PLAT COMMITTEE

of the
Metropolitan Development Commission of
Marion County, Indiana

RULES OF PROCEDURE

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RULES OF PROCEDURE

ARTICLE I - PLAT COMMITTEE, GENERAL

1. **DEFINITIONS** - As used in these Rules of Procedure, the following terms shall have the following meanings:

   A. "Administrator" shall mean the Administrator of Division of Planning of the Department of Metropolitan Development, or his/her designated representative(s).

   B. "Commission" shall mean the Metropolitan Development Commission of Marion County, Indiana

   C. "Committee" shall be the five-member Plat Committee of the Metropolitan Development Commission.

   D. "Interested Parties" shall mean the following people and/or organizations: owners of all adjoining parcels of land in Marion County to a depth of two (2) ownerships within six-hundred and sixty (660) feet of the perimeter of the subject property; owners of property within the area included in the petition who are not petitioners; owners of property outside of Marion County, regardless of jurisdiction, if their property is within a depth of two (2) ownerships or within six-hundred and sixty (660) feet of the perimeter of the subject property described in the petition; neighborhood organizations whose boundaries include all or some part of the subject property as delineated upon the Neighborhood Organization Map of the Department of Metropolitan Development; the City-County Councilor whose District includes all or some part of the subject property.

   ~~B.~~**E.** "Staff" shall mean the staff of the Committee who administers the public hearing process and provides formal recommendations on land use matters.

2. **MEMBERS** - The ~~Plat~~ Committee shall consist of five (5)members.

3. **OFFICERS** - Annually at the first regular meeting of the ~~Plat~~ Committee, a chairman, Vice- Chairman, and Secretary shall be elected from its members. The Chairman shall preside at all meetings, and in his or her absence or disability the Vice-Chairman shall preside.

4. **CHAIRMAN TO DECIDE POINTS OF ORDER** - The Chairman, subject to these rules, shall decide all points of order or procedure, unless otherwise directed by a majority of the Committee in session at that time.

5. **MINUTES, RECORDS** - The ~~Plat~~ Committee shall keep minutes of its meetings, proceedings and other official actions, and of all petitions heard by it, and shall record the vote on all actions taken.

6. **BALLOT VOTE** - In all petitions heard by the ~~Plat~~ Committee, the Committee's vote shall be by ballot. All such ballots shall remain on file in the office of the Metropolitan Development Commission and shall be public records.

7. **WHO MAY FILE** - A petition for a plat may be filed by the property owner(s).

A petition for a vacation of land in a plat, or part of a plat may be filed by owners of all or part of the plat pertaining to the land owned by the petitioner.

A petition for a vacation of a street, alley, easement, or public grounds may be filed by all of the owner(s) of the real estate adjacent to the property proposed for vacation.

A duly appointed agent or representative may sign a petition on behalf of the owner of the subject parcel. Any authorization to sign the petition or otherwise act on the owner's behalf with respect to the plat or vacation request shall be in writing, signed by the owner on a form provided by the City with the application, and submitted at the time of filing the petition.

For purposes of this section, owner is defined to include:

A. The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the most recent records of the township assessor;

B. A contract vendee;

C. A long-term lessee (but only if the lease is recorded among the records of the County recorder and has at least twenty-five (25) years remaining before its expiration date at the time of filing the petition.

8. **MINIMUM FILING TIME REQUIRED PRIOR TO HEARING** - All petitions shall be filed at least forty (40) days prior to the hearing at which they are to be considered, unless otherwise requested by petitioner and approved by the Administrator.

9. **COMPUTATION OF TIME -** In computing any period of time under these Rules of Procedure, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the computed period is to be included unless it is:

(1) a Saturday;

(2) a Sunday;

(3) a legal holiday under a state statute; or

(4) a day that the office in which the act is to be done is closed during regular business hours. A period runs until the end of the next day after a day described in subsection (a)(1) through (a)(4). If the period required or allowed is less than seven (7) days, intermediate Saturdays, Sundays, state

holidays, and days on which the office in which the act is to be done is closed during regular business hours are excluded from the calculation.

ARTICLE II - PUBLIC HEARINGS

1. **TIME AND PLACE OF PUBLIC HEARINGS -** Regular meetings, designated as public hearings of the ~~Plat~~ Committee of the Metropolitan Development Commission shall be held in the City-County Building, Indianapolis, Indiana, at 1:00 p.m. on the second Wednesday of each month. If such regular meeting day falls on a legal holiday, such meeting shall then be held on the following day that is not a legal holiday, unless the Administrator determines that it would create a conflict with another scheduled hearing or meeting. The Administrator shall then select an alternate hearing date.

