

## Chapter 8 – Zoning Administration and Procedures

- A. County Commissioners.** The Johnson County Board of Commissioners shall have the following authority subject to the provisions of this UDO, Title XXX, Chapter XXX, Legislative Authority, of the Johnson County, IN Code of Ordinances and the applicable provisions of Indiana Code (IC):

Table 8-1, County Commissioners' Authority			
Process	County Commissioner's Action	UDO Cross Reference	Applicable Indiana Code
Comprehensive Plan: Adoption or Amendment	Final - Adopts by Resolution	Section 8.B.6.d	IC 36-7-4-500 Series
Unified Development Ordinance (UDO): Adoption or Amendment	Final – Adopts by Ordinance	Section 8.B.7.e	IC 36-7-4-600 Series
Zoning Map: Adoption or Amendment (Rezoning)	Final - Adopts by Ordinance	Sections 8.B.8.d and 8.B.8.g	IC 36-7-4-600 Series
Written Commitment <sup>1</sup>	Final – Adopts by Resolution	Section 8.B.10.d	IC 36-7-4-1015
Note: 1. Written commitments related to a zoning map amendment or annexation are approved by the County Commissioners. Other types of written commitments are approved by either the Planning Commission or the Board of Zoning Appeals.			

### B. Plan Commission (PC).

#### 1. Establishment and Membership.

- PC Establishment.** The Plan Commission (PC) shall be established in accordance with IC 36-7-4-200 Series and the Johnson County Code of Ordinances XXX.
- PC Membership and Organization.** The PC shall be composed in accordance with IC 36-7-4-207(b) and the Johnson County Code of Ordinances XXX.
- Composition.** All citizen members of the PC shall meet the qualifications outlined in IC 36-7-4-216 and the Johnson County Code of Ordinances XXX.
- PC Alternate Members.** In accordance with IC 36-7-4-220, the appointing authority may also appoint an alternate member to participate with the PC in a hearing or decision if the regular member appointed by the appointing authority has a disqualification due to conflict of interest. An alternate member has all the powers and duties of a regular member while participating in the hearing or decision.
- Officers.** The PC shall elect officers from among its membership in accordance with IC 36-7-4-300 Series, the Johnson County Code of Ordinances XXX.

2. **Duties and Powers.** The PC shall have all duties and powers as specified in *IC 36-7-4, Local Planning and Zoning*, and the Johnson County Code of Ordinances **XXX**. These powers and duties include, but are not limited to the power to:
- a. Certify all official acts;
  - b. Adopt rules for the administration and conduct of the PC and its business, including uniform rules pertaining to investigations and hearings;
  - c. Adopt and maintain a schedule of uniform fees for permits and processes;
  - d. Delegate responsibilities relating to ordinance administration and enforcement to the Administrator and to other appropriate committees, departments, and personnel;
  - e. Keep a complete record of all proceedings, and to record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents;
  - f. Prepare, publish, and distribute reports, plans, ordinances, and other materials relating to the activities authorized under this Chapter;
  - g. Permit, require, modify, and terminate commitments, in accordance with *IC 36-7-4-1015, Commitments; enforcement*;
  - h. Approve the assignment of street numbers to lots and structures and the naming of streets, including renumbering or renaming pursuant to *IC 36-7-4-405*; and
  - i. Establish advisory and review committees as necessary, and determine the powers and duties, authority, and membership of said committees.
  - j. Appoint a Hearing Officer for the Board of Zoning Appeals as provided in *IC-36-7-4-923*.
3. **PC Authority.** The PC is hereby authorized to perform those duties and functions specified in *IC 36-7-4, Local Planning and Zoning*, and other applicable chapters and sections of Indiana law. The PC shall have the following authority:

**Table 8-2, Plan Commission (PC) Authority**

Application Type	PC's Action	UDO Process	Applicable Indiana Code
Comprehensive Plan: Adoption or Amendment	Recommendation after Public Hearing to County Commissioners	Section 8.B.6	<i>IC 36-7-4-500 Series</i>
Unified Development Code (UDO) Adoption or Amendment	Recommendation after Public Hearing to County Commissioners	Section 8.B.7	<i>IC 36-7-4-600 Series</i>
Zoning Map Amendment (Rezoning)	Recommendation after Public Hearing to County Commissioners	Section 8.B.8	<i>IC 36-7-4-600 Series</i>
Development Plan	Final	Section 8.B.9	<i>IC 36-7-4-1400 Series</i>

Table 8-2, Plan Commission (PC) Authority			
Application Type	PC's Action	UDO Process	Applicable Indiana Code
Written Commitment	Final <sup>1</sup>	Section 8.B.10	IC 36-7-4-1015
Note: 1. Written commitments are to be finalized by the PC for any action related to a development plan that is unrelated to a zoning map amendment or an annexation. There are other types of written commitments that are approved and/or modified by both the County Commissioners and the Board of Zoning Appeals.			

**4. PC Meetings, Public Records, Quorum, and Actions.**

**a. Meetings.**

- 1) Regular meetings of the PC shall be held monthly at a regularly fixed time in accordance with XXXX.
- 2) Special meetings of the PC may be called as provided by IC 36-7-4-307.

**Commented [DB1]:** Michele, do you have a provision within a County Ordinance that we need to cite to here?

**b. Record.** The minutes, all applications, exhibits, and papers filed in any proceeding before the Plan Commission, the staff report, and the decision of the Plan Commission shall constitute the record. The record shall be maintained for public inspection in the Department of Planning and Zoning.

**c. Quorum.** No official action shall be taken by the PC without a quorum being present. A quorum is defined by IC 36-7-4-301 as a majority of the entire membership of the PC, who are qualified to vote by both this UDO and IC 36-7-4-300 Series. Pursuant to IC 36-7-4-302, Official Action, and the Johnson County Code of Ordinances XXX, official action of the PC requires authorization by a majority of the entire membership of the Plan Commission at a regular or special meeting.

