

**RULES OF PROCEDURE  
ADVISORY PLAN COMMISSION  
TOWN OF ELLETTSVILLE, INDIANA  
Effective December 6, 2007  
Amended by Resolution January 6, 2011  
Amended by Resolution June 5, 2014  
Amended by Plan Commission May 5, 2016**

WHEREAS, THE Town of Ellettsville Advisory Plan Commission (Commission) is required by I.C. 36-7-4-401 to supervise and make rules for the administration of the affairs of the Commission; prescribe uniform rules pertaining to investigations and hearings; keep a complete record of all the Commission's proceedings; record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Commission; prepare, publish and distribute reports, ordinances, and other material relating to its activities; adopt a seal; and certify to all official acts; and

WHEREAS, the Commission is required by I.C. 36-7-3-11 and I.C. 36-7-4-604 to adopt rules to determine who are interested parties for purposes of conducting a public hearing on the certification of a zoning ordinance under I.C. 36-7-4-605, how notice is to be given to these persons, who is required to give that notice, and to govern the conduct of the public hearing; and

WHEREAS, the Commission is required by I.C. 36-7-4-705 and I.C. 36-7-4-706 to adopt rules prescribing the procedures for setting hearing dates for the primary approval of subdivision plats and for the conduct of those hearings; to determine who are interested parties, how notice is to be given to them and who is required to give that notice; and

WHEREAS, the Commission is required by I.C. 36-7-4-709 to adopt rules prescribing the procedure for determining whether all improvements and installations in a subdivision plat eligible for secondary approval under I.C. 36-7-4-710 have been constructed and completed as required by the Subdivision Control ordinance and who is responsible for making that determination; and

WHEREAS, the Commission determines that its rules should be organized and stated in a coherent fashion and be made readily available to those persons appearing before it.

NOW, THEREFORE, BE IT RESOLVED BY THE ELLETTSVILLE PLAN COMMISSION OF MONROE COUNTY, INDIANA, THAT THE FOLLOWING RULES ARE ADOPTED:

## **RULE 1 - OFFICERS AND STAFF**

### **1.1 Purpose & Authority**

The Town of Ellettsville Planning Commission has set forth rules of procedure to ensure consistent and fair treatment of applicants and interested persons, orderly and efficient public proceedings, and compliance with state and federal law. These rules shall also ensure that no member of the Commission will gain a personal or financial advantage from his or her work for the Commission, so that public trust in the municipal government will be preserved. These rules of procedure are adopted pursuant to Chapter 4 of IC §36-7-4 Planning and Zoning.

### **DEFINITIONS**

**Conflict of Interest-** "Conflict of interest" means any one of the following:

1. A direct or indirect personal or financial interest of a commissioner his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the commission.
2. A situation where a commissioner has publicly displayed a prejudgment of the merits of a particular proceeding before the commission.
3. A situation where a commissioner has not disclosed ex parte communications with a party in a proceeding before the commission.

**Ex parte Communication-** "Ex parte communication" means any oral or written communication not on public record between a member of the Commission and the applicant, a member of the public, or another member of the Commission in regards to any matter scheduled to come before the Commission that may have the effect of influencing the decision of that member of the Commission.

### **1.2 Election of Officers**

- a) The Plan Commission shall, at its first meeting in each calendar year, choose from its members a President, Vice-President and a Secretary, whom shall serve until the first meeting in January of the next succeeding year, when their successors shall be chosen to serve for one year in like manner.
- b) Should the Plan Commission President of the previous year still be a member of the Commission, he or she shall preside over the election of the new officers.
- c) If the President of the previous year is no longer on the Commission, the Director of Planning Services shall preside over the election of officers and once officers are elected will turn the meeting over to the President.
- d) Whenever a candidate receives a majority vote of the entire members of the Commission, that person shall be declared elected.

- e) Each officer elected under these rules shall enter into office immediately upon being declared elected and shall serve until his successor is declared elected at the first meeting of the following year, or until the officer is no longer a member of the Commission.
- f) Whenever any office becomes vacant, the Commission shall elect a successor at its next regular meeting to complete the remainder of the unexpired term.

### **1.3 Authority, Officers and Duties**

- a) The Town of Ellettsville Plan Commission exists as an advisory Plan Commission under the authority of IC 36-7-4-204 and Chapter 152 of the Ellettsville Town Code Planning and Zoning Regulations and any amendments thereto. These rules are adopted in accordance with the requirements of IC 36-7-4-401.
- b) The duties of the Plan Commission shall be those set forth in IC 36-7-4-400 et seq., and such other responsibilities as may be required by state statute or Town of Ellettsville Code.
- c) The Plan Commission shall consist of seven voting members, appointed in accordance with IC 36-7-4-207.