2. **SPECIAL MEETINGS -** Special meetings may be called by the Chairman or by three (3) members of the ~~Plat~~ Committee upon written request to the Secretary, who shall send to all members thereof, at least two (2) days in advance of a special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if the time of the special meeting is fixed at a previous regular meeting.

3. **ALL MEETINGS AND HEARINGS PUBLIC** - All regular or special meetings and hearings of the ~~Plat~~ Committee shall be open to the public.

4. **QUORUM -** The ~~Plat~~ Committee consists of five (5) members. A majority of the five (5) members of the ~~Plat~~ Committee shall constitute a quorum. No action of the ~~Plat~~ Committee is official unless concurred by a majority of its members.

   A. When an electronic voting system is used, the voting period shall remain open for a fixed duration of one (1) minute. During this time, members may cast or change their votes. Once the voting period has expired, no changes to votes shall be permitted. The presiding officer shall then close the vote and announce the result.

5. **VIRTUAL ATTENDANCE** - Virtual attendance for meetings of the Committee is permitted so long as it is done in accordance with IC 5-14-1.5-3.5 (as amended from time to time). If any member(s) participates in a meeting of the Committee hearing virtually, then all votes shall be by roll call or voice vote.

6. **INDECISIVE VOTE -** If in any case, the vote of the ~~Plat~~ Committee does not result in official action as set forth in Article II, 4 above, the petition shall be automatically re-docketed and heard at the next regularly scheduled meeting of the ~~Plat~~ Committee

7. **WRITTEN APPEARANCES -** Any person interested in any petition shall have the right to enter a written appearance in the petition. Such written appearance shall indicate the name of the person appearing, or the name of any attorney or agent appearing on behalf of the interested party, and the address and telephone number of the party, attorney, or agent. The ~~Plat~~ Committee shall prepare and make available appropriate forms for such purpose, or the person interested may file such information in any form desired provided that the foregoing information is provided. The filing of the petition shall be deemed as an

appearance therein by the petitioner and his attorney or agent. Any person interested in a petition shall also have the right to appear at the public hearing and state his or her issues, without filing a written appearance.

8. CONTINUANCE - A continuance on any petition may be granted in one of three ways:

A. Plat Committee Continuance: The ~~Plat~~ Committee may, at any time, at its own discretion, continue the hearing of any petition. The ~~Plat~~ Committee may decide if re- notification of interested property owners shall be required if a petition is continued at a hearing for which proper notice was given by petitioner in compliance with the notice requirements of Article IV hereof.

B. Automatic Continuance: Each party (petitioner(s) and remonstrator(s)) shall be granted only one automatic continuance by the Administrator, to be used at the hearing, provided the continuance request meets the following:

(1) The continuance request must be the first request for continuance by that party.

(2) The continuance request must be made in writing and filed no less than by 5:00pm on the seventh (7) day prior to the day of the scheduled hearing.

(3) The continuance request shall include the new date of the hearing that would be the next regularly scheduled meeting of the ~~Plat~~ Committee.

(4) The party requesting the continuance shall give notice to all parties required to be served notice by Article IV hereof and to attorneys, agents or other individuals who have entered their appearance or are known by the party requesting the continuance to represent petitioner(s), remonstrator(s) or other parties. However, registered neighborhood organizations and City-County Councillors shall be required to give notice only to attorneys, agents, petitioners, and individuals who have signed a remonstrators of record form in the petition file.

Such notice shall be mailed at least seven (7) days prior to the hearing.

(5) If the continuance is granted to a date other than requested in the written request, the party requesting the date change shall notify all parties entitled to receive the notice of the date to which the hearing has been continued and shall file a copy of such notice with the Administrator.

(6) An affidavit of notice shall be submitted to the Administrator at the time the continuance request is filed.

(7) An automatic continuance cannot be withdrawn after being file-stamped and accepted by the Division of Planning.

C. **Continuance for** Cause: All other continuances shall be considered a Continuance for Cause that may be granted by the ~~Plat~~ Committee at the hearing. If both the petitioner(s) and remonstrator(s) do not agree to a Continuance for Cause, the ~~Plat~~ Committee shall base its decision to grant or not to grant the request on testimony from both parties at the hearing. At the hearing, written requests for continuance shall be considered prior to verbal requests for continuance.

9. **TIME ALLOWED AND PROCEDURE FOR HEARING OF PETITIONS** - Petitioners and remonstrators, respectively, shall be permitted a total of ~~20~~ fifteen (15) minutes for presentation of evidence, statements, and argument at the public hearing of every petition. The procedure of presentation shall be as follows:

A. Petitioners and persons appearing in support of the petition being heard shall first have ~~15~~ ten (10) minutes for the presentation of evidence, statements and argument in support of the matter being considered. A reasonable additional time shall then be allowed for cross-examination and redirect examination of petitioner's witnesses.

