

March 7, 2013

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, March 7, 2013, in the Fire Department Training and Conference Room located at 5080 West State Road 46. Terry Baker called the meeting to order at 6:00 p.m. The meeting started with the Pledge of Allegiance.

Roll Call: Members present were: Terry Baker, President; Russ Ryle, Don Calvert and Sandra Hash. Phillip Smith and Phillip Rogers were absent. Dan Swafford was late. Connie Griffin, Director of Planning, was also present.

Approval of the Minutes – February 7, 2013

Terry Baker entertained a motion for approval of the minutes for the regular meeting on February 7, 2013. Don Calvert so moved. Russ Ryle seconded. Motion carried.

Old Business

Rules of Procedure Area Plan Commission Town of Ellettsville, Indiana, Amendment to January 6, 2011 Resolution

Connie Griffin, Director of Planning, presented the following updates to the Rules of Procedure:

1.4 Duties of Secretary: 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.

Don Calvert suggested the minutes should be available in draft form within a reasonable time. Sandra Hash advised they have to be ready for approval at the next meeting. Ms. Griffin added she had discussed this with Darla Brown, Town Attorney, and they had decided it was better not to put a time limit on the minutes because they are always ready before the next meeting and there is sufficient time for them to be reviewed.

1.8 Plan Review Committee/Technical Advisory Committee: The Planning Commission requires, as part of the technical review process, for the Town supervisors of the Planning, Street, Fire, Police and Utilities Departments to review the proposed development plans and submit findings in writing prior to the plan review conducted by the Commission and Town Engineer. A copy of the supervisors' findings will be provided to the petitioner prior to their case being reviewed by the Planning Commission. The supervisors review will be regarding services in which the Town can or cannot provide, as well 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.

2.5 Discussion of Agenda Items: 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.

Don Calvert requested an example of this section. Ms. Griffin replied if the meeting was getting late and a decision had not been made, the meeting would be adjourned and reconvened. The item would be placed on the agenda for the next meeting. Russ Ryle asked if it dies for lack of a second, is it a no vote because they didn't vote or a no vote on the issue on the table. If it dies because of a lack of a second, this means it's dead. Ms. Griffin will ask the Town Attorney about this issue. 2.7 Quorum and Official Vote: A majority of the members

Plan Commission, March 7, 2013

of the Plan Commission constitutes a quorum; four (4) members. Action of the Plan Commission is not official unless it is authorized at a regular or properly called special meeting by a majority of the entire membership of the Plan Commission.

2.8 Minimum Vote Requirements: a) A requirement that resolutions be passed by a majority vote of the Plan Commission means a majority vote of all the members, which is a vote of four members. b) Items other than resolutions may also be voted on and passed by a majority vote of the Plan Commission members, or as regulated by statute.

After a discussion, it was decided to delete section (b). In section (a) it was decided to change “resolutions” to “actions”.

2.9 Voting Procedures: d) A member of the Plan Commission who has a direct or indirect personal or financial interest in any petition presented shall: disqualify himself or herself insofar as the particular petition is concerned; not sit as a member of the Plan Commission during the hearing of the particular petition; and, not participate as a member in the Plan Commission’s hearing or decision in such petition.

Dan Swafford noted there are items in which they may have a personal interest. However, if it’s personal, a person may not want to state what the issue is. Ms. Hash said it doesn’t state a member has to give a reason. After a discussion, it was decided they need clarification from the Town Attorney on what is a conflict of interest.

2.13 Special Meetings – Emergency Meetings: 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.

3.2 Contacting Plan Commission Members Regarding Pending Petition Prohibited: a) No person shall contact any member of the Plan Commission in advance of a public hearing on any pending petition with intent to influence the Plan Commission member’s action on such petition. b) A written request for continuance as provided for by these rules shall not be construed to be a prohibited contact of a Plan Commission member. c) A contact with a Plan Commission member who is also a member of the Town Council shall not be construed to be a prohibited contact provided that: all contact is limited to that member’s official duties as a Town Council member; and the Plan Commission member who is also a member of the Town Council reports on the substance of such contacts to the other members of the Plan Commission during the public hearing

Sandra Hash asked if the Plan Commissioners can talk to each other. Ms. Griffin replied as long as there are not four of them in a room because that is a quorum. Mr. Swafford said as a Town Council member he welcomes anyone in the public to speak with him at any time on any issue. If he knows the issue is on a docket, he doesn’t give them any advice. Ms. Griffin noted if there’s a pending petition, they need to divulge their concern with everyone else. After a discussion, it was decided to discuss this section further with the Town Attorney.