### **1.4 Duties of President**

- a) Notwithstanding State law, the President shall have general direction of the Commission and shall preserve order, decorum, and decide questions of order.
- b) The President shall rule on all points of order subject to an appeal to the Plan Commission by any two members, shall state all questions properly proposed, shall put all questions which come to a vote, and shall declare the results of each vote for recording in the minutes.
- c) After any ordinance, resolution, or order is adopted by the Plan Commission, the President shall certify such action and certification shall be attested by the Secretary.
- d) In the absence of the President the Vice-President shall preside.
- e) Upon resignation, death or removal of the President or Vice President, the Plan Commission shall elect a successor at its next meeting.
- f) If a vacancy occurs among the members of the Plan Commission, the appointing authority shall appoint a member for the unexpired term of the vacating member.
- g) The appointing authority may remove a member from the Plan Commission for cause under IC 36-7-4-218 (f).
- h) Additionally, the Secretary shall notify the appointing authority in writing when a member has been absent for three (3) consecutive meetings of the Plan Commission. Such absences may constitute cause for removal from the Plan Commission by the appointing authority under IC 36-7-4-220(c).
- i) The President or two (2) members of the Plan Commission upon written request to the Secretary may call special meetings.

- j) The Secretary shall send to all members and its attorney, at least three (3) business days before the special meeting, a written notice fixing the time, place, and purpose of the meeting. Written notice is not required if: the date, time, place, and purpose of the special meeting are fixed at a regular meeting; and all members of the Plan Commission are present at that regular meeting.

### **1.5 Duties of Secretary**

The Plan Commission shall appoint and determine the duties of the secretary. The Secretary shall perform the following duties with respect to the proceedings of the Plan Commission:

- a) Record the proceedings of the Plan Commission meetings and produce minutes of said meetings for review and approval by the Plan Commission.
- b) The minutes should be available in draft form within a reasonable time after the regular Plan Commission meeting. The draft minutes shall be presented to the Plan Commission for approval at the next succeeding regular meeting. When approved, the minutes shall be signed by the President and members of the Plan Commission and attested by the Secretary.
- c) The minutes of the Plan Commission meetings and all Ordinances and Resolutions shall be filed in the office of the Town Clerk and are public records, as defined by IC 5-14-3.
- d) Plan Commission Members term of office should be listed in the minutes as each member is appointed.

### **1.6 Duties of Planning Director/Zoning Administrator**

- a) The President and Director of Planning shall determine the agenda for regular meetings. The agenda shall list all items to be considered by the Plan Commission at the meeting. The Plan Commission shall consider no item unless it appears on the agenda. Without exception, cases on a regular meeting agenda must have met all time, documentation and docket requirements. Any petitioner may withdraw any petition or document prior to the meeting at which it was to be considered.
- b) The items shall be listed on the agenda in the order in which the petition or other document was filed with the Director of Planning.
- c) Provide notice of meeting(s) to Commission members.
- d) Date stamp and attend to all correspondence directed to the Commission.
- e) The Director of Planning shall contact the President of the Plan Commission and provide copies of correspondence directed to the Commission for his or her input.
- f) Record and file all bonds and contracts and assume all responsibility for custody and preservation of all papers and documents of the Commission by filing the same with the office of the Clerk Treasurer of the Town of Ellettsville.
- g) The agenda shall be available by the Director of Planning for public inspection at the Department of Planning, the Ellettsville Fire Station #7, Monroe County Public Library/Ellettsville Branch, and the Office of the Town Clerk no less than two (2) business days prior to the scheduled meeting.

- h) The President or Planning Director may accept changes to the agenda not later than three (3) business days prior to the meeting.
- i) Publish all notices of public hearings for municipal code changes.
- j) The duties of the Planning Director are as listed in the Ellettsville Town Code or as necessary to act on behalf of the Plan Commission.
- k) Recommendations from the Plan Commission to the Ellettsville Town Council, which require Town Council action, shall be requested to be placed on the Council agenda by the Planning Director. The Planning Director will contact the clerk to be added to the agenda and the Town's Attorney for preparation of documents if needed.
- l) The Plan Commission President, Town's Attorney and/or Planning Director shall provide all relevant information concerning the recommendation to the Town Council members, which may include: case file information, minutes and findings of fact.