B. Remonstrators and persons appearing in opposition to the petition shall then have ~~15~~ ten (10) minutes for the presentation of evidence, statements, and argument in opposition to the matter being considered. A reasonable additional time shall then be allowed for cross-examination and redirect examination of remonstrators' witnesses.

C. A reasonable additional time shall be allowed for any member of the City-County Council to provide testimony regarding a petition.

D. The Administrator, in person, or by agent or by attorney shall be given a reasonable time by the Committee for the presentation of evidence, statements, and arguments in support of, or in opposition to the matter being considered.

E. The petitioner shall then have five (5) minutes for rebuttal that shall include only evidence, statements and argument in rebuttal of remonstrators' evidence and a brief closing statement.

F. Remonstrators and persons appearing in opposition to the petition shall then have five (5) minutes for rebuttal that shall include only evidence, statements and argument in rebuttal of petitioner's rebuttal evidence and a brief closing statement.

G. A reasonable additional time may be allowed for any member or member-elect of the City-County Council

H. to provide rebuttal testimony.

I. Neither petitioners nor remonstrators shall be permitted to reserve for rebuttal any time not used during their initial presentations.

J. The presiding officer shall have authority to cut off repetitious and irrelevant testimony, and to extend the total 20 minute periods specified above, upon the request of any interested party, where appropriate in the interest of affording to all interested parties a fair hearing.

10. ORDERLY CONDUCT REQUIRED - Every person appearing before the ~~Plat~~ Committee shall abide by the order and directives of the presiding officer. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of the privileges of the Committee and shall be dealt with by the presiding officer as he or she deems fair and proper.

11. ANY PARTY MAY APPEAR IN PERSON, BY AGENT OR BY ATTORNEY - At all hearings, any party may appear in person, by agent or by attorney.

An attorney or other representative of any party, petitioner or remonstrator may testify as to facts of which he has particular knowledge relating to the issues of the petition, but in so testifying the attorney or representative shall be sworn and subject to cross- examination, as are other witnesses.

12. CONTACTING ANY COMMITTEE MEMBER REGARDING PENDING PETITION PROHIBITED; ADMINISTRATOR'S WRITTEN STATEMENT OF FACTS OR OPINION - No person, firm, corporation, public employee, or body politic shall contact any member of the ~~Plat~~ Committee orally, or in writing, in advance of public hearing in a petition then pending for decision in an effort to influence such member's votes, except that the Administrator, or a member of his or her staff, may submit prior to any proposed hearing, a written statement of planning facts or opinion regarding such petition. A copy of such statement shall be furnished simultaneously to the petitioner and persons who have filed written appearances as outlined in Article II, Section 6.

13. DISQUALIFICATION IN CASE OF PERSONAL OR FINANCIAL INTEREST - A member of the Committee who has any personal or direct or indirect financial interest in any petition presented shall disqualify himself or herself insofar as the particular petition is concerned, and shall not participate in the hearing and decision of such petition. The member disqualifying himself or herself shall do so before the petition is heard and shall not sit with the Committee while the testimony relating to the petition is in progress.

14. ALL TESTIMONY UNDER OATH - All testimony before the ~~Plat~~ Committee shall be given under oath or affirmation that shall be administered by some person, qualified to administer oaths.

15. RECORD OF HEARING - A verbatim recording, stenographic record, or stenotype record shall be made of all hearings of the ~~Plat~~ Committee and shall remain on file in the office of the Department of Metropolitan Development for a period of six (6) months following hearing and determination, subject to State records retention laws. A transcript of such record of any hearing may be ordered by any party, and the cost thereof shall be paid by the party ordering such copy or copies. All exhibits, whether submitted by a

petitioner or remonstrator, shall become the property of the ~~Plat~~ Committee and shall not be returned to the submitting party.

ARTICLE III - FILING AND DOCKETING OF PETITIONS

1. **FILING ON COMMITTEE'S FORMS REQUIRED -** All petitions shall be presented for filing on forms supplied by the ~~Plat~~ Committee and shall include the exhibits, material, and information required by and specified on said forms.

   Any communication purporting to be a petition not filed on such forms or not containing the information called for on said forms, shall be regarded as a mere notice of intention to file a petition and shall be of no force or effect until such filing is made on the required forms and contain all exhibits, materials and information required.

   For vacations of streets and alleys, an as-built right-of-way improvement survey, shall be prepared by a registered land surveyor and submitted, detailing adjoining property owners, all physical improvements and easement restrictions, including but not limited, to pavement and right-of-way widths, structural encroachments, sidewalks, easements, above-ground and underground utilities and curb cuts.

