of-way* widths of all *streets, alleys, thoroughfares, public ways, water ways, or railroad right-of-ways* abutting or within the *lot*.
 - (G) The location and dimensions of all *buildings, structures, improvements* or *signs* currently existing on the *lot*.
 - (H) *Structures* proposed for demolition should be indicated as such.
 - (I) The location and dimensions of all proposed *buildings, structures, improvements* or *signs*, including fences, sheds, paved areas, storage areas, *parking areas* (indicate if parking is hardsurfaced). Cross-hatch or shade lightly all proposed *buildings*.
 - (J) Location of any proposed or existing *driveway* and its width at the property line. (Any connection to an *alley* must also be indicated).

- (K) (If applicable) Location of all existing and proposed *freestanding signs* on the site. See sub-Section (4) – Sign Plans, below, for requirements regarding proposed signs.
- (L) The distance from *lot lines* for all existing and proposed *buildings, structures, improvements* or *signs*. (This distance is measured as a line from the point where the *building, structure, improvement* or *sign* is closest to the property line. This measurement is taken perpendicular to the property line.).
- (M) The height of the existing and proposed *buildings, structures* or *improvements*.
- (N) The number of *dwelling units* (if applicable) of existing and proposed *buildings* or *structures*.
- (O) The current and proposed *use* to be made of all *buildings, structures, improvements* or lands within the *lot* (e.g. *parking area, loading area, residence, office, outdoor storage*).
- (P) Locational Engineering information regarding all utilities to provide service to the *buildings* or *structures* on the *lot*.
- (Q) The location and dimensions of all *off-street parking areas* and *off-street loading areas* and facilities.
- (R) The location, size and dimension of all fences, walls or other screening and buffering devices.
- (S) Site Data Summary (a text summary in table format describing: square footage of existing and proposed *buildings*; existing, proposed and required parking; existing, proposed and required loading; proposed and permitted *maximum building height*; accommodation of drainage, sanitary sewer, water and other utility services; legal description; lighting; and landscaping).
- (T) The seal of the registered professional engineer or architect responsible for the site plan.
- (U) All other information required by the *Zoning Administrator* for the proper administration and enforcement of this Ordinance.

The *Zoning Administrator* may waive or relax any of the site plan requirements listed above, as circumstances dictate.

Section 21-09.05
Development Review Procedures

- (3) Building Elevations.
- (A) Address of the site.
 - (B) Proposed name of the development.
 - (C) Scale.
 - (D) Elevations for each facade of the *building*.
 - (E) Specification or sample of the type and color of *building* materials to be used for all wall, window, roof and other architectural features.
 - (F) Any other information requested in writing by the *Zoning Administrator*.

Zoning Administrator, in its sole discretion, may waive or relax any of the Building Elevation requirements listed above, as circumstances dictate.

- (4) Sign Plan.
- (A) Address of the site.
 - (B) Proposed name of the development.
 - (C) Scale.
 - (D) (*Freestanding Signs*) A site plan indicating the location of any existing or proposed *freestanding signs*.
 - (E) (*Wall Signs*) A site plan indicating the location of any *building* upon which a *sign* is to be mounted, with the location of the *signs* indicated.
 - (F) Elevation of proposed *signs* including size, materials and color.
 - (G) Illumination details for proposed *signs*.
 - (H) Placement, size, color and illumination details for any proposed *wall sign*.
 - (I) Any other information requested in writing by the *Zoning Administrator*.

Zoning Administrator, in its sole discretion, may waive or relax any of the Sign Plan requirements listed above, as circumstances dictate.

- (5) Landscape Plan.
- (A) Address of the site.
 - (B) Proposed name of the development.
 - (C) Scale (not more than 1"=100').
 - (D) The location of any existing or proposed *freestanding signs*.
 - (E) Outline of all existing or proposed *buildings* or *structures*, including *parking areas* and *loading areas*.
 - (F) Boundary lines of the site.
 - (G) Location of all floodway and floodway fringe areas within the boundaries of the site.
 - (H) All existing elevations and proposed land contour lines having at least two (2) foot intervals.
 - (I) Proposed *sidewalk*, *walkway* or alternate plan for pedestrian ways.
 - (J) Size, species and spacing (on center) of all proposed trees, landscaping and ground cover.
 - (K) Location of existing trees in required *yards* and required *residential bufferyards*, indicating type and size of trees and whether such trees are to be removed or preserved.
 - (L) Description of methods to preserve trees without injury and with sufficient area for the root system to sustain the tree.
 - (M) Description of protective care and physical restraint barriers at the drip line to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction.
 - (N) Any other information requested in writing by the *Zoning Administrator*.