### **1.7 Plan Commission Committees**

- a) The following standing committees may be appointed by the President: Executive Committee, Plan Review Committee and Technical Advisory Committee.
- b) Standing committee members shall be appointed for one year terms. Standing committees shall consist of three (3) or less Commission members. Committees may be supplemented by non-member citizens as appointed by the President. Vacancies shall be filled immediately by the President of the Plan Commission.
- c) Special committees may be appointed by the President for purposes and terms which the Commission approves. The purposes and terms of such committees shall be specified at the time of their establishment. Members of committees shall be appointed by the President.

### **1.8 Executive Committee**

- a) Establishment. The Ellettsville Executive Committee is hereby established as a permanent committee of the Commission.
- b) Purpose. The purpose of the Executive Committee shall be to meet as needed to discuss administrative matters.
- c) Members and Term. The Executive Committee shall consist of three (3) voting members appointed by the Commission from its members.

### **1.9 Plan Review Committee**

- a) Establishment. The Ellettsville Plan Review Committee is hereby established as a permanent committee of the Commission.
- b) Purpose. The purpose of the Ellettsville Plan Review Committee shall be to promote and conduct a continuing review of the zoning ordinance, development site reviews, the rural area plan, and the Comprehensive Plan, as well as zoning requests, Planned Unit Developments, Tax Increment Financing Districts to the related ends of recognizing and addressing land use trends, municipal code and Town goals.

- c) The Ellettsville Plan Review Committee shall meet as necessary to accomplish the duties set forth above.
- d) Members and Term. The Ellettsville Plan Review Committee shall consist of three (3) members appointed by the Commission from its members.

### **1.10 Technical Advisory Committee**

- a) Establishment. The Ellettsville Technical Advisory Committee is hereby established as a permanent committee of the Commission.
- b) Purpose. The Ellettsville Plan Commission requires, as part of the technical review process, a review of the proposed development plans and to submit findings in writing prior to the plan review conducted by the Commission.
- c) Members. The Town supervisors of the Planning, Street, Fire, Police and Utilities Departments. Committee may be supplemented by additional members, as needed, appointed by the President of the Plan Commission or Director of Planning.
- d) A copy of the supervisor's findings will be provided to the petitioner prior to their case being reviewed by the Plan Commission. The supervisors review will be regarding services in which the Town can or cannot provide, as well as other information as deemed pertinent to the case being reviewed. Additional information may be required of the petitioner to complete the review process. If additional information is needed from the petitioner, a written request will be issued.

## **RULE 2 - MEETINGS AND PUBLIC HEARINGS**

### **2.1 Regular Meetings**

- a) The Plan Commission shall meet in regular session on the first Thursday of each month at 6:00 p.m. local time at the Ellettsville Fire Station, 5080 W. S.R. 46, Bloomington, IN Station Number 7.
- b) The Plan Commission may agree by majority vote of its members to dispense with any regular session or to change the day or hour of any meeting.
- c) The Plan Commission shall not meet on legal holidays. The Plan Commission may agree by majority vote of its members to meet at an alternative time and date should such a holiday fall on a Thursday.
- d) Each case to be publicly heard before the Plan Commission shall be filed in proper form; shall be numbered and placed on the docket of the Plan Commission. The Clerk-Treasurer, Planning Director or Designee shall receive the application and fee.
- e) No action taken by the Commission is official unless authorized by a majority of the members of the Commission at a regular or properly called special meeting.
- f) All meetings at which official action is taken shall be open to the general public.
- g) If it is impossible to conduct a regular or special meeting of the Commission at the time and place selected, the President may set an alternative date, time, and place for the rescheduled meeting, or may cancel the meeting with the consent of a majority of the

entire members of the Commission, so long as the President complies with the requirements of the State Open Door Law per I.C. 5-14-1.5.

- h) In addition to those required by law, the Commission may at its discretion, hold public hearings when it decides that hearings will be in the public interest.

## **2.2 Docket**

- a) Each case to be publicly heard before the Commissioners, which is filed in proper form as determined by the Director of Planning or designee, shall be numbered and placed on the docket of the Commission.
- b) As soon as the case receives a docket number it shall be placed on the agenda of the Commission as determined by the Planning Director or Plan Commission President. Cases shall come before the Commission in agenda order unless otherwise ordered by the President or requested by the Director of Planning.

