



**McANA**

Marion County Alliance of Neighborhood Associations

Rezoning Petitions Considered  
By the  
Metropolitan Development Commission  
in 2004  
Indianapolis, IN

April 20, 2005

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## Executive Summary

The Marion County Alliance of Neighborhood Associations undertook a study of the voting records of the Metropolitan Development Commission and its Hearing Examiner. The study was designed to gather a full year's record for all rezoning requests in Marion County. As the initial data were collected, it became apparent that unexpected and stunning results were forthcoming. We therefore expanded the scope of our investigation so that a broader understanding of the actual rezoning process could be captured.

All rezoning petitions that passed through the MDC phase of the rezoning process in 2004 were examined. Data were gathered to include the positions of Staff, the Public, the Hearing Examiner, and the individual votes of the Metropolitan Development Commissioners. A breadth of information was accumulated so these petitions could be followed through the system and so that the effects of the four decision-making groups on the final outcome could be examined.

The overall results are that in the study time frame, 95% of all rezoning petitions that passed through the MDC, either expedited or heard, were approved. The Marion County Comprehensive Plan had no effect on the outcome, as evidenced by the fact that 96% of petitions that complied with the Comprehensive Plan were approved, while 94% of those that did not fit the Plan were also approved.

The overall denial rate was further determined to be typical of rezoning decisions in the past few years. The 5% denial rate we saw in our study time frame was statistically indistinguishable from the denial rate of rezoning petitions from 1998 through 2004 (data incomplete for 2004).

The Public was the only decision-making group to demonstrate the reliance upon the Comprehensive Plan as the major criterion of a set of criteria.

The Staff demonstrated some reliance upon the Comprehensive plan for its decisions, but no evidence of the consistent application of other criteria was present.

The Hearing Examiner relied very little upon the Plan and there was no evidence of the consistent application of other criteria.

The MDC voting record did demonstrate the application of other criteria, but the Commission actually denied a greater percentage of petitions that fit the Plan, than they denied petitions that did not fit.

McANA is of the opinion that the lack of application of the Comprehensive Plan to zoning decisions is diametrically opposed to the intentions of state law and a breach of faith with the citizens and neighborhoods of Marion County. While this finding is shocking, we are hopeful that our results will encourage a vigorous conversation in our Community and that the degree of detail shown in our study will lend itself to finding real solutions to the pressing problem of implementing the Comprehensive Plan in Indianapolis.

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## Acknowledgements

The data presented in this report was gathered with much assistance from members of Current Planning, Department of Metropolitan Development. In particular we would like to thank Pauline Pryor, Ann Abel, Bob Merriman, and Mike Peoni.

## Introduction

Most Neighborhood groups in Indianapolis actively participate in the zoning process. The Marion County Alliance of Neighborhood Associations (McANA) has noted a growing frustration on the part of Neighborhood groups with the decisions of the Metropolitan Development Commission (MDC) and its designated Hearing Examiner (HE). This is on top of a long-standing frustration that the Marion County Comprehensive Plan was being ignored in land use decisions. These frustrations were always expressed using anecdotal evidence.

In late 2004, McANA undertook a detailed study of the actual results of zoning decisions so that an objective analysis could be made of the disposition of rezoning petitions and their relationship to the Marion County Comprehensive Plan. In order to understand the internal dynamics of the rezoning process, data were gathered regarding the recommendations of the Public and the Staff as well as the decisions made by the HE and the MDC. Also tracked were petitions that were withdrawn or dismissed, parcel size, zoning request, Township, and if a Land Use Consultant or Attorney represented the Petitioner.

McANA collected information about all rezoning petitions that went through the MDC stage of the rezoning process in 2004. This means that some of the petitions were originally filed in 2003. It also means that there were petitions filed in 2004 that were ultimately decided in 2005, and which therefore are not part of this study. But, using this approach, we were able to compile a full year's docket of rezoning requests. This is described in more detail in the "Methodology" section of this Study.

We also are reporting here, zoning outcome data requested by Councilor Ike Randolph and supplied to him by Mike Peoni, Administrator, Division of Planning, Department of Metropolitan Development, City of Indianapolis. Councilor Randolph represents District 1 in the Indianapolis-Marion County City-County Council.

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# Methodology

In order to obtain a recent, full year, of zoning decisions we gathered information about all zoning cases that went through the MDC stage of the rezoning process (which is described in detail in "The Rezoning Process") during 2004. These cases were then tracked back to their first appearance in the paper trail of the rezoning process.