**d. Recordation of Actions.** Every recommendation or decision of the PC upon an application filed pursuant to this ordinance shall be repeated in the summary minutes. Where required by law, such actions shall include written findings of fact based upon criteria used in making the decision. The minutes shall expressly set forth any limitations, written commitments, or conditions recommended or imposed by the PC.

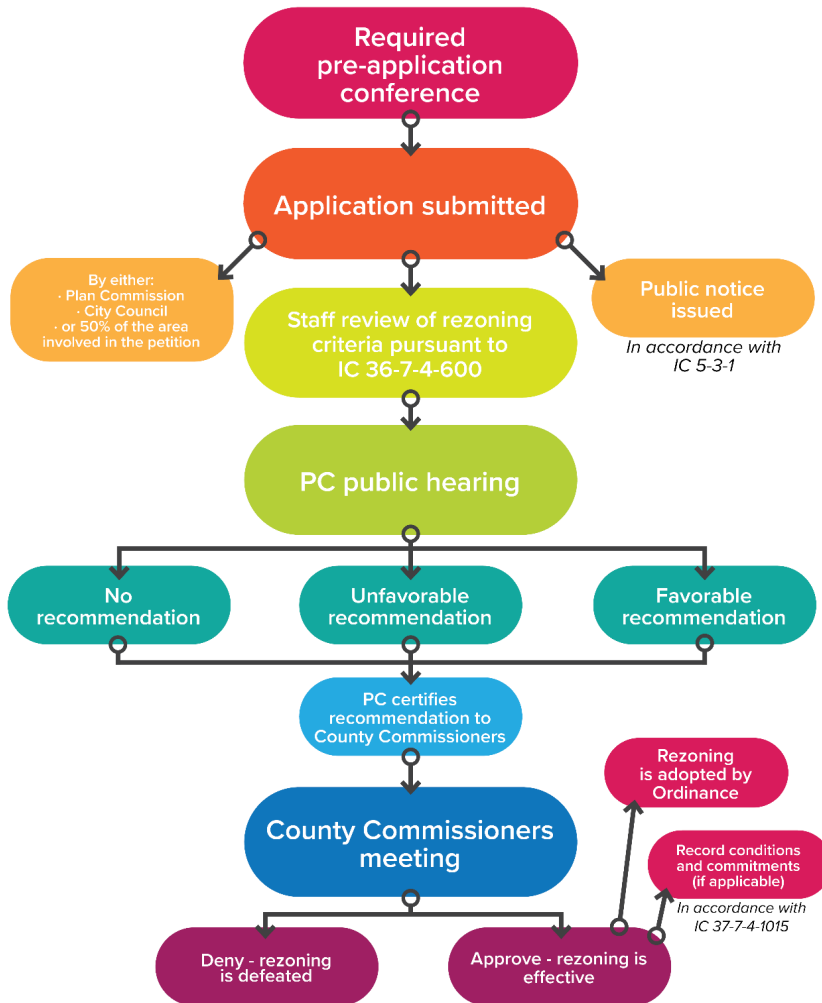
**5. PC Processes for All Application Types.**

- a. Pre-Application Conference.** Prior to filing an application for any PC process, an applicant shall schedule a required pre-application meeting with the Administrator, which may be held in-person or virtually (video conference). This step gives the applicant the opportunity to discuss the procedures for approval with the Administrator as well as the requirements and regulations for development.
- b. Application.** The applicant shall submit the appropriate official application in complete form. A complete application includes all the required supporting documentation, in addition to the official application form.
- c. Public File.** Once the Administrator determines that an application is complete and in proper form, they shall assign a file number and create a public file.

- d. *Additional Information.* The Administrator or the PC may require additional information be provided at the expense of the applicant, to enable review and assessment of the application. Such additional information may include impact studies, assessments, etc.
  - e. *Appeals.* Any decision of the PC may be appealed to any court of competent jurisdiction provided that the person has exhausted all available administrative remedies. However, nothing in this UDO expands the right to judicial review as provided by Indiana law.
6. **Comprehensive Plan Adoption or Amendment Process.**
- a. *Public Notice.* Notice of public hearing shall be in accordance with IC 36-7-4-507.
  - b. *Public Hearing.* The PC shall consider the adoption or amendment of the Comprehensive Plan or any of its components after a public hearing has been held and in accordance with IC 36-7-4-508.
  - c. *Certification of Recommendation.* Within ten (10) business days after the PC determination, the PC shall certify their recommendation to the County Commissioners.
  - d. *Final Action by County Commissioners.* Upon receipt of PC's certification, the County Commissioners shall vote on the proposed Comprehensive Plan adoption or amendment. Final action by the County Commissioners shall be in accordance with IC 36-7-4-509, IC 36-7-4-510, and IC 36-7-4-511.
7. **UDO Adoption or Amendment Process.**
- a. *Public Notice.* Notice of public hearing shall be in accordance with IC 36-7-4-604 and IC 36-7-706.
  - b. *Public Hearing.* The PC shall consider the adoption or amendment of the UDO at a public hearing.
  - c. *Recommendation.* After consideration, the PC shall make a favorable, unfavorable, or no recommendation to the County Commissioners.
  - d. *Certification of Recommendation.* Within ten (10) business days after the PC determination, the PC shall certify their recommendation to the County Commissioners.
  - e. *Final Action by County Commissioners.* Upon receipt of PC's certification, the County Commissioners shall vote on the proposed UDO adoption or amendment. Final action by the County Commissioners shall be in accordance with IC 36-7-4-600 Series and IC 36-7-4-700 Series.
8. **Zone Map Amendment (Rezoning) Process.** In accordance with IC 36-7-4-600 Series for zone map changes and the PC Rules and Procedures, the PC shall hear and make recommendations regarding zone map changes.
- a. *Rezoning Initiation.* In accordance with IC 36-7-4-602(c)(1) rezoning may be initiated by the PC, by the County Commissioners, or by owners of fifty percent (50%) or more of the area involved in the petition.
  - b. *Rezoning Public Notice.* Notice of public hearing shall be in accordance with IC 7-4-604 and the PC Rules and Procedures.

