

Zoning Map Amendment: Rezoning

8.13 Zoning Map Amendment: Rezoning

- A. Authority And Purpose: The Butler City Plan Commission has the authority to hear a petition to amend the zoning map (rezoning) and make a recommendation to the Butler City Council. The Butler City Council considers the Plan Commission recommendation, approves or rejects the recommendation and makes the final decision approving or rejecting the zoning map amendment petition.
- B. Procedures: Application for a rezoning by the Plan Commission shall follow the following procedures.
1. *Eligible Petitioners*. A petition for a rezoning may be filed by the owner, his agent, or any person having a legal or equitable interest in the subject property, but the written authorization of any owner who is not an applicant shall be required.
 2. *Filing of Forms*. A petition for a rezoning shall be made on forms provided by the Plan Commission. The petition shall be filed with applicable drawings and the filing fee.
 3. *Filing Deadline*. The petition for a rezoning shall be filed at least 28 days before the date of the meeting.
 4. *Public Notice*. The following public notice standards apply to a petition for a rezoning.
 - a. The petitioner shall notify interested parties (as defined in the By-Laws and Rules of Procedure of the Butler City Plan Commission) of the public hearing. Notice shall be given by certified mail, return receipt requested and postmarked at least 21 days before the public hearing.
 - b. The petitioner shall publish a legal notice of the hearing in the Butler Bulletin a minimum of ten days before the public hearing. The petitioner is responsible for making the newspapers publishing deadline and the publication cost.
 - c. The petitioner shall present proof of notice of interested parties and proof of publication in the Butler Bulletin to the City of Butler a minimum of three business days before the public hearing.
- C. Public Hearing: A public hearing shall be held in accordance with the Plan Commission's Rules of Procedure.
- D. Review: In preparing and considering proposals to amend the zoning map (rezoning) of the Zoning Ordinance, the Plan Commission and the City Council shall pay reasonable regard to:
1. The comprehensive plan;
 2. Current conditions and the character of current structures and uses in each district;
 3. The most desirable use for which the land in each district is adapted;
 4. The conservation of property values throughout the jurisdiction;
 5. Responsible development and growth.
- E. Decision: The Plan Commission will determine if the evidence presented is sufficient to recommend a rezoning to the City Council. The City Council is charged with making the final decision on whether or not to follow the recommendation of the Plan Commission. The City Council shall act on the petition within 90 days of certification by the Plan Commission in accordance with Indiana Code 36-4-608. When a rezoning is approved, such amendment shall be incorporated into the official zoning map maintained by the City.
1. *Commitments*. The Plan Commission may require or permit the owner of a parcel of real property to make a written commitment concerning use and/or development of that parcel in connection with a proposal to amend the zoning map (rezoning) under Indiana Code 36-7-4-608 and this article.
 - a. The Plan Commission may permit or require a written commitment to be made in any case where the making of such commitment will further the goals of the comprehensive plan and the Zoning Ordinance.
 - b. The procedure by which the Plan Commission permits or requires the making of a written commitment shall be the same as the procedure for the underlying proposal to amend the zoning map (rezoning) and no additional notice or hearing shall be required.

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- c. A written commitment may be modified or terminated by Plan Commission after notice and public hearing. Such notice and public hearing shall be in accordance with Indiana Code. The Plan Commission shall provide for notice to adjacent property owners and other interested parties as defined in the Plan Commission rules and procedures at least ten days before the hearing. Modification or termination of commitments shall be allowed for good cause which may include but shall not be limited to change in circumstances such that the modification or termination will further the goals of the Zoning Ordinance or the comprehensive plan.
 - d. A written commitment shall be in recordable form and shall contain such matters necessary to make the commitment effective, and shall be subject to final approval by the City Attorney as to form.
 - e. A commitment made under this section takes effect upon approval of the proposal in connection with which the commitment is made. An unrecorded commitment is binding upon the owner(s) of the parcel but is only binding upon a subsequent owner or other person acquiring an interest in the parcel if that person has actual notice of the commitment. A recorded commitment is binding upon any subsequent owner and any person acquiring an interest in the parcel.
 - f. A commitment made hereunder shall be recorded in the office of the county recorder prior to approval of the proposal and prior to issuance of any building permits or improvement location permits for the area involved in the proposal.
 - g. A commitment made hereunder terminates automatically if after adoption of the proposal the zoning map applicable to the area involved in the proposal is changed.
 - h. A written commitment shall be enforceable by the Plan Commission, City Council or City Attorney. A written commitment shall also be enforceable by any property owner adjacent to the parcel of real estate which was the subject of the underlying proposal in connection with which the commitment was made, or other interested party as defined by the Plan Commission rules and procedures.
- F. Duration: A rezoning shall be effective from the date of its final approval pursuant to Indiana Code.