## **2.3 Order of Business**

The order of business at regular meetings shall be:

- a. Call to order
- b. Pledge of Allegiance
- c. Roll call
- d. Approval of minutes
- e. Monthly conflict of interest
- f. Old business
- g. New business
- h. Planning Department updates or staff report
- i. Privilege of the floor
- j. Plan Commission comments
- k. Adjournment

## **2.4 Agenda Procedures**

- a) The Plan Commission shall maintain an agenda; only agenda items shall be discussed.
- b) Agenda items for the Plan Commission meetings shall be compiled by the Director of Planning Services with input from the Plan Commission President.
- c) The meeting agenda shall be posted two (2) business days prior to the Commission Meeting.
- d) Items, which come before the Plan Commission, which were not on the posted agenda, may by a motion and majority vote of the Commission members, be placed on the agenda after the 48 hour deadline has passed, unless a review is required.

## **2.5 Discussion of Agenda Items**

- a) The President of the Plan Commission shall introduce each item on the agenda, if the item requires a vote it shall be followed by a motion and second to approve the item.

- b) The Director of Planning or Designee may precede the petitioner in order to acquaint or familiarize the Commission with case file information.
- c) The agenda item is presented by the petitioner, their sponsor or representative.
- d) The Planning/Engineering Staff will make comments or recommendations to the Commission.
- e) Members of the public may be invited to speak in favor or in opposition to the agenda item with a time limit of three (3) minutes per person. Members of the public may not pass on their time allotment to another speaker. The time limit may be increased by three (3) minutes if approved by a majority vote of the Plan Commission members.
- f) Public Comment will be heard for thirty (30) minutes.
- g) The petitioner, their sponsor or representative, and Planning Director/Engineer Staff are allowed time for rebuttal response.
- h) After public comment on the agenda item has been heard, the Commissioners may state their position, followed by a vote on the agenda item.
- i) When a vote of the Plan Commission does not result in an official action of the Plan Commission, the petition shall be automatically re-docketed and heard at the next regularly scheduled meeting of the Plan Commission.

## **2.6 Privilege of the Floor**

- a) The final item of business prior to adjournment of the Plan Commission Meeting shall be the hearing of statements from the public for matters which were not on the agenda.
- b) Persons shall address their comments to the Plan Commission.
- c) A maximum of three (3) minutes shall be available for each speaker. Members of the public may not pass on their time allotment to another speaker.
- d) The time limit may be increased by three (3) minutes for each speaker by a majority vote of the Plan Commission members.
- e) If a matter is concerning the operations of one of the Town's Departments or can in the opinion of the Plan Commission be resolved by the Department Head, the person should contact the affected Department Head and try to resolve the issue.
- f) Employees of the Town shall not be required to answer questions during public comment or privilege of the floor from the podium unless directed to respond by the President of the Commission or acting authority.

## **2.7 Quorum and Official Vote**

Four (4) members, out of seven (7) Plan Commission members, constitutes a quorum and majority vote. Official actions, those meetings requiring public hearings, of the Plan Commission are not official unless authorized at a regular or properly scheduled meeting by a majority vote. Table 1 lists Official Actions of the Plan Commission Requiring Public Hearings in Indiana.

**Table 1.**

**Official Actions of the Plan Commission Requiring Public Hearings in Indiana**

| <b>Indiana Code Section</b> | <b>Official Action</b>   |
|-----------------------------|--|
| IC 36-7-4-205, 507, 508     | Comprehensive Plan   |
| IC 36-7-4-602               | Adoption of initial zoning ordinances or replacement zoning ordinances |
| IC 36-7-4-604               | Certifying proposals to the legislative body                           |
| IC 36-7-4-607, 608          | Zoning Ordinances  |
|                             | Modification to or termination of plan commitments                     |
| IC 36-7-4-1311, 1326        | Impact fees  |
| IC 36-7-4-1404              | Development plans for zoning districts                                 |
| IC 36-7-4-1511              | Modifications to Planned Unit Development (PUD) district ordinances    |

**2.8 Voting Procedures**

- a) All votes upon the passage of resolutions, upon motions to suspend the rules, and upon motions to reconsider shall be by roll call vote. Any member may demand a roll call vote upon any question to be voted upon by the Commission and when such demand is made the Secretary shall call the roll.
- b) The Commission may by a majority vote of the members present adopt any method for tabulating the vote; including a random or alphabetical order of calling the roll.
- c) During a roll call vote on any question, it shall be out of order for any member to offer remarks as the member is voting other than a short and concise explanation of his or her vote. After a roll call vote, it shall be out of order for any member to offer any remarks on the question that had been voted upon.
- d) The Commission shall keep minutes of its proceedings showing the vote of each member on each question presented, or indicating that the member was absent or abstained.
- e) Any member may change a vote before the result is announced, and afterwards by leave of the Plan Commission provided that the change will not affect the result. In no case shall a member absent when the question is put be allowed to vote after the result is announced.