- c. *Rezoning Public Hearing.* The PC shall consider the zone map change at a public hearing. The applicant shall be in attendance to present their application and address the criteria and answer any questions or concerns of the PC.
- d. *Rezoning Criteria.* Per IC 36-7-4-603, when considering a rezoning, the Plan Commission and County Commissioners shall pay reasonable regard to the following criteria:
  - 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; and
  - 5) The responsible development and growth.
- e. *Rezoning Recommendation.* After consideration, the PC shall make a favorable, unfavorable, or no recommendation to the County Commissioners. Any of the said recommendations may include conditions and/or written commitments in accordance with IC 36-7-4-1015 and Section XXX, *Written Commitments*.
- f. *Certification of Recommendation.* Within ten (10) business days after the PC determination, the PC shall certify their recommendation to the County Commissioners.
- g. *Rezoning Final Action by County Commissioners.* Upon receipt of PC's certification, the County Commissioners shall vote on the proposed zone map change within ninety (90) calendar days. Final action by the County Commissioners shall be in accordance with IC 36-7-4-600 Series.
  - 1) If the rezoning proposal is adopted by the County Commissioners, the PC shall update the zone map accordingly.
  - 2) If the rezoning proposal is denied by the County Commissioners, the proposal cannot be resubmitted for one (1) year unless the Administrator determines there is a substantial change to the application.
- h. *No Rezoning Expiration.* Approval of a zone map change shall run with the land and shall not be subject to expiration.
- i. *Rezoning Amendment.* Any amendment of a zone map change shall be done in accordance with the IC 36-7-4-600 Series for zone map changes, using the same process as that for a zone map change. An amendment of an imposed condition or commitment shall be done in accordance with IC 36-7-4-1015 and Section XXX, *Written Commitments*.
- j. *Flowchart.* The following flowchart is for illustrative purpose only to show the steps associated with the zone map amendment application process.

## ZONE MAP AMENDMENT (REZONING) PROCESS

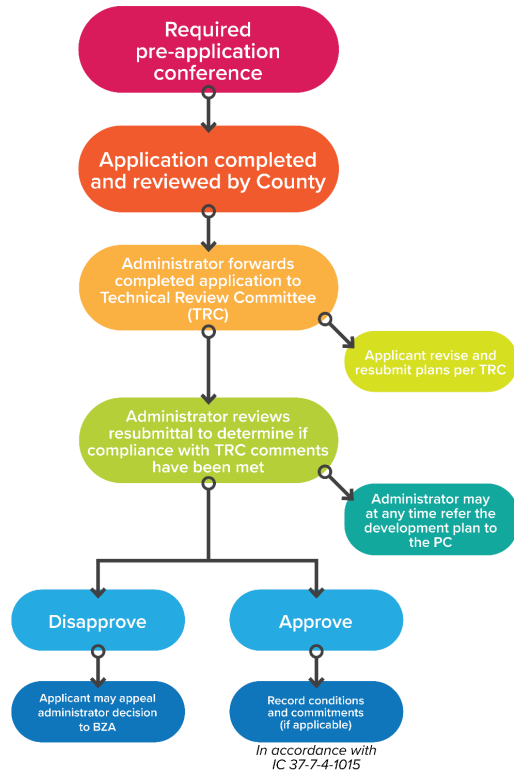


9. **Development Plan Process.** In accordance with IC 36-7-4-1400 Series and the PC Rules and Procedures, the PC shall hear and make decisions regarding development plans that are required by this UDO.
- a. *No Public Notice.* Pursuant to IC 36-7-4-1404(b), public notice is not required for development plans.
  - b. *Technical Review.* After receiving a complete application and creating a public file, the Administrator shall forward the development plan to the Technical Review Committee (TRC) for review. At the discretion of the Administrator, the TRC review may be held in person or remotely (virtually, by telephone, or by email). The Administrator shall compile the TRC's written comments for the applicant and include them in the public file.
  - c. *Development Plan Revision.* After the technical review, the applicant shall make the necessary modifications to the plans and resubmit to the Administrator. The Administrator may require additional internal review and/or the resubmittal of additional revised plans before reconsidering the development plan.
  - d. *Administrator Development Plan Approval.* If the revised plans have adequately addressed the comments from the TRC, and meet all standards of this UDO, the Administrator shall approve the development plan.
  - e. *Administrator Development Plan Disapproval.* If the revised plans have not adequately addressed the comments from the TRC, or do not meet all standards of this UDO, the Administrator shall disapprove the development plan.
  - f. *Action by Plan Commission.* The Administrator may, for any reason and at any time before taking any action on a development plan submittal, refer the development plan to the PC for review and action.
    - 1) *Written Request by Applicant.* The Applicant may submit a written request for a public meeting with the Plan Commission to the Administrator, before the Administrator takes action, if the applicant disagrees with any TRC comment(s). This request shall be submitted along with applicant's written explanation of the technical disagreement. Upon receipt of this written request, the Administrator shall set a date for a PC public meeting.
    - 2) *Public Meeting.* The PC shall consider the development plan at a public meeting. The applicant shall be in attendance to present their plan and address any questions or concerns of the PC.
    - 3) *Decision by the PC.* The PC shall consider any contested TRC comments before making a final decision on the development plan. The PC shall approve, approve with conditions or written commitments, or deny the development plan.
    - 4) *Final Approval Action.* A development plan is not considered final and ready for construction until revised plans have been received and approved by the Administrator per the terms of the PC's decision, including execution of any required conditions or written commitments.
  - g. *Development Plan Expiration.* A development plan approval, whether by the Administrator or the PC, shall be valid for three (3) years from the date of approval, as

long as, all applicable permits have been obtained and construction has begun within one (1) year of the date of final approval action. If this does not happen, the development plan approval is automatically voided.