2. **DOCKET NUMBER -** After determination by the Administrator that a petition has been presented in proper form with all required exhibits, materials, ~~and~~ information, and all applicable filing fees have been paid, such petition shall be filed and numbered consecutively in the order of its filing. The docket numbers shall begin anew on January 1, of each year, and all petitions shall be hyphenated with the numbers of the year, and initials indicating the type of petition, followed by the number of the petition. The system of initials indicating the type of petition shall be established and maintained by the Administrator. On the date set for hearing, petitions shall come before the ~~Plat~~ Committee in the regular order of their consecutive numbers, with plat petitions heard first, followed by vacation petitions, and vacation assessment hearings.

3. **DOCKETING PROCEDURES FOR EXPEDITED PETITIONS -** Petitions may be scheduled out of their regular consecutive number order, if they are placed on the expedited portion of the docket. Petitions may be expedited and placed on the beginning of the docket by the Administrator, if, and only if, the following criteria are met:

   A. There is no known remonstrance to the petition;

   B. Staff is recommending approval of the petition; and

   C. The petitioner is in agreement with the conditions as proposed in the written staff report.

4. **FILING FEE -**

   A. In order to compensate for the expense of advertising and processing, per IC-36-7-4- 704 the following fee shall be paid by the applicant at the time of filing:

a. Preliminary Plat for a Major subdivision	$2,999.00 plus $19 per lot
b. Preliminary Plat for a Minor subdivision	$2,299.00 plus $19 per lot
c. Preliminary Plat for a Cluster subdivision	$3,899.00 plus $19 per lot
d. Additional fee for a Waiver of Subdivision Control Ordinance	$ 479.00
e. Secondary Plat for a Major or Cluster Subdivision	$1,699.00
f. Secondary Plat for a Minor subdivision	$ 499.00
(2) Petition Requesting Vacation Approval of:	
a. Vacating a Street or alley right-of-way	$4,299.00 plus $5 per 10
b. All other vacation requests	$linear foot of the street or alley $2,899.00
(3) Miscellaneous:	
a. Amendment to any other Petition requiring revised legal notice after legal notice has been published	$ 250.00
b. Subdivision Surety Reduction	$ 139.00 per surety per section
c. Sidewalk or Street Sign Inspection of a subdivision and Surety Release	$ 139.00 per section
(4) Address/Street name changes:	
a. Request for Change of Address assignment:	$ 300.00 per lot
b. Street name change (other than for public safety reasons)	$1,500.00 per block

B. DEPARTMENTAL FEE WAIVER For all departments of the City of Indianapolis, all fees outlined above shall be waived for projects in which:

(1) a department is the applicant or petitioner and the project is located on property owned by the department or the City of Indianapolis; or

(2) the Department of Metropolitan Development or the Commission is the applicant or petitioner.

C. MAINTENANCE OF FUNDS - As a Committee of the Commission, all monies from any filing fees for petitions and other activities to defray administrative costs shall be directed to the Commission's non-reverting fund to maintain said receipts.

5. ADDITIONAL PROCEDURAL REQUIREMENTS OF SUBDIVISION CONTROL ORDINANCE - Filing of applications for primary or secondary plat (or re-plat) approval (including major, and minor subdivisions), notification, filing of bonds for subdivision

improvement and completion affidavits, recording of plats and all other platting (or re-platting) procedural requirements shall be in accordance with Chapter 741, the Subdivision Control Ordinance for Marion County, Indiana, Ordinance G.O. 64, 2015, as amended. The Department of Metropolitan Development may require electronic filing of application materials.

6. **ADDITIONAL FILING REQUIREMENTS FOR VACATION PETITIONS** - Filing of applications for vacations petitions shall be in compliance with Chapter 741, the Subdivision Control Ordinance for Marion County, Indiana, Ordinance G.O. 64, 2015, as amended. For vacations of streets and alleys, an as-built right-of-way improvement survey, shall be prepared by a registered land surveyor and submitted, detailing adjoining property owners, all physical improvements and easement restrictions, including but not limited, to pavement and right-of-way widths, structural encroachments, sidewalks, easements, above-ground and underground utilities and curb cuts. Written proposed Findings of Fact must be submitted for petitions to vacate a plat or a portion of a plat, as well as petitions to vacate streets, alleys, or other public rights-of- way. Forms, outlining the specific types of Findings, are included with the vacation petition forms.

7. **ADDITIONAL FILING REQUIREMENTS FOR WAIVERS -** Filing of applications including a request for a waiver of the Rules of Procedure or the Subdivision Control Ordinance for Marion County, Indiana, Ordinance G.O. 64, 2015, as amended, shall be accompanied by a detailed description of the waiver(s) requested. Written proposed Findings of Fact shall be filed for any waiver of the standards and specification of the Subdivision Control Ordinance. Description of the requested waiver(s) of the standards and specification of the Subdivision Control Ordinance shall be included in the Notice as described in Article IV.