**2.9 Motions Generally**

- a) When a motion is made and seconded it shall be stated by the presiding officer before it shall be debated. The name of the member making the motion and seconding the motion shall be entered into the minutes.
- b) A motion may be withdrawn by the maker, but if there is any objection to the withdrawal, it may not be withdrawn until a motion to that effect has been passed.

### **2.10 Motion to Adjourn or Recess**

- a) A motion to adjourn or recess shall be decided without debate and shall be in order at any time, except when it is repeated without intervening business or discussion, when a member is speaking, when a previous question has been ordered, or during roll call. A motion to recess shall take precedence over a motion to adjourn.
- b) Legislation may be introduced for Plan Commission action after 8:00 p.m. local time with a majority vote of the members of the Commission.
- c) It shall be the policy of the Ellettsville Plan Commission to conclude all petition items at or before 8:00 p.m. local time without a majority vote of the members of the Commission.
- d) All items or matters not introduced shall appear as old business on the next regularly scheduled Plan Commission meeting agenda unless a special meeting is called in accordance with the provisions of these rules.
- e) The Planning Commission is appreciative of the time required for everyone to participate in discussion of agenda items and maximize opportunities for input from members, staff, and the public. Plan Commission member comments should refrain from unnecessary discussions and avoid repeating comments. If the discussion is determined by the Plan Commission President to have drifted off course, he or she will request the member or members to repose and return to the agenda item.

### **2.11 Motion to Table**

- a) A motion to lay a question under consideration on the table shall take precedence over all amendments or debate of the question.
- b) Any matter laid on the table may be taken up by a majority vote of the Commission members at any meeting after the meeting at which it is tabled.
- c) The motion to table may not be debated.

### **2.12 Special Meetings – Emergency Meetings**

- a) Special meetings of the Plan Commission may be held on call of the President or by two (2) members of the commission upon written request to the secretary in accordance with IC 36-7-4-307.
- b) It shall be the duty of the President calling the special session to notify the Director of Planning or Designee and the Secretary of the special meeting, its date, hour, location and agenda item.
- c) The Secretary or the Director of Planning Services, shall at least three (3) business days before the time set for the meeting, notify each member of the Plan Commission, either in person, by telephone or by notice left at the member's place of residence. Notice shall also be given at least two (2) business days in advance of the meeting to the news media and to the public or as required by law.
- d) Emergency meetings may be held provided there is compliance with the notice requirements of state law.

- e) The notice for the meeting shall specify its purpose. No other business may be considered at that meeting except by unanimous consent of the majority of the members of the Commission.
- f) If a special meeting is at the request of the petitioner, the petitioner must bear all costs of holding the special meeting. (The costs may include: Plan Commission stipend (\$25.00 per Commission Member), Planning Director's overtime pay (current wage at time and a half), Attorney fees (\$130.00 per hour), meeting place and other incidental costs.

### **RULE 3 - HEARINGS**

#### **3.1 Hearings**

- a) Public hearings shall be held on the adoption or amendment of a comprehensive plan, the adoption or amendment of a zoning ordinance, on a preliminary and final approval of a subdivision plat, and on other petitions as necessary.
- b) All administrative rules and deadlines that are established by the Commission for procedures such as filing petitions shall be available for inspection in the Planning office.

#### **3.2 Conduct of Hearings – (Can this be combined with 2.5?)**

- a) Public hearings shall be conducted according to the following procedures;
- b) The petitioner, the property owner, or agent for petitioner or property owner must appear before the Commission for the case to be considered.
- c) At a public hearing, after a petition is introduced by the President or his designee, a staff report will be given by the Planning Director or Town Engineer.
- d) The petitioner or their representative then presents facts relating to their petition.
- e) The Commission members direct questions to the petitioner and Director of Planning.
- f) The President of the Plan Commission shall call for a motion if the item requires a vote. The motion shall be followed by a second to approve the item.
- g) The President shall open the floor for public comment and recognize those who wish to speak on the petition. Citizen comments are limited to a total of three (3) minutes per person or at the discretion of the Commission by majority vote. After being recognized by the President, each speaker will step up to the podium and give his name and sign the speaker's sign in sheet. A maximum of thirty (30) minutes of public comment will be allowed if necessary.
- h) The public may not pass or assign their public speaking time to another member of the public. To maintain orderly procedure, each side should proceed without interruption.
- i) The petitioner may rebut the testimony of those against the proposal. The rebuttal is limited to three (3) minutes.
- j) The public may be allowed to speak toward the rebuttal points of the petitioner. Limited to three (3) minutes per person. A total of fifteen (15) minutes of rebuttal will be observed if necessary.
- k) The President shall conclude the public hearing and call for a motion on the item before the commission.