Zoning Administrator, in its sole discretion, may waive or relax any of the Landscape Plan requirements listed above, as circumstances dictate.

Section 21-09.05
Development Review Procedures

- (6) Lighting Plan.
 - (A) North arrow.
 - (B) Address of the site.
 - (C) Scale (not more than 1" = 100').
 - (D) Proposed name of the development.
 - (E) Boundary lines of the site including all dimensions of the site.
 - (F) Outline of *buildings, structures* and other *improvements* (e.g., *parking areas, loading areas, interior access drives*, etc.) on the *lot* and the location of all *outdoor light fixtures*.
 - (G) A description of the *outdoor light fixtures*, including but not limited to manufacturers or electric utility catalog specifications sheets, drawings or photometric report, which indicate:
 - i. the outdoor light fixture classification (e.g., cutoff, semi-cutoff, full cutoff, or non-cutoff);
 - ii. mounting height of freestanding *outdoor light fixtures*; and,
 - iii. wattage proposed for each *outdoor light fixture*.
 - (H) If architectural *building* lighting is proposed, indicate the location, type and intensity of lighting on each *building* facade.
 - (I) Any other information requested in writing by the *Zoning Administrator*.

Zoning Administrator, in its sole discretion, may waive or relax any of the Lighting Plan requirements listed above, as circumstances dictate.

(d) Development Plan Application Process and Requirements.

(1) Who May File.

Development plan applications may only be initiated by a petition signed by the owners of the land involved in the petition.

(2) Fees.

In order to defray administrative costs, the fees as set forth in the fee schedule as approved by the *Area Plan Commission* for *development plan* approval shall be paid by the applicant at the time of filing an application for *development plan* approval.

(3) Application Procedures.

The applicant for *development plan* approval shall contact the *Executive Director* to make an appointment with the *Executive Director* its designee to deliver the following:

(A) The plan documentation and supporting information required for the *development plan* approval requested; and,

(B) An application for *development plan* approval upon forms approved by the *Area Plan Commission* for such purpose.

(4) Amendments To Development Plans.

(A) Pending Development Plans – Amendments to *development plans* pending approval or denial by the *Area Plan Commission* may be made by the petitioner at any time prior to a vote being called for by the *Area Plan Commission*. If, in the sole discretion of the *Area Plan Commission*, the proposed amendment is of such a nature that additional time is needed for review, the *Area Plan Commission* may continue the consideration of such amended *development plan* to the next meeting of the *Area Plan Commission*.

(B) Approved Development Plans – Authority to approve minor amendments to approved *development plans* is hereby delegated to *Executive Director* in the continuing administration of such *development plan*. Such minor amendments approved by the *Executive Director* shall be reported to the *Area Plan Commission*, in writing, at the next regular meeting of the *Area Plan Commission*.

Section 21-09.05
Development Review Procedures

(C) Determination of Minor Amendments.

Amendments to an approved *development plan* shall be deemed to be "minor" if:

- i. such amendments do not involve:
 - a. an increase in height, area, bulk or intensity of land uses;
 - b. the designation of additional land uses;
 - c. the reduction in perimeter yards;
 - d. the addition of driveways or access points; or,
 - e. reduction in the amount of parking for any use; and,
- ii. in the determination of the *Executive Director*, the requested amendment does not adversely impact the purpose or intent of the overall development.

(D) New Development Plan Required.

If the *Executive Director* determines that a proposed amendment is not a "minor" amendment, petitioner shall be required to file a new petition for *development plan* approval.

(E) Appeals of Determination by the Executive Director Regarding Amendments.

Any decision of the *Executive Director* regarding the amendment of *development plan* may be appealed by any interested party to the *Area Plan Commission* in accordance with the procedures below.

- i. Time – Every appeal shall be filed within thirty (30) days of the date of the determination.
- ii. Appeal in Writing – The Petitioner or any other interested party may appeal the *Executive Director's* determination by filing a letter with the *Area Plan Commission* stating the reasons for such appeal.
- iii. Appeal of Determination at Public Hearing – All appeals of the *Executive Director's* determination shall be decided by the *Area*

Plan Commission at a public hearing for which notice has been provided.

(F) Notice of Public Hearing – All public hearings for: the initial determination of a *development plan*; or, the appeal of the *Executive Director's* determination regarding an amendment to an approved *development plan*, shall be as specified below:

i. Notice by Publication.

