

OFFICIAL OPINION NO. 47

September 30, 1963

Mr. T. W. Schulenberg
Executive Director
Department of Commerce and Public Relations
333 State House
Indianapolis, Indiana

Dear Mr. Schulenberg:

This is in reply to your letter requesting an Official Opinion interpreting the Acts of 1947, Ch. 174, Sec. 45, as amended by the Acts of 1963, Ch. 385, Sec. 4, and as found in Burns' (1963 Supp.), Section 53-745.

Your specific questions are based upon the second paragraph, which was added by the 1963 amendment, and are stated as follows:

- "1. Does the paragraph added by the 1963 Legislature, the second paragraph of the Section referred to above, expand the authority to the Plan Commission?
- "2. Does the paragraph impose new duties on the Plan Commission?
- "3. If question number one is answered affirmatively, can the Plan Commission require compliance?
- "4. If question number one is answered negatively, does the paragraph restrict the scope of the authority granted in the first paragraph of the Section in question?"

Burns' 53-745, *supra*, to which your questions relate, provides as follows:

"After a master plan and an ordinance, containing provisions for subdivision control and the approval of plats and replats, have been adopted and a certified copy of the ordinance has been filed with the county recorder, a plat of a subdivision shall not be filed with the auditor, and the recorder shall not record it unless it has first been approved by the plan com-

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mission having jurisdiction over the area as provided in Sections 34 and 52.

“Any subdivision of a parcel of land for purposes other than agricultural use shall be reviewed by the plan commission having jurisdiction over the area involved and the determination shall be made that such division shall be in accordance with the master plan.”

Sections 34 and 52 referred to in the above section pertain to the jurisdiction of plan commissions generally. These sections are part of the Acts of 1947, Ch. 174, as amended and found in Burns' (1963 Supp.), Sections 53-734 and 53-752. Pertinent parts of said sections are hereinafter set forth for the purpose of indicating the jurisdiction and authority of the various plan commissions.

53-734 “Before exercising the rights, powers and duties conferred upon it by this act with respect to such designated contiguous unincorporated area, a city plan commission shall file a description or map defining the limits of such designated contiguous unincorporated area with the county recorder of the county in which the city is located, and, as such designated contiguous unincorporated area may be altered from time to time, shall file with such county recorder a revised description or map defining the limits thereof.”

It is noted that this section provides for future alteration of the limits of a plan as originally filed and other paragraphs in this section control the question of jurisdiction when a conflict exists between a city and county plan commission.

53-752 “After a master plan and an ordinance containing provisions for subdivision control and the approval of plats and re-plats have been adopted and a certified copy of the ordinance has been filed with the county recorder, the city plan commission shall have exclusive control over the approval of all plats involving incorporated land covered by the master plan and ordinance. The city plan commission shall have

exclusive control over the approval of plats involving unincorporated land within its jurisdiction, unless a board of county commissioners has adopted a master plan and ordinance, providing for subdivision control and approval of plats and re-plats covering such lands, in which case the county plan commission shall have exclusive control over the approval.”

In your first question, you ask if the second paragraph of Section 53-745, *supra* (added by the 1963 Legislature) *expands* the authority of plan commissions. The usual and customary meaning of the word “expand” is “to enlarge” or “to extend.”

Webster’s New International Dictionary, Second Edition, page 895.

In my opinion the additional paragraph added by the 1963 amendment to Section 53-745 does not expand the authority of a plan commission. The authority therein granted already existed by virtue of the first paragraph of such section. In fact, the scope of such authority is actually limited by specifically eliminating a subdivision of a parcel of land for agricultural use from control by a plan commission.

Your second question refers to duties rather than authority of a plan commission but the answer to the first question is also applicable to this question.

Your third question requires no answer because of the negative answer to the first question, and your final question is answered by the comments included in the answer to your first question.