- l) The President may provide citizens wishing to speak in favor of a petition with the opportunity to speak first.
- m) All administrative rules and deadlines that are established by the Commission for procedures such as filing petitions shall be available for inspection in the Planning office.
- n) The President may impose reasonable limits upon the time for consideration of any item on the Commission agenda or upon the presentation by any individual so that adequate time is afforded to opponents and proponents of any petition or other items before the Commission.
- o) All persons appearing at a public hearing shall act in an orderly and courteous manner. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges extended by the Plan Commission and shall be dealt with by the presiding officer as is deemed fair and proper. If any person present persists in this abusive, obnoxious or disrespectful behavior following the warning, the President may order that person to be expelled from the meeting by a deputized officer.
- p) A petitioner may not withdraw a case after a roll call vote has been ordered by the President.
- q) A case which has been withdrawn by the petitioner shall not be placed on the docket for consideration until 12 months after the date of the decision, unless said case has not been subject to a public hearing before the Plan Commission, whereupon said case may be placed on the docket within the 12 month period upon payment of all appropriate fees.
- r) The Director of Planning and the President of the Commission must be informed prior to the meeting if the petitioner or property owner desires an extension of time. The Planning Director and the President shall determine whether the petitioner's request for an extension should be granted by the Commission. If a petitioner or property owner fails to appear without sufficient cause, the petition may be dismissed.
- s) Whenever a development plan is required by the Zoning Ordinance or as a condition of development, the Commission may require the owner of the parcel of property to make written commitment(s) concerning the use or development of the parcel.
- t) The commitment(s) may be modified or terminated by the Commission following a public hearing, after the petitioner complies with the public hearing notice requirements applicable to rezoning amendments.
- u) The Director of Planning/Zoning Administrator, Town Council and the Town's Attorney enforce commitments as allowed by Ellettsville Municipal Code or statute.
- v) Any person may appear in person or by counsel to participate in a discussion of an item before the Commission or to present a petition or remonstrance to the Commission.
- w) The President and the Town's Attorney shall determine the admissibility of any evidence before the Commission.

### **3.3 Continuances**

- a) The Commission may continue any item from one meeting to another. No notice shall be required for the continued consideration of any docketed item except that which is required by State Law.

- b) Continuances that are requested by a petitioner, property owner, or agent for the petitioner or property owner must be received in writing prior to the scheduled meeting. After two (2) consecutive requested continuances on a specific docketed item, the item will need to be resubmitted and re-advertised (per the requirements of the Open Door Law I.C. 5-14-1.5) as New Business.

### **3.4 Replacement Ordinance Notice**

- a) For purposes of a replacement zoning or subdivision control ordinance under I.C. 36-7-4-604, all citizens of the Town are interested parties.
- b) The Director of Planning is required to give due notice under I.C. 36-7-4-604 by procuring the publication of the notices required by I.C. 36-7-4-604 and by posting copies of the notice in the public places deemed necessary by the Director of Planning at least ten (10) days before the hearing is conducted on the replacement ordinance.

## **RULE 4 - PETITIONS NOTICE AND PROCEDURE**

### **4.1 Filing of Petitions-** Annexations, Planned Unit Developments, Site Plans, and any other petitions or applications requiring Plan Commission approval.

- a) A petitioner who seeks to approve a plat; to vacate a plat; amend a plat; amend the zoning ordinance, subdivision ordinance, or other matter under the jurisdiction of the Plan Commission shall file with the Department of Planning using the appropriate forms and applications provided by the Department of Planning.
- b) If the Director of Planning and Plan Commission President find that the petition is in good order with sufficient information, it shall set a time for a public hearing on the matter and shall provide public notice in accordance with IC 5-3-1. The Director of Planning or Designee will schedule the petitioner on the next available Commission meeting based on the docket schedule.
- c) The President of the Plan Commission or Director of Planning may cause a review by the Plan Review Committee. The committee's determination shall be reported to the Plan Commission prior to the regularly scheduled meeting.
- d) Nine (9) copies of the petition information, application, or plats must be made available by the petitioner to the Director of Planning at least seven (7) business days prior to the next regularly scheduled Plan Commission meeting, at which the petition is to be considered. The Plan Commission prefers that the petitioner provide petition information electronically by email or on disk, but will accept printed copies in orderly fashion.
- e) If the petitioner is not the owner of the property, which is the subject of the petition, he or she must submit a signed affidavit from said property owner authorizing the petitioner to file the petition on their behalf. The Plan Commission may require additional information, data, statistics or plats beyond those established by statute or ordinance, which are deemed reasonable and necessary for determination by the Plan Commission, including written proof that the petitioner is the agent of the owner or owners of the property if the petitioner is not himself the sole property owner.