ARTICLE IV - NOTICE

1. **NOTICE REQUIREMENTS -** Notice of all petitions to be heard by the ~~Plat~~ Committee shall be given to all interested parties or property owners, in the following manner:

   A. **NOTICE BY PUBLICATION -** When the ~~Plat~~ Committee is required by law to publish a notice of a public hearing on a petition or other matter, such notice shall be published by the Committee at least ten (10) days prior to the date set for the hearing, in accordance with IC- 5-3-1.

   B. **ADDITIONAL NOTICE -** Additional notice by petitioners to owners of adjoining land, neighborhood organizations and affected City-County Councilors.

      (1) Plat Petitions and Petitions to Vacate a plat or a portion of a plat, including but not limited to the vacation of a platted building line or covenant.

      Additional notice of each Plat petitions and petitions to vacate a plat or a portion of a plat, including but not limited to the vacation of a platted building line or covenant, shall be given by the petitioner by registered, certified or first- class mail at least ~~twenty- three (23)~~ ten (10) days before

the date of the hearing (on the form prescribed by the Committee) to all of the following parties:

(a) owners of all adjoining parcels of land in Marion County to a depth of two (2) ownerships within six-hundred and sixty (660) feet of the perimeter of the subject property.

(b) each owner of land in the affected section of the plat.

(c) owners of property outside of Marion County, regardless of jurisdiction, if their property is within a depth of two (2) ownerships or within six hundred and sixty (660) feet of the perimeter of the subject property described in the petition.

In no event shall notice be required to be given to owners of land located more than six-hundred and sixty (660) feet from the subject property. However, the Indianapolis Department of Public Works and the Indiana Department of Transportation (INDOT) shall not constitute a property owner requiring notice if the property is right-of-way used for street or highway purposes, except for interstate right-of-way, in which case notice shall be sent to the INDOT.

(2) **Petitions to vacate an Alley**, **Street**, **Easement**, **or Public Grounds**. Petitioner shall give additional notice of a petition to vacate an alley, street, easement, or public grounds by registered, certified or first class mail at least ~~twenty-three (23)~~ ten (10) ~~-~~days before the date of the hearing (on a form prescribed by the Committee) to all of the following parties:

(a) owners of all real estate, or interests therein.

(b) all abutting property owners along such street, alley, and/or public ground to be vacated. If the proposed vacation terminates at mid-block (i.e., at a location other than a right-of-way with an intersecting street), such notice shall include all owners from the termination of the vacation to the next intersecting street, in the same direction, beyond such termination.

(c) owners of all adjoining parcels of ground to a depth of two (2) ownerships, within six hundred sixty (660) feet of the perimeter of the subject right-of- way. However, the Indianapolis Department of Public Works or its successor and the Indiana Department of Transportation (INDOT) or its successor shall not constitute a property owner requiring notice if the property is right-of-way used for street purposes, except for interstate right-of- way, in which case notice shall be sent to the INDOT.

(d) all public utilities, the Department of Public Works of Indianapolis-Marion County, and the Department of Public Safety of Indianapolis- Marion County,

(e) office or board entitled to receive legal notices for any city or town affected by the proposed vacation, and

(f) any excluded city, if the proposed vacation is within the boundaries of an excluded City.

(3) For purposes of the notice requirement of this Section, where any of such adjacent parcels of land are owned by petitioner, the subject property shall be deemed to include any land owned by petitioner adjacent to the land described in the petition.

(4) In the case of property that is subject to I.C. 32-25, each condominium unit shall be deemed one property ownership and the common area designated in the appropriate condominium instruments shall be deemed one property ownership, and notice to the co-owners of such common area may be given to the association of co-owners.

(5) For the purpose of determining names and addresses of legal title owners, the records in the office of the Assessors of Marion County and the similar office designated for ownership records by each County adjoining Marion County that list the current owner(s) of record at a point in time within fourteen (14) days of the date on which the notice shall be sent, shall be deemed to be true names and addresses of persons entitled to notice and if notice is sent to such persons for the purposes of the hearing before the Committee, such notice shall be deemed proper.

Commented [BP2]: With the notice down to 10 days, should this be adjusted?

(6) Such notice shall state:

(a) the time and place of the hearing;

(b) the geographic area (by address or other identifiable locational or geographic characteristic) that is the subject of the plat or vacation (this does not require the identification of any real property by metes and bounds);

(c) the name of the petitioner;

(d) the docket number and a description of the proposed plat or vacation requested in the petition;

(e) the petition and file, including the legal description of the subject property, may be examined in the offices of the Committee;

(f) that written objections to the petition that are filed with the Secretary of the Committee before the hearing will be considered;

(g) that oral comments concerning the petition will be heard; and

(h) that the hearing may be continued from time to time as may be found necessary.