- h. *Development Plan Amendment.* An amendment to a development plan may be approved by the Administrator after internal review by the TRC members. As with the initial development plan, the Administrator may, for any reason, send the requested amendment to a public meeting of the PC for review and action.
- i. *Flowchart.* The following flowchart is for illustrative purposes only to show the steps associated with the development plan application process.

## DEVELOPMENT PLAN PROCESS



**10. Written Commitment Process.**

- a. *Form.* A written commitment shall follow the format set forth by the County Attorney and must identify any specially affected persons or class of specially affected persons who may enforce the written commitment. The written commitment form must be approved by the Administrator before it is recorded.
- b. *Recording.* An approved written commitment shall be recorded by the applicant in the Johnson County Recorder's Office and takes effect upon the adoption of the proposal to which it relates. Following the recording of a written commitment, the applicant shall return a stamped copy of the recorded written commitment to the Administrator for the associated file.
- c. *Written Commitment Binds Owner.* Unless it is modified or terminated in accordance with this section, a recorded written commitment is binding on the owner of the parcel, all subsequent owner(s) of the parcel, and any other person who acquires an interest. An unrecorded written commitment is still binding on the owner of the parcel who made the commitment as part of an application process.
- d. *Modification or Termination.* Except for a written commitment modified or automatically terminated in accordance with this section, a written commitment may be modified or terminated only by a decision of the approving authority.

**C. Board of Zoning Appeals (BZA)**

**1. Establishment and Membership.**

- a. *BZA Establishment.* The Board of Zoning Appeals (BZA) shall be established in accordance with IC 36-7-4-900 Series.
- b. *BZA Membership and Organization.* The BZA shall have membership in accordance with IC 36-7-4-902(a).
- c. *Alternate Members.* In accordance with IC 36-7-4-909, the BZA may also appoint an alternate member to participate in a hearing or decision if the regular member appointed by the appointing authority has a disqualification due to conflict of interest. An alternate member has all the powers and duties of a regular member while participating in the hearing or decision.

**2. Duties and Powers.** The BZA shall have all duties and powers as specified in IC 36-7-4-900 Series, and this UDO. These powers and duties include, but are not limited to the power to:

- a. Adopt rules for the administration and conduct of the BZA and its business, including uniform rules pertaining to investigations and hearings;
- b. Keep a complete record of all proceedings, and to record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the BZA;
- c. Prepare, publish, and distribute reports, plans, ordinances, and other materials relating to the activities authorized under this chapter; and

d. Permit, require, modify, and terminate commitments, in accordance with *IC 36-7-4-1015*.

3. **BZA Authority.** BZA is hereby authorized to perform those duties and functions specified in *IC 36-7-4-900* Series and other applicable sections of Indiana law. The BZA shall have the following authority:

Table 8-3, Board of Zoning Appeals (BZA) Authority			
Authority	BZA's Action	UDO Cross Reference	Applicable Indiana Code
Administrative Appeal	Final after Public Hearing - Adopts Findings	Section 8.C.6.	<i>IC 36-7-4-918.1</i>
Special Exception	Final after Public Hearing - Adopts Findings	Section 8.C. 7.	<i>IC 36-7-4-918.2</i>
Variance of Use	Final after Public Hearing - Adopts Findings	Section 8.C.8.	<i>IC 36-7-4-918.4</i>
Variance of Development Standards	Final after Public Hearing - Adopts Findings	Section 8.C.9	<i>IC 36-7-4-918.5</i>
Written Commitment	Final <sup>1</sup>	Section 8.B.10	<i>IC 36-7-4-1015</i>
Note: 1. Written commitments are to be finalized by the PC for any action related to a special exception, variance of use, or variance of development standards that are unrelated to a zoning map amendment or an annexation. There are other types of written commitments that are approved and/or modified by both the County Commissioners and the Planning Commission.			

#### 4. **BZA Meetings, Public Records, Quorums, and Actions.**

##### a. *Meetings.*

- 1) Regular meetings of the BZA shall be held as provided by a schedule adopted annually as an addendum to the BZA's Rules and Procedure.
- 2) Special meetings of the BZA may be called by the chairman or by two (2) members of the BZA upon written request to the secretary.

b. *Record.* The minutes; all applications, exhibits, and papers filed in any proceeding before the BZA; the staff report; and the decision of the BZA shall constitute the record. In accordance with *IC 36-7-4-915*, the record shall be maintained for public inspection in the Department of Planning and Zoning.

c. *Quorum.* No official action shall be taken by the BZA without a quorum being present. A quorum is defined by *IC 36-7-4-910* as a majority of the entire membership of the BZA, who are qualified by *IC 36-7-4-902*.

d. *Action.* Every recommendation or decision of the BZA shall be repeated in the summary minutes. Where required by law, such actions shall include written findings of fact based upon criteria used in making the decision. The minutes shall expressly set forth any limitations, written commitments or conditions recommended or imposed by the BZA.

