

Boone County Area Plan Commission Rules of Procedure

Adopted January 8, 2003

Amended August 3, 2005, December 7, 2005

Article 1. General Statement

The following rules are adopted by the Boone County Area Plan Commission (“APC”) to conduct all APC business. These rules shall be used in conjunction with the zoning ordinances and subdivision control ordinances duly adopted by the participating legislative bodies in Boone County, Indiana, pursuant to the Area Planning Law of the State of Indiana (IC 36-7-4).

Article 2. Powers and Composition of the APC

- 2.1 Powers. The powers of the APC shall be those set forth in IC 36-7-4-405 in conjunction with the zoning and subdivision control ordinances adopted by the participating legislative bodies.
 - 2.1.1 Preparation, amendment or replacement of the Comprehensive Plan. The APC shall be responsible for the preparation, amendment or replacement of the Comprehensive Plan.
 - A. The comprehensive plan shall promote the public health, safety, morals, convenience, order, general welfare and efficiency and economy in the process of development.
 - B. The APC shall initiate amendments to or the replacement of the Comprehensive Plan pursuant to the 500 series of the Indiana Area Planning Law.
 - C. The approval of the Comprehensive Plan, and/or any amendment thereto, is required by the legislative body of the affected jurisdiction to be effective within that jurisdiction.
 - 2.1.2 Preparation, amendment or replacement of zoning and subdivision control ordinances. The APC shall be responsible for the preparation, amendment or replacement of the zoning and subdivision control ordinances of each participating jurisdiction in Boone County.
 - A. Proposals to amend or replace the zoning and/or subdivision control ordinances may be initiated by either the APC or any participating legislative body. When the APC recommends a zoning ordinance amendment or replacement, the APC shall act in accordance with IC 36-7-4-601(c).
 - B. The APC shall exercise due diligence in the study and investigation of the issues and impacts of proposed amendments or replacements to the zoning and subdivision control ordinance. After deliberations have been completed, the APC shall advise the participating bodies of the action it recommends. The options are:
 - 1.) Favorable recommendation,
 - 2.) Unfavorable recommendation, or
 - 3.) No recommendation (when the APC cannot reach a conclusion)Implementation of the amendment or replacement cannot begin until it has been approved by the legislative bodies which have jurisdiction over the areas affected.
 - 2.1.3 Amendment of official zoning maps (“rezone”). In coordination with the preparation, amendment or replacement of zoning and subdivision control ordinances, the APC shall be responsible for maintaining and amending, as necessary the zoning maps for all areas of the jurisdiction.
 - A. Proposals to rezone may be initiated by:
 - 1.) The property owner,
 - 2.) The APC, or
 - 3.) The legislative body in whose jurisdiction the subject property is located.
 - B. The APC shall exercise due diligence in the study and investigation of the issues and impacts of proposed rezone. In its deliberations, the APC shall pay reasonable regard to considerations outlined in IC 36-7-4-603.
 - 1.) The Comprehensive plan.
 - 2.) Current conditions and character of current structures and uses in each district.