All petitions for *development plan* approval shall be subject to the publication of legal notice in a newspaper of general circulation not less than ten (10) days prior to the public hearing. The form of such legal notice shall be as specified by the *Executive Director*. The cost of such legal notice shall be borne by the *Area Plan Commission*.

ii. Notice of Initial Hearing of a *Development Plan*.

In the case of an initial hearing on a proposed *development plan*, the petitioner shall provide the *Executive Director* with mailing envelopes, including first class mail postage, addressed to the owner of the real estate and all adjoining property owners located within three-hundred (300) feet of the subject property.

iii. Notice of Remonstrator's Appeal of the *Executive Director's* Approval of an Amendment to a *Development Plan*.

In the case of an appeal by a remonstrator, the remonstrator shall provide the *Executive Director* with mailing envelopes, including first class mail postage, addressed to the owner of the real estate, the applicant for the *development plan* and all adjoining property owners located within three-hundred (300) feet of the subject property.

iv. Notice of Petitioner's Appeal of the Executive Director's Denial of an Amendment to a *Development Plan* or the Imposition of a Condition on the Approval of an Amendment to a *Development Plan*.

In the case of an appeal by a petitioner, the petitioner shall provide the *Executive Director* with mailing envelopes, including first class mail postage, addressed to the owner of the real estate and all

Section 21-09.05
Development Review Procedures

adjoining property owners located within three-hundred (300) feet of the subject property.

- (G) Form of Notice – Notice of an appeal shall be on forms substantially as prepared by the *Executive Director*. The Area Plan Commission office shall be responsible for mailing said notice by First Class Mail not less than ten (10) days prior to the public hearing.
- (H) Appeal Hearing De Novo – The *Area Plan Commission* hearing on the appeal of a determination regarding an amendment to a *development plan* shall be de novo, in the same manner as an application filed for determination by the *Area Plan Commission*.

(5) Duties of the *Executive Director*.

It shall be the duty of the *Executive Director* to:

- (A) supervise or perform the intake and review of all *development plans*;
- (B) make any determinations delegated by this Section regarding the approval or denial of minor amendments to approved *development plans*; and,
- (C) notify the *Area Plan Commission* of the approval or denial of minor amendments to approved *development plans*;

(6) Final Decision – The decision of the *Area Plan Commission* with respect to any *development plan* shall be a final decision that may be reviewed only as provided in I. C. 36-7-4-1016.

(e) Zoning Ordinance Amendment Procedures.

- (1) Text Amendments – The procedures and requirements for the preparation and consideration of proposal to amend or partially repeal of the text of this Chapter of the South Bend Municipal Code shall be as follows:
 - (A) Text of Zoning Ordinance – The Common Council may, from time to time, upon its own motion or upon the petition of the *Area Plan Commission*, amend or partially repeal the text of this Chapter in accordance with the provisions of Indiana Code 36-7-4-602, et seq.

- (B) Zone Map Change – Proposals to change the zone maps, whether by incorporating an additional map or by amending or deleting a map, incorporated by reference into this Chapter may be initiated by the Common Council, the *Area Plan Commission*, or by a petition of the owners of property of at least fifty (50) percent of the area involved in the petition in accordance with the provisions of Indiana Code 36-7-4-602, et seq.
 - (C) Common Council Action – In the case of proposal to amend or partially repeal the text of this Chapter or in the case of a zone map change, the Common Council may act upon such amendment only after a report has been presented by the *Area Plan Commission* after public notice and hearing in accordance with the provisions of Indiana Code 36-7-4-604, et seq.
 - (D) Common Council May Initiate Proposal – The Common Council may initiate and also require the *Area Plan Commission* to: prepare a proposal to amend or partially repeal the text of this Chapter; or, consider and recommend a proposal for zone map change, and submit such amendment to a public hearing by the *Area Plan Commission* within sixty (60) days after formal written request by the Common Council.
 - (E) Review Procedure and Time Limits – The procedure for the referral of a proposed amendment to the *Area Plan Commission* and the time limits for action by the *Area Plan Commission* and the Common Council shall be as set forth in Indiana Code 36-7-4-607, et seq.
 - (F) The city executive shall have the right of veto any proposal to amend or partially repeal the text of this Chapter or any proposal for a zone map change.
- (2) Zone Map Amendments – The procedures and requirements for the preparation and consideration of proposal to amend zone maps shall be as follows:
- (A) A proposal for zone map change(s) (a/k/a rezoning petition) shall be filed in the office of the *Area Plan Commission*, along with all the required documents as outlined in the application adopted by the *Area Plan Commission*. The *Staff* shall prepare an Ordinance for Zone Map Amendment and forward it, along with the petition, to the Clerk. All fees required by the Office of the City Clerk shall be paid at time of filing. (*Ord. No. 10570-17; 1/8/2018*)
 - (B) The Office of the City Clerk shall then place all properly filed proposal(s) for zone map change(s) by title on the agenda for the next regularly

Section 21-09.05
Development Review Procedures

scheduled meeting of the Common Council. Deadlines for filing proposal(s) for zone map change(s) shall be noon on the Wednesday immediately prior to the next regularly scheduled Common Council meeting.