(7) Such notice shall also be sent in the same manner to each neighborhood organization whose boundaries include all or some part of the subject property as delineated upon the Neighborhood Organization Map of the Department of Metropolitan Development (a copy of which is on file in the offices of the Committee and incorporated herein by reference). The Neighborhood Organization map shall be maintained as provided for in the Metropolitan Development Commission's Rules of Procedure. For purposes of such notice, the names, addresses and boundaries of Neighborhood Organization Map shall be deemed the true names, addresses and boundaries thereof. The list of those neighborhood organizations entitled to notice shall be provided to the petitioner by the staff of the Committee.

(8) Such notice shall also be sent in the same manner to each City-County Councillor whose District includes all or some part of the subject property. City-County Councillor notification shall be given for every petition. The list of those City-County Councillors entitled to notice shall be provided to the petitioner by the staff of the Committee.

C. NOTICE ON SUBJECT PROPERTY - Notice for all petitions, on a form prescribed by the Commission, shall be posted at least twenty-three (23) days before the date of hearing.

Said notice shall be located in a conspicuous place on the subject property along each public street frontage, except Interstate highways. For vacations of streets and alleys, said notice shall be posted upon private property abutting each terminus of the proposed vacation area. Such notice shall not be located within any public right-of- way, unless authorized by the Administrator.

Said notice shall remain posted until resolution of the petition. The Administrator may require a nominal, refundable deposit for said notice. Deposit shall be refunded upon return of said notice within 60 days of petition resolution.

The requirements of Sections 1(B) and (C) of this Article shall not be applicable to petitions initiated by the Commission. The Commission shall determine the requirements, if any, for notice on such petitions.

D. ADDITIONAL NOTICE FOR TALL STRUCTURES AND DEVELOPMENT IN NOISE SENSITIVE AREAS - The petitioner applying for a petition involving a structure regulated under IC 8-21-10 shall provide evidence

to the Commission that notice was delivered to any public use airport located within the distance described in IC 8-21-10-3 of the structure regulated under IC 8-21-10 not less than sixty (60) days before the initial hearing of the petition. Said notice shall include the direction to send comments to the attention of the Commission.

2. **AFFIDAVIT OF NOTICE -** Petitioner, his or her attorney or agent shall furnish evidence of compliance with the notice requirements by filing a notarized statement in the offices of the Committee listing the name and addresses of property owners and neighborhood organizations to whom notice was sent by certified, registered or first class mail and certifying that notice was posted on the subject property. Said notarized statement shall be postmarked or filed in the offices of the Committee within three (3) days following the mailing and posting of notice.

3. **DEFECTIVE NOTICE** - If proper notice pursuant to Sections 1 (B) and (C) of this Article has not been given, the Plat Committee may continue the petition until a later date to allow time for un-notified persons to prepare for hearing. Personal appearances shall waive any defect in notice unless the defect in the notice is timely raised at the beginning of the hearing, when the Plat Committee is considering requests for continuances. If the failure to give proper notice is not discovered until after the hearing, the Plat Committee may order the petition to be reheard by the Committee, upon proper notice given by the petitioner.

ARTICLE V - APPEALS TO COMMISSION

1. **PLATS -** Any interested party, including the Administrator, may file a request for an appeal of the recommendation of the Plat Committee, including any conditions. Such request for appeal shall be filed in the offices of the Commission no later than by 5 p.m. of the 5th day following the action of the Plat Committee, per IC-36-7-4-708. Said request for appeal shall simply state that the party requests a hearing by the Commission. Prior to or upon the same day as a request for appeal is filed in the offices of the Commission, a copy thereof shall be served, personally or by mailing, upon the opposing party as follows: a remonstrator shall serve petitioner's attorney or agent or, if none has appeared, the petitioner as named and at the address stated in the petition; a petitioner shall serve all remonstrators' attorneys or agents who appeared at the hearing and, if none appeared, shall serve the first two persons who spoke on behalf of remonstrators, at their addresses as stated at the hearing; the Administrator shall serve both petitioner and remonstrators as above provided. Documentation evidencing such service shall be filed with the Commission. The Commission shall hear the appeal at its next regular meeting held at least 10 days after the notice of appeal is filed.

2. **VACATIONS -** Appeals of the decision of the Plat Committee regarding the vacation of plats or parts of plats, vacation of public ways, easements, or public places or parts thereof shall follow the same procedure noted in Section 1 of this Article V, in accordance with IC- 36-7-4-712.

3. **COMMISSION DECISION FINAL -** A final decision of the Commission, including: primary approval or disapproval of a plat; imposition of a condition on primary approval of a plat; approval or disapproval of the vacation of all or part of a plat; approval or

disapproval of the vacation of any recorded covenants filed with the plat; or imposition of a condition on approval of the vacation of all or part of a plat (which may include the vacation of any recorded covenants filed with the plat) may be reviewed in accordance with Indiana Code 36-7-4-1600 (Judicial Review).