- 3.) The most desirable use for which the land in each district is adapted.
 - 4.) The conservation of property values throughout the jurisdiction.
 - 5.) Responsible development and growth.
- C. After deliberations have been completed, the APC shall advise the participating bodies of the action it recommends. The options are:
- 1.) Favorable recommendation,
 - 2.) Unfavorable recommendation, or
 - 3.) No recommendation (when the APC cannot reach a conclusion)
- Implementation of the amendment or replacement cannot begin until it has been approved by the legislative bodies which have jurisdiction over the areas affected.
- 2.1.4 Approval of subdivision plats. The APC shall have exclusive control over the approval of all plats and replats involving land within the jurisdiction of the subdivision control ordinances of the participating legislative bodies.
- A. Primary plat.
- 1.) APC review of and decision to approve or reject an application for a primary plat shall be conducted in a public hearing. Public notice shall be required in accordance with Rule 5.3.
 - 2.) To grant approval of a primary plat, the APC shall determine that the plat meets all standards prescribed by the respective subdivision control ordinance.
 - a.) As a condition of approval of the primary plat, the APC may require such commitments as deemed necessary to bring the plat into conformance with the Comprehensive Plan or the most desired use for the land.
 - b.) If circumstances caused by conformance to a standard required by the respective subdivision control ordinance prove to cause unnecessary hardship, the APC may authorize an exception from compliance with a standard defined in that ordinance.
- B. Secondary plat.
- 1.) APC review of and decision to approve or reject an application for a secondary plat shall be conducted in a regular monthly meeting. (IC 36-7-4-710). Though a public hearing is not necessary under state statute, the APC may opt to schedule a public hearing to obtain additional information. Public notice shall be required in accordance with Rule 5.3.
 - 2.) To grant approval of a secondary plat, the APC shall determine that the plat meets all standards prescribed by the respective subdivision control ordinance. This subsection specifically requires the approval of the final drainage plan by the Boone County Drainage Board and/or Boone County Surveyor per the Boone County Stormwater Management Ordinance (2004-20) and Technical Standards as amended before secondary plat may be approved by the APC.
- 2.1.5 Zoning Ordinance Violations. The APC shall be responsible for the enforcement of the Zoning and Subdivision Control Ordinances, in accordance with IC 36-7-4-1014 and 1015.
- A. It is the duty of the Executive Director to present the APC with violations that have not been brought into conformity within two months of a complaint filed.
- B. After evaluating the violation, the APC has the option of either assessing a ticket or citation, or granting additional time for the property to conform with the ordinance, pursuant to the Boone county Litter Ordinance.
- 2.1.6 Annual Budget Preparation and Approval. The APC shall be responsible for the timely approval of the annual budget of the Area Plan Department. The APC may delegate the responsibility for preparing the draft budget to the Executive Director.
- 2.1.7 Annual Staff Performance Reviews. The APC shall be responsible for annual staff performance reviews and submission to the Boone County Board of Commissioners by October 31st in accordance with Rule 3.3.1.

- 2.2 Composition of the APC. The composition of the APC shall be as provided by the ordinance adopted by the Boone County Board of Commissioners (Ordinance 99-1), the Whitestown Town Council (Ordinance 99-), and the Advance Town Council (Ordinance 99-), pursuant to IC 36-7-4-211(a). Pursuant to the above referenced Ordinances, the composition of the APC is as follows:
- A. One (1) citizen member who is a resident of the unincorporated area of the County, appointed by the Boone County Board of Commissioners,
 - B. One (1) citizen member who is a resident of the unincorporated area of the County, appointed by the Boone County Council,
 - C. The Boone County Agricultural Extension Educator,
 - D. One (1) representative appointed by the elected School Boards of Zionsville, Lebanon and Western Boone. The appointment will rotate among the three school corporations.
 - E. One (1) citizen member appointed by the Town Council of Whitestown who is a resident therein,
 - F. One (1) citizen member appointed by the Town Council of Advance who is a resident therein, and
 - G. The Boone County Surveyor, except as follows:
 - 1.) If any additional Town in Boone County adopts the Area Planning Law and appoints one (1) citizen who is a resident therein, and
 - 2.) If the number of Towns participating in the Area Planning Department is an odd number, then the Boone County Surveyor shall no longer serve as a member of the APC.

Article 3. Officers, Appointments and Staff

- 3.1 Election of officers, Executive Committee member, and Board of Zoning Appeals (“BZA”) appointment. At its first regular meeting of the year, the APC shall elect from its members a president, a vice-president, a third member to complete the Executive Committee, and every fourth year, shall appoint one of its members to the BZA.
- 3.1.1 Election process. The elections shall be a public process and are to be accomplished as follows;
- A. The currently elected president shall preside over the election of the president.
 - B. The process shall begin by hearing comments and discussion by the APC members.
 - C. Upon the end of the discussion, the president shall request nominations for the position of president, and nominations shall be heard.
 - D. Upon completion, the president shall request a motion to close nominations.
 - E. Election
 - 1.) If only one member has been nominated, the election shall be a show of hands.
 - 2.) However, if more than one individual has been nominated, each member shall choose one (1) candidate by paper ballot. The Executive Director or APC attorney shall tally the paper ballots.
 - a.) Majority Vote. Any APC member receiving a majority of votes of the entire membership shall be elected.
 - b.) Tie Vote. In the instance of a tie vote, the current officer or appointee shall continue in the office until such tie is broken. A new vote must be conducted at each subsequent regular meeting of the APC until such tie vote can be broken.
 - c.) Public Declaration. The outcome of each vote shall be publicly stated by the president and shall be reflected in the minutes of the meeting.
 - F. Once the ballots have been tallied and the new president chosen, the current president will step down. The newly elected president shall then preside over the election of the vice president, the third Executive Committee member and the BZA appointment, if appropriate, using a similar process.