The following records were examined:

- Petition information sent to the City-County Council for final adoption
- Spreadsheets of data gathered by Current Planning
- Staff reports
- HE dockets / agenda
- MDC dockets / agenda
- Official case files
- MDC ballots
- Hearing attendance slips
- Memoranda of Hearing Examiner Decisions
- Current Planning's computer file system into which information had been scanned
- Official minutes of HE or MDC meetings

The following items of information were gathered:

- Petition number
- Address
- Current zoning
- Requested zoning
- Parcel size
- Township in which the parcel is located
- If the Petitioner was represented by a Land Use Consultant or Attorney
- Final outcome of the petition
- If the petition complied with the Comprehensive Plan
- Name of Staff to which the petition was assigned
- Staff recommendation to the HE or MDC on the petition
- Reasons Staff gave to deviate from the Comprehensive Plan
- If there was a Public remonstrator
- If the petition were expedited on the HE docket
- HE decision on the petition
- Reasons HE gave to deviate from the Comprehensive Plan
- If the petition were expedited on the MDC docket
- MDC decision on the petition
- Individual votes of the Commissioners on each petition

In addition, there was data provided by the Department of Metropolitan Development to City Councilor Isaac Randolph, District 1, which we used to calculate the petition denial rate for every year since 1998.

Throughout this report we have utilized color to indicate the topic represented in the graphs. Disposition (approve or deny) appears in blue and salmon. Compliance with the Comprehensive Plan (fit, do not fit, and special use) appears in lavender, tan, and green. Unique graphs are depicted in unique colors, as well.

# The Zoning Process

The basic stages through which a zoning petition goes in the zoning process are fairly straightforward. But, at each stage there are multiple options, making the exact process rather complex.

Figure 1 shows the basic stages of the process in Marion County, Indiana. The options at each stage are shown.

The Petition is filed to begin the zoning process. It may be withdrawn at any time up to the point where the MDC makes a decision. If a petition was withdrawn before being placed on the HE agenda (docketed), it is not included in this study, as there was no useful information available. Of 214 rezoning petitions that were docketed in the current study time frame, 13 were withdrawn or dismissed prior to any public hearing. Three were withdrawn after an initial public hearing.

Staff of Current Planning reviews all petitions but they do not disclose their position to support or oppose a petition until they write up their report, generally one week before the initial hearing.

The Public has the opportunity to review all petitions for which a public notice has been sent. Because the Public's position is not deliberately included in the public record, we could not always determine if the Public had a position on some petitions. If the petition was expedited, we determined that the Public was recommending approval of the petition. In many cases, a hearing was held, but we could not find evidence for or against Public remonstrance, and we put those cases in a category labeled "?" for unknown Public position.

The petition is docketed for initial hearing before either the Hearing Examiner, the zoning authority of an excluded city, or the Historic Preservation Commission. The HE certainly accounts for the vast majority of petitions. During our study's time frame, only 5 rezoning petitions were docketed for initial hearing before someone other than the Hearing Examiner.

A petition may skip the HE stage and go straight to the MDC for its initial hearing, upon the request of the Petitioner or the Public, or if there is a conflict of interest by the HE in that case. In our study's time frame 14 petitions bypassed the HE and went directly to the MDC for initial hearing.