- f) The petitioner shall prepare and bear all costs in preparation of the legal advertisement, letters to adjacent property owners, signage and other costs deemed necessary for the Plan Commission meeting. The petitioner shall notify, by certificate of mailing or certified return receipt mail, all persons deemed by state statute and the Plan Commission to be interested parties, pursuant to Conduct of Public Hearings. Copies of proof of mailing and/or the return receipts (green cards) must be provided to the Director of Planning at least two (2) business days prior to the scheduled meeting.
- h) The list of property owners to be notified shall be provided by the Department of Planning. The list shall be obtained by using current information as provided by Monroe County.
- i) In addition to the notification requirements above, the petitioner is required to post a sign giving notice of a public hearing. Said sign must be continuously posted for at least ten (10) days immediately prior to the public hearing, in a prominent place on the property, legible from the street fronting said property. The Department of Planning will provide the sign.
- j) A Technical Review meeting shall be scheduled with the petitioner after it has been deemed that the petition requires a Technical Review meeting and all required documents have been submitted to the Department of Planning.
- k) Pursuant to IC 36-7-4-709, the Town Engineer and Director of Planning or designee shall determine if all improvements and installations have either been constructed, completed, and inspection fees paid, as required by the Subdivision Control Ordinance and shall report that determination to the Plan Commission before it grants secondary approval to any plat.
- g) The petitioner may provide a bond or approved financial instrument in lieu of completing the improvements.

#### **4.2 Notice Requirements**

Public hearing notices and letters to adjacent property owners, as required by state statute or Town ordinance, shall contain at a minimum the following information:

- a) Docket number or agenda item and the substance of the petition to be heard.
- b) General location by address or other identifiable geographic characteristics of the property.
- c) Name of the person, agency or entity initiating the matter to be heard.
- d) Time, date, and place of the hearing.
- e) Statement that the petition may be examined at the Office of the Town Clerk or Planning Office.
- f) Statement that any person may offer verbal comments at the hearing or may file written comments prior to or at the hearing.
- g) A re-schedule date, as determined by the Planning Director or Designee.
- h) Any other information, which may be required by law to be contained in such notice.
- i) All persons with a legal interest in the subject property and all owners of real property within two properties in depth, within 500 feet of the subject property (would not

include properties that are more than two properties away from the subject property or those two properties in depth further than 500 feet away) are interested parties. All property owners who touch the subject property, including those across any streets, alleys or rights-of-way, and would adjoin if the streets, alleys or rights-of-way were not there, are considered adjacent. If the petitioner owns adjacent parcels, then interested parties began at the border of the all of the petitioner's adjacent property.

- j) A copy of the published public hearing notice is required and should be presented to the Director of Planning, along with proof of mailing two (2) business days prior to the hearing for verification.

#### **4.3 Plan Commission Notice Requirements**

- a) The Plan Commission is required to provide for the publication of notice pursuant to IC 36-7-4-604 at least ten (10) business days prior to public hearing by posting copies of the notice in at least two public places in the Town of Ellettsville. These notices shall be placed in the Town Hall, and Ellettsville Fire Station #7 (5080 W. State Road 46), as well as published in a local newspaper designated by the Town Council, and the Department of Planning shall bear the publishing costs.

#### **4.4 Certification**

- a) The Commission, following the conclusion of the public hearing required by State Law, shall state its recommendation concerning the proposed rezoning ordinance by adopting a report (Certification) indicating either that it favors the proposal or is adverse to it. (See I.C. 36-7-4-609). Any report adverse to a proposed rezoning ordinance shall contain a concise statement indicating the reasons for the determination of the Commission.