3.2 Duties of Officers, the Executive Committee and the Technical Advisory Committee

3.2.1 Duties of the President

- A. Presiding at meetings. The president shall preside at meetings and hearings. If the president is absent or unable to preside, the vice-president shall preside. If both are absent or unable to preside, the members present shall appoint a temporary president to preside.
- B. Maintenance of order.
 - 1.) In accordance with these and other applicable rules, the presiding officer shall decide all points of procedure or order, unless otherwise directed by a majority of the members in attendance on a motion duly made and passed.
 - 2.) The president shall maintain order and decorum, and to that end may order the removal of disorderly, discourteous or disruptive persons.
- C. Contracts, Agreements, and Committees. The President, acting on behalf of the APC, shall exercise general supervision over the affairs of the APC, including the appointment of committees and representatives (except as otherwise provided by statute, ordinance or these rules), and the signing of all official documents. The President also shall execute contracts and agreements in the name of the APC, but only after the APC (or the Executive Committee thereof) has given specific authorization.
- D. Other duties. The President shall have further duties and responsibilities as designated by the APC or as required by law.

3.2.2 Duties of the Vice-President

- A. The president may delegate specific duties generally to the vice-president or may authorize the vice-president to perform specific duties during absence from the jurisdiction or in case of other disability to perform necessary APC functions in a timely manner.
- B. The vice-president shall perform all duties so delegated, and in case of the absence or incapacity of the president, on approval by a majority of the APC, shall perform any or all duties of the president whether or not delegated.

3.2.3 Duties of the Executive Committee.

- A. Composition. The Executive Committee shall consist of three (3) persons: the president, the vice-president and one (1) other APC member selected by a majority vote of the entire membership of the APC.
- B. Responsibility. The Executive Committee shall be responsible for review of requests for continuance by parties other than that of the applicant and any other duties assigned by the APC.
 - 1.) Requests for continuance. Requests for continuance by parties other than the applicant shall be submitted in writing to the office of the APC no later than seven (7) days prior to the public hearing.
 - a.) Upon receipt of such request, the Executive Director shall notify members of the Executive Committee.
 - b.) The Executive Director shall also notify the applicant of such requests.
 - c.) The members of the Executive Committee may meet at any time in a special meeting called by the president, by the same procedure for special meetings of the APC in Rule 4.3. Or, the Executive Director may poll the individual members of the Executive Committee by telephone to discuss any concerns about the request for continuance.
 - d.) If good cause is demonstrated, the Executive Committee will instruct the Executive Director to grant continuance.
 - e.) Unless particularly extreme circumstances are presented, no more than one continuance not initiated by the applicant shall be allowed per application.
 - f.) In the event that a continuance is granted, the application shall be heard at the next regularly scheduled hearing following the most immediate regularly scheduled meeting (generally an extension of thirty days), and all filing deadlines for documents and evidence shall be extended commensurate with the new hearing date.
 - g.) Continuances granted by the Executive Committee and the reasons for the decision shall be communicated to the APC as part of the agenda of the next regularly scheduled meeting.

2. Personnel matters. When delegated by the APC, the Executive Committee shall be convened to meet with the Executive Director to discuss and resolve office management issues excluding the appointment, removal, compensation of, or evaluation of APC employees. The Executive Committee shall report the resolution of those issues to the APC members within 7 days.
3. Other duties. The Executive Committee shall undertake any other activities or duties delegated to it by the APC.

3.2.4 Duties of the Technical Advisory Committee (“TAC”)

- A. Composition. The TAC shall be comprised of:
 - 1.) The Executive Director of the APC
 - 2.) The Boone County Surveyor
 - 3.) The Boone County Highway Superintendent
 - 4.) The District Conservationist of the Natural Resources Conservation Service
 - 5.) When appropriate, a representative of the Boone County Health Department
 - 6.) When appropriate, a representative of the municipality in which the subject property is or will be located.
- B. Responsibilities. The TAC shall be responsible for reviewing all petitions submitted for approval by the APC for compliance with the goals of the Comprehensive Plan and with the standards for development in the Zoning and Subdivision Control Ordinances.
- C. Meetings. The TAC shall meet informally with the applicant to discuss the application and make recommendations for improvement.
- D. TAC Findings. APC Staff shall prepare a report of findings by the TAC to be included with the staff report and agenda. Such report shall be released no less than seven (7) days prior to the APC meeting.