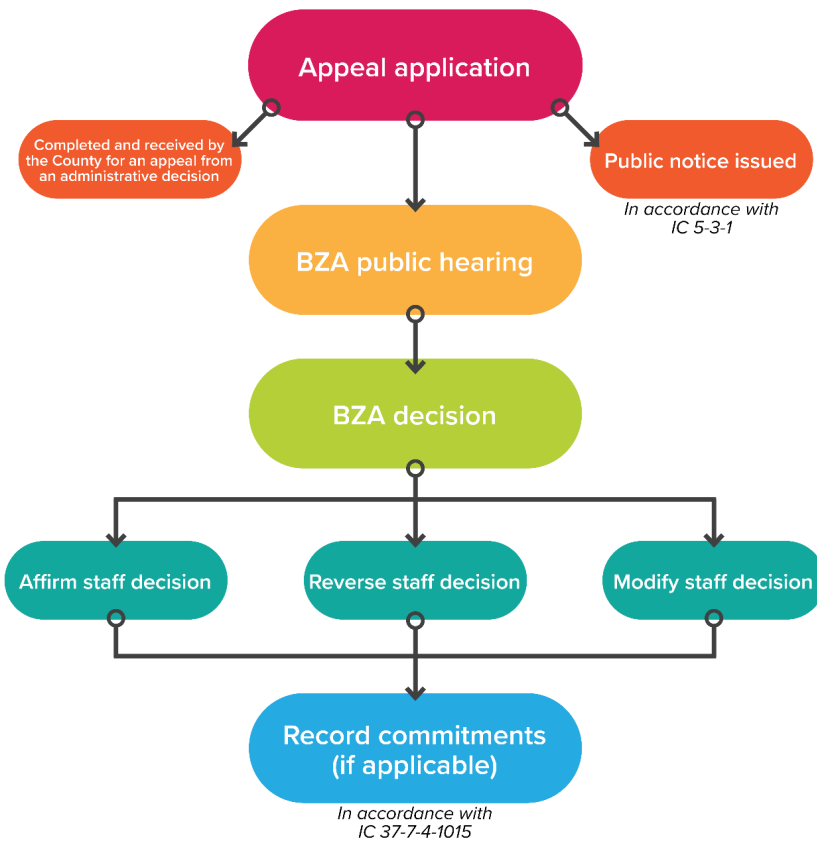
5. **BZA Processes for All Application Types.**

- a. *Pre-Application Conference.* Prior to filing an application for any BZA process, the applicant shall schedule a required pre-application meeting with the Administrator, which may be held in-person or virtually (video conference). This step gives the applicant the opportunity to discuss the procedures for approval with the Administrator as well as the requirements and regulations for development.
- b. *Application.* The applicant shall submit to the Administrator a completed application in accordance with the requirements of this UDO. A complete application includes all the required supporting documentation, in addition to the official application form.
- c. *Public File.* Once the Administrator determines that an application is complete and in proper form, a file number shall be assigned to create a public file.
- d. *Additional Information.* The Administrator or the BZA may require additional information be provided at the expense of the applicant, to enable review and assessment of the application. Such additional information may include impact studies, assessments, etc.
- e. *Appeals.* Any decision of the BZA may be appealed to any court of competent jurisdiction provided that the person has exhausted all available administrative remedies. However, nothing in this UDO expands the right to judicial review as provided by Indiana law.

6. **Administrative Appeal Process.** In accordance with *IC 36-7-4-918.1* and the BZA Rules and Procedures, the BZA shall hear and determine appeals from and review the decisions below. In addition, all appeals shall be made pursuant to *IC 36-7-4-1000 Series*.

- a. *Applicability.* The BZA shall hear appeals to any order, requirement, decision, determination, or enforcement action made by the Administrator, another administrative official, hearing officer, or staff member under the UDO.
- b. *Public Notice.* Public notice is not required for appeals.
- c. *Public Hearing.* The BZA shall consider the appeal at a public hearing. The applicant shall be in attendance to present their appeal and address any questions or concerns of the BZA.
- d. *Final Decision.* The BZA may affirm, reverse, or modify the decision, interpretation, order, or action that is the subject of the appeal. The BZA may also add conditions or written commitments to their decision.
- e. *Flowchart.* The following flowchart is for administrative purposes only to show the steps associated with the administrative appeals process.

## ADMINISTRATIVE APPEALS PROCESS



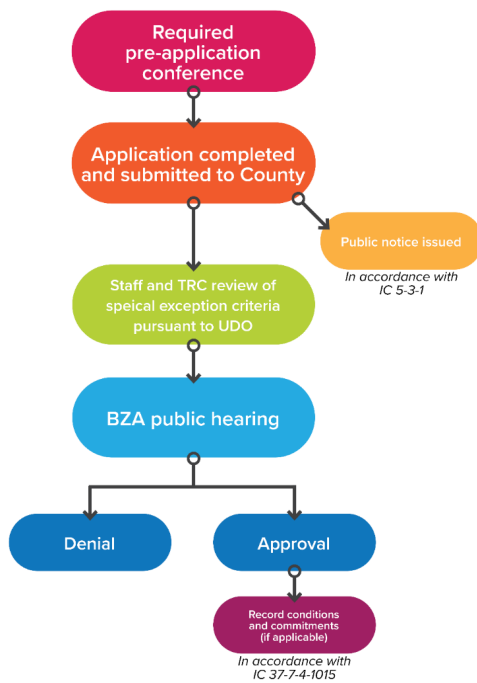
7. **Special Exception Process.** In accordance with IC 36-7-4-918.2 for special exceptions, and the BZA Rules and Procedures, the BZA shall hear and make decisions regarding applications for special exceptions.
- a. *Applicability.* Uses permitted by special exception as listed in Chapter 2, *Zoning Districts*, may be permitted by the BZA in the districts indicated in accordance with the standards and procedures set forth in this UDO.
  - b. *Public Notice.* Notice of public hearing shall be in accordance with the BZA Rules and Procedures.
  - c. *Public Hearing.* The BZA shall decide on whether to grant a special exception at a public hearing. The applicant shall be in attendance to present their case and address the decision criteria and any questions or concerns of the BZA.
  - d. *Decision Criteria.* When considering a special exception, the BZA shall find that the following criteria have all been satisfied:
    - 1) The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare;
    - 2) The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
    - 3) Adequate utilities, roads, drainage, and other necessary facilities and infrastructure have been or are being provided;
    - 4) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public roadways; and
    - 5) The special exception will be in a district where such use is permitted, and all other requirements set forth in this UDO that are applicable to such use will be met.
  - e. *Final Decision.*
    - 1) *Approval.* If the BZA finds all the special exception criteria have been satisfied, it shall approve or approve with conditions and/or written commitments the request. Approval may be in the form of a general statement.
    - 2) *Denial.* If the BZA does not find that all the special exception criteria have been satisfied, it shall deny the special exception and shall adopt findings that specify the reason(s) for denial, including the criterion not met.
  - f. *Expiration.* Approval of a special exception shall run with the land, except for the following:
    - 1) *Expiration for Failure to Begin New Construction.* All applicable permits shall be obtained and any new construction relevant to the special exception shall begin within three (3) years of the BZA's approval, or that approval shall expire.
    - 2) *Expiration for Failure to Occupy Existing Structures.* All applicable permits shall be

