

# **Bond Case Briefs**

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## **ZONING - INDIANA**

### **Brookview Properties, LLC v. Plainfield Plan Com'n**

**Court of Appeals of Indiana - July 31, 2014 - N.E.3d - 2014 WL 3753147**

Brookview Properties, LLC and First Merchants Bank of Central Indiana (collectively “Brookview”) petitioned the Town of Plainfield for approval of a Planned Unit Development (“PUD”) preliminary plan and final detailed plan for development of a proposed apartment complex. The Plainfield Plan Commission (“Plan Commission”) denied the petition following a public hearing. Brookview filed a verified petition for judicial review, and the trial court affirmed the Plan Commission’s denial of the development plan. Brookview appealed.

The Court of Appeals held that:

- The Plan Commission did not exceed its authority when it decided that the proposed multifamily use was inappropriate, as no preliminary plan had been approved for Brookview’s parcel;
- The Plan Commission’s findings, as a whole, were adequate, supported by substantial evidence, and provided fair notice to Brookview of the reasons for the Plan Commission’s decision;
- The Plan Commission’s decision did not violate Brookview’s right to substantive and procedural due process, as it had failed to show that the Plan Commission’s actions were arbitrary and capricious and without any rational basis; and
- The Plan Commission’s decision did not constitute an uncompensated taking, as Brookview could not have had any expectation concerning a designated land use given the absence of preliminary plan approval.