3.3 APC Staff

3.3.1 Executive Director

- A. Appointment. Upon recommendation of the APC, and as provided by IC 36-7-4-311, the Executive Director shall be appointed by the Boone County Board of Commissioners and shall be designated executive of the staff.
 - 1.) Compensation. The Boone County Board of Commissioners shall prescribe the qualifications of, and fix the compensation in conformity with the salary and compensation approved by the Boone County Council.
 - 2.) Benefits. The Executive Director shall follow the employee benefits guidelines as detailed in the Boone County Personnel Policy Handbook.
- B. Duties.
 - 1.) Management of the office and staff. The Executive Director shall be delegated authority to perform administrative acts as directed by the APC in all cases except where final action of the APC is necessary, as provided by IC 36-7-4-312.
 - a.) Promptly and accurately responding to public inquiries, requests for forms, applications for permits, requests for inspections, etc.
 - b.) Supervising employees in accordance with the policies and procedures detailed in the Boone County Personnel Policy Handbook.
 - c.) Manage employees in a manner that promotes public confidence in the APC.
 - d.) Initiating technological advances to first, improve service to the public and second, increase productivity of staff.
 - 2.) Management of fiscal matters. The Executive Director shall be responsible for all fiscal matters.
 - a.) Accurately and promptly presenting claims for payment.
 - b.) Developing the annual budget for review by the APC no later than in its May meeting each year.

- c.) Prior to each regular APC meeting, preparing and presenting to the president a monthly financial report comparing actual claims paid against the budget.
- d.) Present any matters that require Boone County Council approval to the Executive Committee before being scheduled on the Council agenda.
- 3.) Maintenance of accurate records.
 - a.) The Executive Director shall be responsible for maintaining the official version of the various Ordinances, which govern the activities of the Area Plan Department. All amendments approved by the respective legislative bodies must be immediately incorporated and disseminated to all APC members and governing bodies.
 - b.) The Executive Director shall be responsible for the keeping of an accurate record of all APC proceedings, including the keeping the records and minutes, the custody and preservation of all papers and documents of the APC, the maintenance of a current roster and qualification of members, and records of attendance.
- 4.) Department Planning
 - a.) Propose annually a plan for the operation of the planning department to be presented with the budget.
 - b.) Administer the plan as approved by the APC.
 - c.) Prepare and present to the APC an annual report during the January meeting.
- C. Performance Review. The APC shall be responsible for the adequate and fair performance review of the Executive Director.
 - 1.) A written evaluation shall be initially prepared by members of the Executive Committee.
 - 2.) The Executive Director shall be invited to prepare a written self-evaluation.
 - 3.) The official evaluation shall be conducted in executive session.
 - 4.) The evaluation shall be in written form, including a self-evaluation, an employee response opportunity, and requires the signatures of both the Executive Director and the president.
 - 5.) The evaluation shall be submitted to the Boone County Board of Commissioners no later than October 31st of each year.

3.3.2 APC Staff

- A. Appointment. Subject to the approval of the APC, the Executive Director shall appoint and remove employees of the APC.
 - 1.) Compensation. The APC shall prescribe the qualifications of, and, with the consent of the Executive Director, fix the compensation of such employees in conformity with the salaries and compensation approved by the Boone County Council.
 - 2.) Benefits. The Executive Director shall administer employee benefits as detailed in the Boone County Personnel Policy Handbook.
- B. Performance Review. The Executive Director shall be responsible for adequate and fair written performance reviews of staff appointed by the APC.
 - 1.) The evaluations shall be in written form, including a self-evaluation, an employee response opportunity, and requires signatures of both the employee and the Executive Director.
 - 2.) The evaluations shall be submitted to the APC no later than the regular meeting in September of each year.
- C. Assignment of Street Addresses. APC Staff shall be responsible for assignment of street addresses to structures and subdivision lots, including the ability to renumber lots and structures as well as name and rename streets.