- (C) After first reading of the title of a proposed rezoning ordinance at the Common Council meeting, the Common Council shall refer said ordinance to the Area Plan Commission for public hearing and recommendation. In connection with said referral, the Common Council shall have the authority to request the submission of other supplemental information which may include but not be limited to *Building Elevations*, *Sign Plans*, *Landscape Plans*, *Lighting Plans* or traffic studies. If requested, such additional *Building Elevations*, *Sign Plans*, *Landscape Plans* or *Lighting Plans* shall conform to the requirements set forth in Section 21-09.05(c) - Application Forms and Plan Requirements, above. All supplemental information submitted in response to a request from the Common Council shall be considered by the *Area Plan Commission* at a public hearing as part of its review and recommendation to the Common Council regarding said proposed zoning ordinance.
- (D) Supplemental Plans – Depending on the nature of the proposal, the *Executive Director* shall have the authority to request the submission of other supplemental information including but not limited to *Building Elevations*, *Sign Plans*, *Landscape Plans*, *Lighting Plans* or traffic studies. If requested, such additional *Building Elevations*, *Sign Plans*, *Landscape Plans* or *Lighting Plans* shall conform to the requirements set forth in Section 21-09.05 (c) – Application Forms and Plan Requirements, above.
- (E) After public hearing, the Area Plan Commission shall certify the proposal with a:
 - i. favorable recommendation;
 - ii. unfavorable recommendation; or,
 - iii. no recommendation.

- (F) The certification of a proposal by the Area Plan Commission to the Common Council may include written *commitments* as set forth in Section 21-09.02 (d) – Commitments which are addressed in Indiana Code Section 36-7-4-615. Such *commitments* may include: limitations upon certain *uses*; requirements for specific *building* or *parking area setback* or screening requirements; requirements for specific site design features or project amenities; or, requirements that development conform with Site Plans, *Building Elevations*, *Sign Plans*, *Landscape Plans* or *Lighting Plans* which were submitted in connection with the proposal.
- (G) Upon the Office of the City Clerk receiving a written certification on a proposed zoning ordinance from the *Area Plan Commission* pursuant to *Indiana Code* Section 36-7-4-605, the Office of the City Clerk shall list by Bill Number and commonly known address on the Common Council's next meeting agenda. (*Ord. No. 10570-17; 1/8/2018*)
- (H) In those limited instances where the Petitioner(s) or their authorized representative(s) whose names appear of record on documents initially filed with the Office of the City Clerk to initiate a proposed rezoning, and such individuals are unavailable to attend required meetings, the Petitioner(s) may authorize another individual to represent them before the Council by filing a Limited Power of Attorney with the Office of the City Clerk. Such filing must take place prior to public hearings, before any and all meetings of the Council's Zoning and Annexation Committee and the Common Council. A sample form of such Limited Power of Attorney is available from the Office of the City Clerk.
- (I) Within ninety (90) days after receiving the written certification on a proposed rezoning ordinance from the *Area Plan Commission*, the Common Council shall take final action thereon, pursuant to applicable law.
- (J) After passage of any proposed rezoning ordinance which has been approved by the Mayor, legal advertising is then ordered by the Office of the City Clerk.

(f) Variance and Special Exception Procedures.

The procedures and requirements for the preparation and consideration of petition for a *variance of development standards* or a *special exception use* shall be as follows:

- (1) Petitions – Petitions for a *variance of development standards* or for a *special exception use* shall be filed in the office of the *Zoning Administrator* of the City

Section 21-09.05
Development Review Procedures

of South Bend, Indiana. The proposal shall be on the form provided, available in the Office of the *Zoning Administrator*. (Ord. No. 10570-17; 1/8/2018)