3.3 Conduct of Hearings: 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 opens the floor for public comment and recognizes 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 of the members. 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 total of thirty (30) minutes of public comment will be observed if necessary. 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 by the other side. i) 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. n) 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 conduct following the warning, the President may order that person to be expelled from the meeting by a deputized officer. o) A petitioner may not withdraw a case after a roll call vote has been ordered by the President. r) 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. s) 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. t) The Director of Planning/Zoning Administrator, Town Council and the Town's Attorney enforce commitments as allowed by Ellettsville Municipal Code or statute.

Terry Baker asked if there is going to be a deputized officer present at the meetings. Ms. Griffin replied, no they would have to call 911. Mr. Swafford noted if they know there's going to be a heated issue, and there will be a lot of people attending the meeting, they need to call the Town Marshal and make sure there is an officer attending the meeting. This should be the duty of the Director of Planning, President or Vice President. Mr. Ryle disagreed and thinks a staff member shouldn't make this decision.

4.1 Filing of Petitions: c) 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. d) The President of the Planning Commission may cause a review by the Plan Review Committee/Technical Advisory Committee. The committee's determination shall be reported to the Plan Commission prior to the regularly scheduled meeting. e) 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 Planning Commission prefers that the petitioner provide petition information electronically by email or on disk, but will accept printed copies in orderly fashion. g) 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 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 the return receipts (green cards) must be provided to the Director of Planning two (2) business days prior to the scheduled meeting. h) The Office of the Monroe County Assessor shall be the sole source for the names of property to be notified. The petitioner shall ascertain the names as they appear on the real estate tax assessment rolls, and provide a copy of the names and addresses to the Planning Office two (2) business days prior to the scheduled meeting. i) In addition to the notification requirements above, the petitioner is required to post a sign, which announces the date, time, place, and purpose of a public hearing. Said sign must be continuously posted for at least ten (10) business days immediately prior to the public hearing, in a prominent place on the property, legible from the street fronting said property. The Director of Planning will provide sign requirements and standards. k) The Planning Commission requires, as part of the technical review process, for the Town supervisors of the Planning, Street, Fire, Police, and Utilities Departments to review the proposed development plans and submit findings in writing prior to the plan review conducted by the Commission and Town Engineer. A copy of the supervisor's findings will be provided to the petitioner prior to his case being reviewed by the Planning Commission. The supervisors review will be regarding services in which the Town can or cannot provide, as well 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.

Plan Commission, March 7, 2013

Russ Ryle asked when this document is approved can it be put online. Ms. Griffin replied yes, it can. There is also a copy at the library. Ms. Hash said she will put a copy on her web page.

4.2 Notice Requirements: i) All persons with a legal interest in the property to be rezoned and all persons with real property abutting the property subject to a rezoning petition, and all owners of real property are interested parties. All property owners who touch your property, including those across any streets or alleys which would adjoin or are adjacent to your property if the streets and/or alleys were not there.

4.2 Plan Commission Notice Requirements: b) 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 Clerk's Office Town Hall, the Monroe County Public Library/Ellettsville Branch and the Ellettsville Fire Station #7, as well as published in a local newspaper designated by the Town Council, and the Department of Planning shall bear the publishing costs.

5.1 Amendment and Suspension of Rules: b) These rules may be suspended by a majority vote of the members of the Commission. d) The power to suspend these rules shall not apply to rules which are required by state or federal statutory or constitutional law.

Russ Ryle commented this section is too broad. After a discussion it was decided to change "These" to "Procedural rules" in section (b) and to add "Town of Ellettsville Code" to section (d).

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, which may grant secondary plat approval. A plat must receive secondary approval prior to the plat being filed and recorded with the Monroe County Auditor.

Connie Griffin explained there is a place in the Town Code which states she could basically approve the secondary plat but she wants it back before the Plan Commission. Mr. Ryle suggested it should state a plat receives secondary plat approval from the Plan Commission.

Dan Swafford complimented Connie Griffin on a good job.

Privilege of the Floor

Evelyn Ryle noticed a few grammatical corrections to the Rules of Procedure. She will forward them to Connie Griffin by e-mail.

Adjournment

Terry Baker entertained a motion to adjourn. Dan Swafford made a motion to adjourn. Don Calvert seconded. Motion carried. Terry Baker adjourned the meeting at 7:10 p.m.

Terry Baker, President

Russ Ryle, Vice President

Sandra Hash, Secretary

Don Calvert

Phillip Rogers

Phillip Smith

Dan Swafford