Article 4 Scheduling Meetings

4.1 Regular meetings.

- 4.1.1 Meeting date. Regular meetings of the APC shall be held on the first Wednesday of each month, unless otherwise noted by the APC, as scheduled in a calendar published by staff and approved by the APC prior to the final meeting of the previous year.
- 4.1.2 Meeting time and place. All regular meetings shall be held at 7:00 p.m. in the Connie Lamar Room at the Boone County Government Building, unless otherwise publicly announced.
- 4.1.2 Meeting adjournment. All regular meetings shall adjourn on or before 11:00 p.m., and no new agenda items shall be heard after 10:30 p.m. The APC may vote to suspend this rule, if the expected time needed to finish the agenda is short.
- 4.2 Recessed meetings.
 - 4.2.1 When appropriate.
 - A. If agenda items remain, but the regular meeting must adjourn, the APC may vote to either:
 - 1.) Table the rest of the agenda to the next regular meeting or
 - 2.) Agree on a date, time, and place to reconvene to act on the rest of the agenda.
 - B. When a quorum is not present.
 - 4.2.2 Public notification. Such recess to an announced specified time and place shall not require additional public notice.
 - 4.2.3 New Information. No new information shall be submitted at a public hearing that has been recessed from a previous day or time, except when the recess occurs during the presentation by remonstrators. When the meeting reconvenes, the remonstrators will be given the opportunity to finish their presentation.
- 4.3 Special meetings.
 - 4.3.1 Convening the meeting. Special meetings of the APC may be called at any time by the president or by two members of the APC, upon request to the APC staff.
 - 4.3.2 Notice. Public notice is required for special meetings.
- 4.4 Executive sessions.
 - 4.4.1 Convening executive sessions. Executive sessions of the APC, which means a meeting from which the public is excluded, may be held where authorized by IC 5-14-1.5-6.
 - 4.4.2 Notice. Even though the public is excluded, public notice of executive sessions is required.
- 4.5 Cancellation of meetings.
 - 4.5.1 When appropriate.
 - A. If no business is scheduled to be heard by the APC, or
 - B. If no quorum is present
 - 4.5.2 Notice. The president may cancel any meeting by giving notice to all members prior to the time set for each meeting.
 - 4.5.3 Rescheduling. Staff will reschedule all items on the agenda.

Article 5 Filing Procedures

- 5.1. Application

- 5.1.1 Petitioner filing. All petitions not initiated by the APC or the legislative body of the jurisdiction affected shall require submission of an application to the APC.
- A. Filing deadlines shall be as detailed in the calendar published by the staff and approved by the APC prior to the final meeting of the previous year.
 - B. Incomplete applications shall be deemed as having not been filed.
 - C. A complete application shall consist of the following elements:
 - 1.) A written application for approval.
 - 2.) Ten (10) copies of all documentation, as enumerated in the Ordinances.
 - 3.) Draft covenants and restrictions of the petition.
 - 4.) All impact assessments mandated by the APC.
 - 5.) A clear transparency at a scale of 1 inch = 400 feet to overlay on aerial maps.
 - 6.) A basic layout of the petition on a sheet not to exceed 11 inches by 17 inches.
 - 7.) Application fee as indicated in the Boone County Area Plan Commission Fee Schedule.

5.1.2. Fees. As established by Ordinance, applications not initiated by the APC or the legislative body of the jurisdiction affected shall be accompanied by a fee. The filing fee shall be non-refundable, except in the instance of applications withdrawn no less than fifteen (15) days prior to the public hearing.

5.2 Additional information submitted. While applications shall be complete by the appropriate filing deadline, additional information shall be allowed into public record up to no less than five (5) days prior to the meeting, if only one page long, or ten (10) days prior to the meeting if multiple pages. No information will be accepted into public record if received within five (5) days of the meeting.

No information shall be handed to members of the APC at the public hearing unless it is to be presented or read into the record of the hearing.

5.2.1 Definition of “document”

- A. The term “document” as used in this chapter is to be interpreted in the broadest sense of that term and means the product of any means of recording information, whether by writing or otherwise.
- B. “Document” includes, but is not limited to, correspondence, letters, ledger sheets, contracts, negotiable instruments, agreements, memoranda, reports, notes, diaries, logs, calendars, telegraphs, telexes, facsimile transmissions, summaries, invoices, bills, bills of lading, receipts, checks, checkbooks, charts, graphs, drawings, blueprints, diagrams, worksheets, studies, bulletins, notices, instructions, books, manuals, pamphlets, periodicals, journals, logs, indices, photographs, microfiche, microfilm, telephone records, tape recordings, movies, video tapes, computer disks, electronic transmissions, and other data compilations.

5.2.2. Who may submit? Any party may provide support documentation to be delivered to APC members along with the staff report, if complies with the following requirements:

- A. Provides sufficient copies to staff for each member of the APC, plus one (1) for public record and one (1) for legal counsel.
- B. Delivers the documents according to the deadlines below.