Such petitions for judicial review shall be presented to the court within thirty (30) days after the decision of the Metropolitan Development Commission. The petitioner for judicial review shall pay the costs of preparation of transcripts of any hearing before the Commission needed for the judicial review.

ARTICLE VI - FINAL DISPOSITION OF PETITIONS

1. FINAL DISPOSITION OF PLAT PETITIONS

A. Written notice of the Committee's decision upon petitions for plat or re-plat approval shall be sent by regular mail to the petitioner.

B. Such notice shall state the conditions, if any, imposed upon the approval of plats (or re-plats).

C. Written findings of fact shall be prepared indicating the reasons for approval or disapproval of the petition, per IC-36-7-4-707.

2. FINAL DISPOSITION OF VACATION PETITIONS

A. HEARING CONCLUSION - Upon the conclusion of the hearing, the Plat Committee shall find and decide:

(1) For the vacation of an alley, easements, street or public grounds, whether the vacation is in the public interest in accordance with IC 36-7-4-712; whether any interests of the public, any utility or governmental unit shall be reserved; any other conditions to be imposed in the decision; and whether there shall be a hearing on assessment of benefits or award of damages. **OR**

(2) For the vacation of plat or portions of plats, whether (a) conditions in the platted area have changed so as to defeat the original purpose of the plat; (b) it is in the public interest to vacate all or part of the plat; and (c) the value of that part of the land in the plat not owned by the petitioner will not be diminished by vacation, in accordance with IC-36-7-3-11.

B. ASSESSMENT OF BENEFITS

(1) **Vacation without Assessment of Benefits or Award of Damages**. In any vacation petition in which there has been no acquisition by governmental condemnation or purchase, no construction or maintenance by a governmental agency and no public use of the subject property, or any part thereof, there shall be no assessment of benefits. No benefits shall be assessed against the owner of any land in governmental or public

ownership, or to be vacated for governmental or public use or for use by a semi-public institution or agency engaged in a public, non- proprietary function, such as education or welfare.

(2) **Vacation Petitions with Assessment of Benefits**. All other vacation petitions are with assessment of benefits. The assessment of benefits may occur at the same hearing as the vacation petition, or at the next regularly scheduled hearing after the vacation petition is approved.

(3) **Selection of Appraiser**. Petitioner shall select, from a panel of appraisers designated by the Metropolitan Development Commission (a list of which is on file in the office of the Department of Metropolitan Development, Division of Planning), an appraiser who, upon his selection by petitioner and notification thereof by the Secretary of the Committee, shall appraise any benefits to property or interests beneficially affected by the vacation. One copy of the appraisal report shall be filed at least 10 days prior to the hearing on the assessment. The appraisal fee shall be paid by Petitioner at the hearing upon assessment of benefits or within 10 days thereafter.

(4) **Determination of Assessment**. Upon the conclusion of the hearing, the Plat Committee may either sustain or modify the assessments of benefits.

(5) **Payment of Assessment**. Payment of assessments shall be by check payable to the City Controller that may be submitted at the hearing upon assessment of benefits, or within one year thereafter.

C. VACATIONS IN EXCLUDED CITY OR INCLUDED TOWN - If the Plat Committee finds that the Excluded City or Included Town acquired the subject property by condemnation or purchase, or that it has performed construction or maintenance on the subject property or any part thereof, the Plat Committee shall refer final action upon assessment of benefits or award of damages to such City or Town. Within thirty (30) days after final action upon assessment of benefits or award of damages, the petitioner shall file with the Plat Committee, a certified copy of the final action of the City or Town and proof of compliance with any conditions imposed in the Plat Committee's decision. Within ten (10) days after recording the vacation, Petitioner shall file proof thereof with the Plat Committee. If the Plat Committee finds that the City or Town did not acquire the subject property by condemnation or purchase and further finds that it has neither performed construction or maintenance on the subject property, then the Plat Committee shall proceed in accordance with Section 2, A of this Article.

D. RECORDING VACATIONS - The Administrator shall not record the adopted Vacation Resolution until after all appeal periods have passed, or after final disposition of an appealed vacation petition. If any conditions are imposed on a vacation by the Plat Committee, petitioner shall, within one year of the vacation approval (unless time is extended by the Committee), indicate, in writing, compliance with all conditions of the vacation that were required to be completed

prior to recording said vacation. After the compliance letter is received and after all assessment and appraisal fees have been paid by the petitioner, the Administrator shall be authorized to file with the Marion County Auditor and record with the Marion County Recorder certified copies of the adopted Vacation Resolution, survey, and Committee's decision.

E. **COMMITMENTS -** If deemed advisable, the Committee may require or permit the petitioner to make written commitments concerning the use or development of the subject property.