obtained and any existing structures relevant to the special exception shall be occupied within two (2) years of BZA approval, or that approval shall expire.

- 3) *Expiration for Unmet Conditions.* Approvals which include one (1) or more conditions by the BZA shall be met within one (1) year of BZA approval, or that approval shall expire.

- g. *Amendment.* A special exception may only be amended by the BZA if the property owner submits a revised application and that application follows the same process as the original application, while meeting all the applicable standards.
- h. *Flowchart.* The following flowchart is for illustrative purposes only to show the steps associated with the special exception application process.

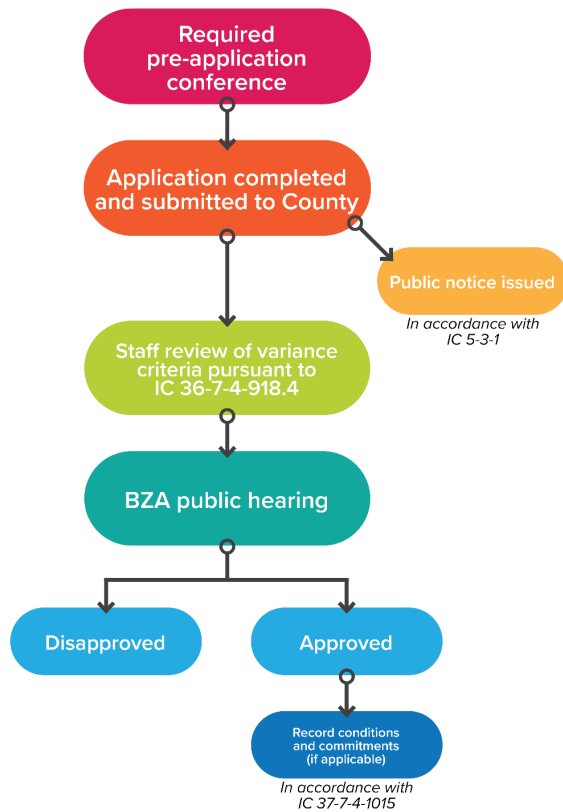
## SPECIAL EXCEPTION PROCESS



8. **Variance of Use Process.** In accordance with *IC 36-7-4-918.4* for variances of use, and the BZA Rules and Procedures, the BZA shall hear and make decisions regarding applications for variances of use.
- a. *Public Notice.* Notice of public hearing shall be in accordance with the BZA Rules and Procedures.
  - b. *Public Hearing.* The BZA shall consider the variance of use at a public hearing. The applicant shall be in attendance to present their case and address the decision criteria and any questions or concerns of the BZA.
  - c. *Decision Criteria.* Per *IC 36-7-4-918.4*, when considering a variance of use, the BZA shall find that the following criteria have all been satisfied:
    - 1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
    - 2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
    - 3) The need for the variance arises from some condition peculiar to the property involved;
    - 4) The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
    - 5) The approval does not interfere substantially with the Comprehensive Plan.
  - d. *Final Decision.*
    - 1) Approval. If the BZA finds all the variance of use criteria has been satisfied, it shall approve or approve with conditions and/or written commitments the request. Approval may be in the form of a general statement.
    - 2) *Denial.* If the BZA does not find that all of the variance of use criteria has been satisfied, it shall deny the use variance and shall adopt findings that specify the reason(s) for denial, including the criterion not met.
  - e. *Expiration.* Approval of a variance of use shall run with the land, except for the following:
    - 1) *Expiration for Failure to Begin New Construction.* All applicable permits shall be obtained and any new construction relevant to the use variance shall begin within three (3) years of the BZA's approval, or that approval shall expire.
    - 2) *Expiration for Failure to Occupy Existing Structures.* All applicable permits shall be obtained and any existing structures relevant to the special exception shall be occupied within two (2) years of BZA approval, or that approval shall expire.
    - 3) *Expiration for Unmet Conditions.* Approvals which include one (1) or more conditions by the BZA shall be met within one (1) year of BZA approval, or that approval shall expire.

- f. *Amendment.* A variance of use may only be amended by the BZA if the property owner submits a revised application and that application follows the same process as the original application, while meeting all the applicable standards.
- g. *Flowchart.* The following flowchart is for administrative purposes only to show the steps associated with the variance of use application process.