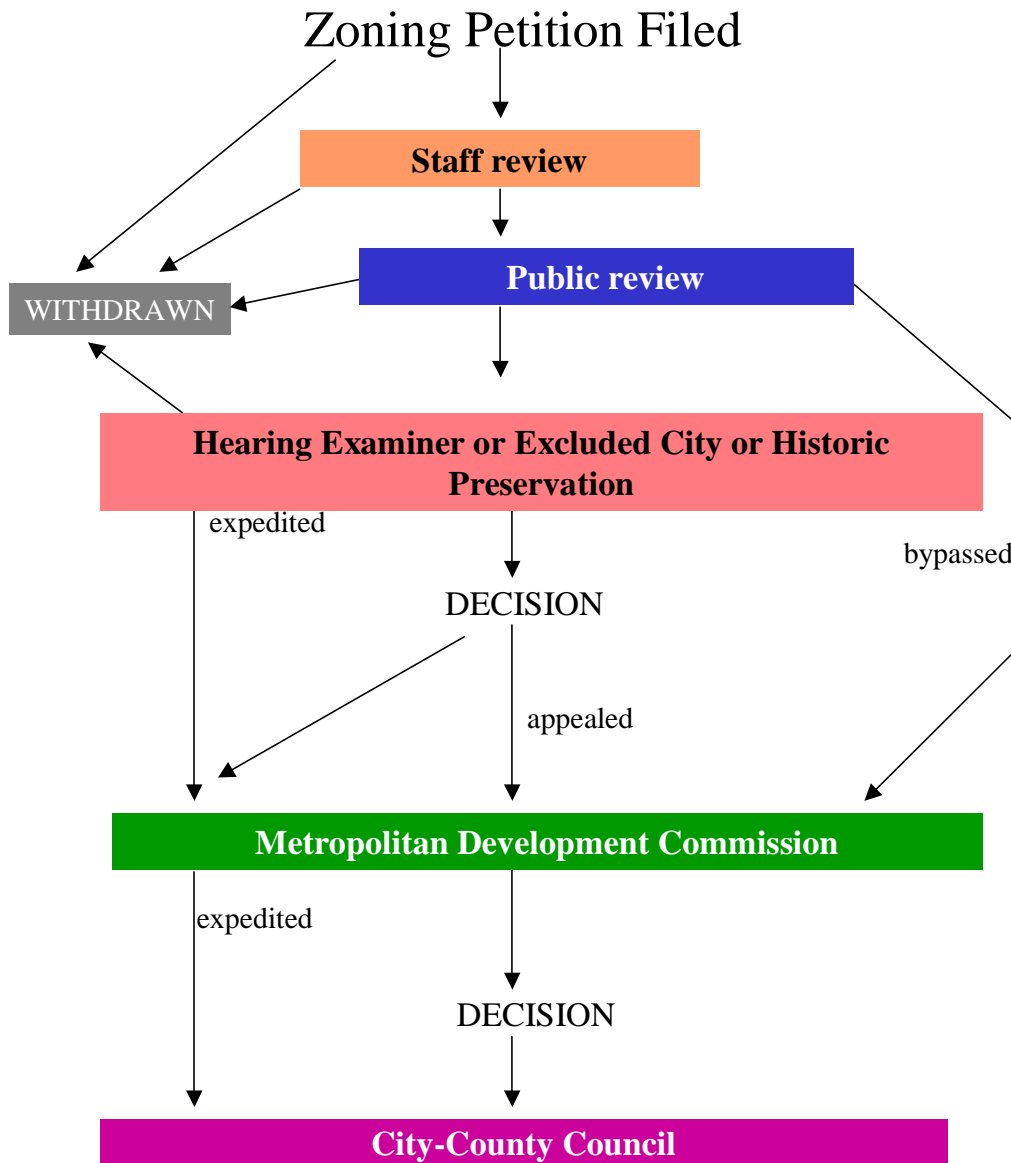
Any petition that does not generate opposition by either Staff or the Public will be placed on the 'expedited' portion of the HE agenda for initial hearing. Both the Staff and the Public supported nearly half of the petitions in our study time frame. After a cursory recital of the proposal, the HE approves the petition and it is included in the 'expedited' portion of the MDC agenda. The MDC then bulk approves these petitions and, after all the paperwork is complete, they are sent on the City-County Council for final adoption.

The HE or other preliminary body hears all other petitions. Their decision is final unless it is appealed to the MDC for a re-hearing before the full Commission. Only a fraction of initial hearing decisions were appealed. In our study time frame, the HE issued a decision in 74 cases and only 17 were appealed to the MDC. Those not appealed are placed on the 'expedited' portion of the MDC's agenda.

The Metropolitan Development Commission only conducts public hearings on rezoning petitions that either bypassed the HE stage or rezoning petitions for which an appeal was filed challenging the HE's decision. (Likewise, the other preliminary bodies.)

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Since rezoning actually involves changing the law for a specific parcel of ground, and since only the City-County Council has the power to enact laws, any rezoning petition approved by the MDC, either through the expedited process or after a public hearing, is sent to the City-County Council for final disposition. The Council has the authority to 'call down' a petition from the mass adoption process to be heard and decided by the full Council. This has been a rare event. Zoning petitions are not submitted to the Council for adoption until the petitioner has finalized all of the paperwork. This can lead to a several year gap between the MDC decision and the petition being forwarded to the Council.



All zoning petitions approved by the MDC, whether after a hearing or through the expedited pathway, must be adopted by the City-County Council before the rezoning is actually granted. The Council may decide to conduct its own hearing on the petition and make the final decision themselves.

FIGURE 1: The basic structure of the Zoning Process in Marion County