The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitment(s) shall be in effect for such length of time as the Committee may require and the commitment(s) shall authorize their recording by the Division of Planning in the Office of the Recorder of Marion County, Indiana upon adoption of a vacation or plat petition by the Committee. Following the recording of the commitments, the Division shall return the original recorded commitment to petitioner and shall retain a copy of the recorded commitments in its file. The commitments shall be in substantially the form set forth by the Metropolitan Development Commission.

Copies of the Exhibit forms are available from the Department of Metropolitan Development. The Committee may require in such commitment the designation of any specially affected persons, who shall be entitled to enforcement thereof pursuant to IC 36-7-4-1015. The commitments may be modified or terminated by a decision of the Committee, or its successor, made at a public hearing after proper notice has been given. Any modification or termination of the commitments approved by the Committee shall not be in full force and effect until reduced to writing by the present owner(s) of the real estate, approved by the Committee, and recorded in the office of the Recorder of Marion County, Indiana. The modification or termination shall be in substantially the form set forth by the Metropolitan Development Commission. Copies of the Exhibit forms are available from the Department of Metropolitan Development.

F. **DISMISSAL OF PETITIONS** -The Plat Committee may dismiss a petition for want of prosecution or for lack of jurisdiction.

G. **WITHDRAWAL OF PETITIONS -** No petition may be withdrawn by the petitioner after a vote has been ordered by the Chairman. No plat or vacation petition that has been withdrawn by the petitioner shall again be placed on the docket for consideration within a period of three (3) months from the date of said withdrawal, except upon motion to permit re-docketing, adopted by the affirmative vote of a majority of the members of the Committee.

H. **REDOCKETING FOLLOWING ADVERSE DECISION -** No plat or vacation petition that has been decided adversely against the petitioner shall again be placed on the docket for consideration by the Committee within a period of one year from

the date of the decision, except upon motion to permit re- docketing, adopted by the affirmative vote of a majority of the members of the Committee.

ARTICLE VII - ENGINEERS' CERTIFICATION OF CORRECTION

Engineers' "Certificates of Error" or "Certificates of Correction" reciting and correcting subsequently discovered engineering or surveying errors of measurements or typographical error in recording plats, re-plats or vacations shall require approval by the Administrator prior to recording.

ARTICLE VIII - WAIVERS

1. **WAIVER OF RULES -** The Plat Committee, upon the affirmative vote of a majority of the members present and entitled to vote, shall have the right to waive the Rules of Procedure upon its own motion or upon request of an interested party for good cause shown. However, a waiver request cannot be granted that would be inconsistent with Indiana Code.

2. **WAIVER OF STANDARDS AND SPECIFICATIONS -** After notice in accordance with these Rules and upon the affirmative vote of a majority of the members present and entitled to vote, the Plat Committee shall have the right to waive the standards and specifications of the Subdivision Control Ordinance for Marion County, Indiana, Ordinance G.O. 64, 2015, as amended. Said waiver shall be based upon Findings of Fact as prescribed by the Subdivision Control Ordinance for Marion County, Indiana, Ordinance G.O. 64, 2015, as amended.

~~ARTICLE IX - DEFINITIONS~~

~~As used in these Rules of Procedure, the following terms shall have the following meanings:~~

1. ~~"Administrator" shall mean the Administrator of the Division of Planning of the Department of Metropolitan Development, or his/her designated representative(s).~~
2. ~~"Commission" shall mean the Metropolitan Development Commission.~~
3. ~~"Committee" shall be the five-member Plat Committee of the Metropolitan Development Commission.~~

~~ARTICLE X~~ARTICLE IX~~-~~ – AMENDMENTS

Amendments to these Rules of Procedure shall be made by the Metropolitan Development Commission upon the affirmative vote of a majority of the members of the Commission who are entitled to vote.

The foregoing Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana, are hereby adopted by the affirmative vote of the undersigned members of said Commission, this 2nd day of November, 2022. The Effective Date of this Rules of Procedure of the Plat Committee of the Metropolitan Development Commission of Marion County, Indiana shall be November 2, 2022.

Commented [BP3]: Adjust for scheduled hearing

John J. Dillon III, Commissioner and President	Megan Garver, Commissioner and Vice-President
Bruce Schumacher, Commissioner and Vice-Secretary	Mindy Westrick, Commissioner
Karina Bruns, Commissioner	William Selm, Commissioner
Alpha Blackburn, Commissioner	Brigid Robinson, Commissioner
Vincent Ash, Commissioner	

Commented [BP4]: Adjust for hearing

METROPOLITAN DEVELOPMENT COMMISSION OF MARION COUNTY, INDIANA

ATTEST: _____

Katelyn Campbell,
Counsel, Metropolitan
Development Commission
of Marion County, Indiana

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