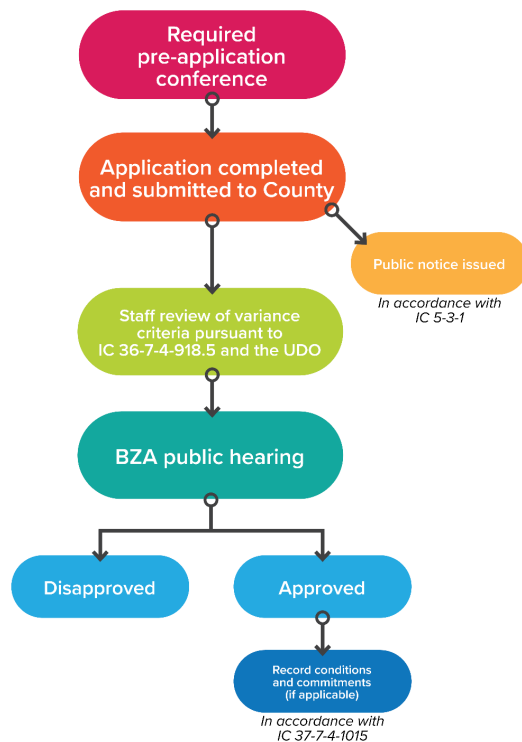
## VARIANCE OF USE PROCESS



9. **Variance from Development Standards Process.** In accordance with *IC 36-7-4-918.5* for variances from development standards, and the BZA Rules and Procedures, the BZA shall hear and make decisions regarding applications for variances from development standards.
- a. *Applicability.* The BZA may vary the development standards in accordance with the procedures set forth in this section.
  - b. *Public Notice.* Notice of public hearing shall be in accordance with the BZA Rules and Procedures.
  - c. *Public Hearing.* The BZA shall consider the variance from development standards at a public hearing. The applicant shall be in attendance to present their case and address the decision criteria and any questions or concerns of the BZA.
  - d. *Decision Criteria.* Per *IC 36-7-4-918.5*, when considering a variance of development standards, the BZA shall find that the following criteria have all been satisfied:
    - 1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
    - 2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
    - 3) The strict application of the terms of the ordinance will result in practical difficulties in the use of the property;
    - 4) The variance granted is the minimum necessary; and
    - 5) The variance granted does not correct a hardship caused by a former or current owner of the property.
  - e. *Final Decision.*
    - 1) *Approval.* If the BZA finds all the development standards variance criteria have been satisfied, it shall approve or approve with conditions and/or written commitments the request. Approval may be in the form of a general statement.
    - 2) *Denial.* If the BZA does not find that all the development standards variance criteria have been satisfied, it shall deny the development standards variance and shall adopt findings that specify the reason(s) for denial, including the criterion not met.
  - f. *Expiration.* Approval of a developmental standards variance shall run with the land, except for the following:
    - 1) *Expiration for Failure to Begin New Construction.* All applicable permits shall be obtained and any new construction relevant to the development standards variance shall begin within three (3) years of the BZA's approval, or that approval shall expire.
    - 2) *Expiration for Failure to Occupy Existing Structures.* All applicable permits shall be obtained and any existing structures relevant to the development standards variance shall be occupied within two (2) years of BZA approval, or that approval shall expire.

- 3) *Expiration for Unmet Conditions.* Approvals which include one (1) or more conditions by the BZA shall be met within one (1) year of BZA approval, or that approval shall expire.
- g. *Amendment.* A developmental standards variance may only be amended by the BZA if the property owner submits a revised application and that application follows the same process as the original application, while meeting all the applicable standards.
- h. *Flowchart.* The following flowchart is for illustrative purposes only to show the steps associated with the variance from development standards application process.

## VARIANCE OF DEVELOPMENT STANDARDS PROCESS



10. **Alternate Hearing Officer Process.** In accordance with IC 36-7-4-923, and the BZA Rules and Procedures, a Hearing Officer may hear and make decisions on development standards applications, use variance applications and special exception applications. The Hearing Officer shall not hear appeals of administrative decisions.
- a. *Applicability.* The Hearing Officer may vary development standards or uses, and act on special exceptions in accordance with the procedures set forth in this chapter.
  - b. *Assignment to Hearing Officer.* The Administrator may assign an application to the Hearing Officer after the pre-submittal conference has been held and a complete application has been submitted. Applications assigned to the Hearing Officer shall follow the guidelines established in the PC Rules and Procedures.
  - c. *Public Notice.* Notice of public hearing shall be in accordance with the BZA Rules and Procedures.
  - d. *Public Hearing.* The Hearing Officer shall consider all applications at a public hearing. The applicant shall be in attendance to present their case and address the decision criteria and any questions or concerns of the Hearing Officer.
  - e. *Transfer to BZA.* The Hearing Officer shall transfer an application to the BZA before making a decision, under the following circumstances:
    - 1) County Staff, including the Administrator, the Technical Review Committee or other County Department Heads object to the request in writing.
    - 2) County Staff, as defined above, request conditions or written commitments in writing that the applicant does not accept.
    - 3) The Hearing Officer imposes conditions or written commitments in writing that the applicant does not accept.
    - 4) The Hearing Officer otherwise determines that it is in the best interest of the County to transfer the application to the full BZA for consideration.
  - f. *Decision Criteria.* The Hearing Officer shall use the same applicable approval criteria as required for the BZA, as prescribed in Indiana Code and this ordinance.
  - g. *Final Decision.*
    - 1) *Approval.* If the Hearing Officer finds all the required criteria have been satisfied, they shall approve or approve with conditions and/or written commitments the request. Approval may be in the form of a general statement.
    - 2) *Denial.* If the Hearing Officer does not find that all the required criteria have been satisfied, they shall deny the request and shall adopt findings that specify the reason(s) for denial, including the criterion not met.
  - h. *Appeals.* Appeals of the Hearing Officer's decision by an interested party shall be to the BZA and shall be governed in accordance with IC 36-7-4-924(g).
  - i. *Expiration.* Approvals shall follow the same expiration criteria as prescribed for BZA decisions in this chapter.