- (2) Required Plans – Each petition for a *variance of development standards* or for a *special exception use* shall be accompanied by a Site Plan which conforms to the requirements set forth in Section 21-09.05 (c) – Application Forms and Plan Requirements, above.
- (3) Supplemental Plans – Depending on the nature of the petition, the *Zoning Administrator* shall have the authority to request the submission of plans of operation, traffic studies, radio frequency studies, or other supplemental information including but not limited to *Building Elevations*, *Sign Plans*, *Landscape Plans* or *Lighting Plans*. If requested, such additional *Building Elevations*, *Sign Plans*, *Landscape Plans* or *Lighting Plans* shall conform to the requirements set forth in Section 21-09.05 (c) – Application Forms and Plan Requirements, above.
- (4) *Variance of Development Standards* – The *Board of Zoning Appeals*, at a public hearing, shall hear and determine all *variances of development standards*.
- (5) *Special Exception Uses* – The *Board of Zoning Appeals*, at a public hearing, shall hear and make a favorable recommendation, unfavorable recommendation or no recommendation to the Common Council on all *special exception uses*. The Common Council shall, approve or disapprove all petitions for *special exception uses* within sixty (60) days after the *Board of Zoning Appeals* makes its recommendation. If the Common Council does not vote to deny the petition for a *special exception use* within sixty (60) days, the petition is approved.

(g) Modification or Termination of Commitments.

In those instances where a property owner wishes to request that *commitments* which were entered into in connection with a *development plan* approval, zone map change, *PUD District Ordinance*, *secondary approval* of a *PUD*, modification of permitted *uses* or *development requirements* of a *PUD*, *variance*, or a *special exception*, be modified or terminated, such request for modification or termination shall comply with the following requirements:

- (1) Form of Filing – Such request shall be filed as an "Petition for Modification or Termination of Commitments" with the body which permitted or required the commitments (i.e., the *Area Plan Commission* or the *Board of Zoning Appeals*).
 - (A) In the case of a modification or termination of *commitments* permitted or required by the *Area Plan Commission*, such petition shall be on forms provided by the Office of the *Area Plan Commission*.

- (B) In the case of a modification or termination of *commitments* permitted or required by the *Board of Zoning Appeals*, such petitions shall be on forms provided by the *Zoning Administrator* of the City of South Bend. (*Ord. No. 10570-17; 1/8/2018*)
 - (2) Public Hearing and Notice – Each request for modification or termination of *commitments* shall be determined after a public hearing. The notification requirements and other procedural requirements for conducting the public hearing on a modification or termination of *commitments* shall be the same as for the initial public hearing at which the commitments were originally permitted or required.
 - (3) Reasons for Modification or Termination – The petitioner or property owner shall be responsible for presenting convincing evidence to the *Area Plan Commission* or the *Board of Zoning Appeals* as to the reasons, need or justification for the proposed modification or termination of *commitments*.
- (h) Combined Public Hearing Procedure.**
- (1) The *Area Plan Commission* may designate a hearing examiner or committee of the commission to conduct a combined hearing relative to developments that require more than one hearing under this Article.
 - (2) The decision to use this procedure shall be made by the applicant.
 - (3) In conducting a combined hearing, the hearing examiner or committee of the Commission may exercise the following:
 - (A) the powers of the *Area Plan Commission* in making recommendations to the Common Council on rezoning petitions and text amendments under the I.C. 36-7-4-600 series.
 - (B) the powers of the Plat Committee in approving or denying subdivision plats under the I.C. 36-7-4-700 series.
 - (C) the powers of the *Board of Zoning Appeals* to grant variances and make recommendations on special exceptions under the I.C. 36-7-4-900 series.
 - (D) the powers of the *Executive Director*, hearing examiner or committee of the *Area Plan Commission* as it concerns the approval of Development Plans under the I.C. 36-7-4-1400 series.
 - (4) Decisions of the hearing examiner or committee of the *Area Plan Commission* under the combined hearing procedure may be excepted to or appealed as follows:

Section 21-09.05
Development Review Procedures

- (A) decisions made in relation to the powers granted under Chapter 21-09.05(h)(3)(A) may be appealed to the *Area Plan Commission* not later than five days after the date the decision is made.
 - (B) decisions made in relation to the powers granted under Chapter 21-09.05(h)(3)(B) may be appealed to the *Area Plan Commission* not later than five days after the date the decision is made.
 - (C) decisions made in relation to the powers granted under Chapter 21-09.05(h)(3)(C) may be appealed to the *Area Plan Commission* not later than five days after the date the decision is made.
- (5) The *Area Plan Commission* shall make rules governing the hearing of cases under the combined hearing procedure. The rules may not require a petitioner or an applicant to use the combined hearing procedure. (*Ord. No. 10171-12*)