### **RULE 5 - AMENDMENTS AND SUSPENSION OF RULES**

#### **5.1 Amendment and Suspension of Rules**

- a) These rules may be amended only by adopting an amending resolution.
- b) These rules of procedure may be suspended temporarily for this meeting by majority vote of the Planning Commission members.
- c) If a rule is suspended, a majority of the members present shall decide the procedure to follow in lieu of the suspended rule.
- d) The power to suspend these rules shall not apply to rules which are required by the Town of Ellettsville Municipal Code, state or federal law.

#### **5.2 Effective Date**

These rules shall enter into effect immediately upon the adoption of their Resolution.

## **RULE 6 - FINAL DISPOSITION OF CASES**

### **6.1 Final Disposition of Cases**

- a) The disposition of cases requiring final approval from the Board of Zoning Appeals shall be in the form of a recommendation given to those bodies.
- b) The final disposition of cases requiring only Plan Commission approval shall set forth the findings and determinations of the Commission, together with any modification, specification or limitations it makes.

## **RULE 7 - RECONSIDERATION**

### **7.1 Reconsideration**

The Commission may not further consider any rezoning petition described in I.C. 36-7-4-608 for one (1) year after it is defeated unless there is a majority vote by the Commission to reconsider the rezoning petition.

## **RULE 8 – REPORT OF DETERMINATION AND SECONDARY PLAT APPROVAL**

### **8.1 Report of Determination**

- a) The Commission, following the conclusion of the public hearing required by state law, shall state its recommendation concerning the primary plat approval by adopting a report indicating either that it grants approval or not. Any denial of primary plat approval shall contain a concise statement indicating the reason(s) for the determination of the Commission.
- b) The Commission, following the conclusion of the public hearing required by I.C. 36-7-3-11, shall state its recommendation concerning the proposed vacation by adopting a report indicating either that it recommends that the Town Council vacate the property or not. The report shall contain a concise statement indicating the reasons for the determination of the Commission.

### **8.2 Secondary Plat Approval Procedure for Determining Completion of Improvements**

The Director of Planning and Town Engineer, along with the Review Committee/Technical Advisory Committee, will review the case prior to a public hearing. A plat must receive secondary approval from the Plan Commission prior to the plat being filed and recorded with the Monroe County Auditor.

- a) Request for Inspection. Upon completion of any required improvements within a subdivision or development (or sections thereof), the developer's engineer shall make a written Request for Inspection, which shall include As-Built plans of the improvements and a certificate of completion and compliance.

- b) As-Built Plans. The As-Built plans must be submitted in .pdf format along with two (2) hard copies and shall include all public improvements covered by the Performance Bond and all water and sanitary laterals. The As-Built plans shall show the actual locations with ties to permanent points of reference, specifications, and all materials used for the improvements installed in the subdivision or section thereof. These plans shall be certified by a registered professional engineer or land surveyor.
- c) Inspections. The developer shall be responsible for having all improvements inspected for compliance with the approved plans and provisions of the subdivision control ordinance. Upon receipt of a Request for Inspection, the Director of Planning, Town Engineer and a designated inspector, as deemed appropriate for the work being reviewed; selected by the Town of Ellettsville, shall inspect the improvements and the designated inspector shall submit a recommendation to the Director of Planning. The developer shall bare all costs in preparation of the as-built plans and inspection. Any deficiencies found in the design and workmanship of public improvements shall be corrected by the developer prior to release of the Performance Bond.
- d) The Director of Planning and Town Engineer will monitor work being performed to ensure that it complies with the standards and specifications of the subdivision control ordinance.
- e) The Director of Planning and Town Engineer will maintain a ~~written accurate log of his or her inspections and~~ record of findings.;
- f) Director of Planning and Town Engineer will issue directives to the Town Council for stop-work orders when necessary to ensure compliance with the approved plans and the subdivision control ordinance.
- g) Director of Planning, Town Engineer and contracted inspector, if necessary, are the designated persons responsible for determining whether all improvements have been constructed and completed as required by the subdivision control ordinance.

## **RULE 9 - SEAL**

### **9.1 Seal**

The Plan Commission adopts a seal with the caption "The Seal of the Town of Ellettsville Plan Commission." The Secretary shall employ the seal to certify to all official acts of the Plan Commission.

## **RESOLUTION OF ADOPTION**

These Rules of Procedure of the Town of Ellettsville Advisory Plan Commission are hereby approved and adopted by the affirmative vote of seven (7) members of the Advisory Plan Commission at the regular meeting of the Commission held on the 6th day of December 2007 and shall become effective the 6th day of December 2007 and further amended by Resolution # 2011-01 APC on January 6, 2011, and further amended by Plan Commission on May 5, 2016.