**Commented [DB2]:** Michele, we would like to discuss this option with you during a check-in call.

- j. *Amendment.* An approved variance or special exception may only be amended by the Hearing Officer if the property owner submits a revised application and that application follows the same process as the original application, while meeting all the applicable standards, and the Administrator assigns it to the Hearing Officer.
- k. *Written Commitments.* In accordance with IC 36-7-4-924(f), a Hearing Officer may require written commitments, but only the BZA may modify or terminate a written commitment.

**D. Administrator.**

1. **Duties and Powers.** The Administrator shall be charged with the administration of this UDO and shall have the jurisdiction, authority, and duties described in this section:
  - a. *Assistance to the PC and the BZA.* The Administrator shall provide such technical assistance as the PC and BZA including, but not limited to:
    - 1) Attending the meetings of the PC, BZA and County Commissioners as needed;
    - 2) Informing each of the following bodies listed above of all the facts and information at the Department of Planning and Zoning's disposal with respect to any application brought before them; and
    - 3) Assisting each body by performing research, preparing staff reports, and making recommendations on applications brought before them.
  - b. *Information to the Public.* The Administrator shall provide and maintain public information for matters of the PC the BZA, this UDO, the Comprehensive Plan, and related County ordinances, plans, and policies.
  - c. *Interpretation.* The Administrator shall interpret specific provisions as prescribed by this UDO.
  - d. *Receipt of Applications.* The Administrator shall receive all applications for any petition, permit, or process required to be filed pursuant to the UDO. Upon receipt of any such application, the Administrator shall see to its processing, which may include its prompt referral to and retrieval from officials, departments, committees, board or commission of the city or any other governmental unit or agency with any interest or duty with respect to such application.
  - e. *Enforcement.* The Administrator shall ensure enforcement of this UDO as prescribed by Chapter XXX, *Enforcement*.
  - f. *Inspections.* The Administrator shall conduct inspections to determine compliance with this UDO.
  - g. *Calendar.* The Administrator shall prepare and maintain an annual Calendar of Meeting and Filing Dates for the Plan Commission and BZA to approve.
  - h. *Records.* The Administrator shall maintain all records necessary for the Department of Planning and Zoning.
  - i. *Fees.* The Administrator shall maintain a schedule of fees for all applications, permits, and other processes outlined in this UDO including those requirements listed below.

Until all applicable fees have been paid in full, no action shall be taken on any application or petition.

- j. *General Requirements.* Applications and petitions filed pursuant to the provisions of this UDO shall be accompanied by the applicable fee(s) specified in the adopted Fee Schedule. Fees shall be collected by the Administrator and shall be made payable to Johnson County.
- k. *Collection of Fees.*
  - 1) *Fees for Improvement Location Permit (ILP).* Non-refundable fees for an ILP shall be calculated during the review process and shall be collected before the ILP is issued. Any fees associated with re-inspections and additional inspections are non-refundable and shall be collected before a final inspection is scheduled or a certificate of occupancy is issued.
  - 2) *Fees for Applications to Plan Commission and BZA.* Non-refundable fees shall be collected at the time any application is filed.
  - 3) *Erroneously Paid Fees.* A fee paid in error may be refunded at the discretion of the Administrator.
- 2. **Improvement Location Permit (ILP) Procedures.** The Administrator, or their designee, shall be responsible for the issuance of ILPs in accordance with IC 36-7-4-800 Series.
  - a. *Applicability.* An ILP shall be required for the erection, alteration, or modification of all structures within the jurisdiction including, but not necessarily limited to:
    - 1) Primary structures;
    - 2) Accessory buildings and structures as set forth in this UDO;
    - 3) All fences, decks, patios, and slabs as set forth in this UDO;
    - 4) Signs as set forth in this UDO;
    - 5) Temporary storage containers as set forth in this UDO;
    - 6) Wireless communication facilities both free-standing and those co-located upon an existing or pre-approved wireless communication facility.
  - b. *Application.* The applicant shall apply for an ILP in accordance with the application packet adopted by the PC as part of the PC Rules and Procedures and shall be submitted in the format described therein. The filing fee for an ILP shall be paid in accordance with the adopted Fee Schedule. A public record of each ILP shall be retained in the Department of Planning and Zoning in accordance with the retention rules established by the State Board of Accounts.
  - c. *Final Inspection and Certificate of Occupancy.* A final inspection shall be completed for all ILPs that are constructed in compliance with all provisions of the UDO and other applicable codes. No structure shall be occupied or used, in whole or part, for any purpose until a final inspection is completed and a Certificate of Occupancy has been issued where required.
  - d. *Expiration.* An ILP shall be valid upon issuance.

- e. *Amendment.* An amendment to an approved ILP may be submitted at any time for review and consideration by the Administrator. Additional fees may be assessed if applicable.

**E. Technical Review Committee.**

1. **Generally.** A regulatory body to be known as the Technical Review Committee (TRC) is hereby established for the purpose of:
  - a. Administering the requirements of this UDO;
  - b. Formulating staff recommendations;
  - c. Rectifying review comments between County departments and referral agencies; and
  - d. Providing cohesive and timely review of applications.
2. **Membership.**
  - a. The TRC shall be comprised of the County staff designated by the Administrator and representatives from each referral agency that reviews development projects in conjunction with the County.
  - b. Based on the nature of a development, TRC meetings can be limited to those staff and agencies affected by the development or can be expanded to include additional agencies or staff with review responsibilities.
3. **Powers.** The TRC shall have the role to review and provide technical recommendations concerning any application specified in this UDO. It does not have the power to grant a variance or change zoning classification.
4. **Meetings.** TRC meetings shall be convened by the Administrator, as necessary.