5.2.3 Deadlines

- A. Documents to be studied and considered by staff for use in the staff report must be received no later than fifteen (15) days prior to the meeting.
- B. All parties shall be allowed to submit documents into public record up to no less than five (5) days prior to the meeting.

5.3 Public Notice. The applicant is encouraged to use the standard “Public Notice” form available in the application packet. The notice shall include the following:

- A. substance of the petition
- B. general location by mailing address, township, and recorded legal description of the property
- C. name of the person or agency initiating the petition

- D. time, date and place of the public hearing
 - E. statement that the petition may be examined in the office of the Boone County Area Plan Commission
 - F. statement that the interest parties may offer an oral opinion at the hearing or may file written comments concerning the petition no less than five (5) days prior to the hearing, if only one page, or ten (10) days prior if two or more pages long
 - G. posting a placard on the site that is subject of the petition, and
 - H. any other information that may be required by law to be contained in such a notice.
- 5.3.1 General Public Notice. In petitions not initiated by the APC, a legal notice of the public hearing shall be prepared by the applicant and advertised in a newspaper of general circulation in the County.
- A. The notice shall appear not less than fifteen (15) days prior to the public hearing, not including the date of the hearing itself.
 - B. The applicant shall assume the cost of the notice, and one (1) copy of an affidavit from the publisher shall be submitted to the APC prior to the public hearing.
 - C. Proof of publication shall be submitted to public record no less than two (2) days prior to the public hearing.
- 5.3.2 Mailing. The applicant shall serve notice to owners of property within 660 feet of the boundaries of the subject property, including property across a public right-of-way or municipal boundary.
- A. Such notification shall be by certified mail with return receipts requested.
 - B. Notification must be postmarked not less than fifteen (15) days prior to the public hearing.
 - C. The applicant shall be responsible for obtaining a list of names and current addresses of these property owners from the County, and shall provide staff with a copy of the list against which to check the signed receipts of the notice at the time of the application submission.
 - D. Proof in the form of the signed returned receipts from mailings shall be submitted to public record no less than two (2) days prior to the public hearing.
- 5.4 Inclusion on the agenda for an APC meeting.
- 5.4.1 Staff review. Staff shall review all applications for completeness and technical and legal compliance with the terms of the Zoning and Subdivision Control Ordinances of the jurisdiction impacted.
- 5.4.2 Docket number. Upon the submittal of an application, staff shall assign the application a unique docket number.
- 5.4.3 Petition Placement. Staff shall review the application for completeness; applications deemed incomplete shall not be considered filed and will not be placed on the agenda. All applications shall be reviewed at least once by TAC before staff determines completeness. Once an application is complete, it shall be placed on the agenda of the APC for an upcoming regular meeting. Cases shall come before the APC in the regular order of their consecutive docket numbers unless otherwise ordered by the APC.
- 5.4.4 Release of the Agenda. An agenda for a regular meeting, including a possible executive session, shall be released by staff ten (10) days prior to the meeting.
- 5.5 Staff Report. After thorough examination of information in public record and findings from additional research, staff shall release a report providing analysis of each item placed on the agenda.
- 5.5.1 When released. The staff report shall be released concurrent with the agenda, no later than ten (10) days prior to the public hearing.
- 5.5.2 Data included. The staff report shall include:
- A. the docket number
 - B. a detailed description of the request, the location of the property, size of the property and the name of the applicant
 - C. complete planning and/or building history of the project or parcel

- D. relevant zoning information, including definitions and specific restrictions
- E. relevant sections of the Boone County Comprehensive Plan
- F. TAC report, and actions taken in response to issues raised
- G. relevant issues for APC consideration
- H. staff recommendations.

5.5.3 Sources of information. To determine impact on infrastructure services, staff shall utilize information supplied by service providers, such as schools, fire and police protection departments, utilities and nearby municipalities.

Article 6 Conduct of Meetings

6.1 Procedure governance. All meetings shall be in accordance with IC 5-14-1.5, et. seq., the Indiana Open Door Law, and any amendments thereto; and unless otherwise provided for in these Rules of Procedure, all meetings shall be conducted according to Robert’s Rules of Order, as revised.

6.2 Quorum. The majority of the members of the APC shall constitute a quorum. No action of the APC will be official unless authorized by a majority of the entire membership of the APC in accordance with IC 36-7-4-302.

6.3 Order of business on each agenda for a regular meeting shall be as follows:

- A. Call to order
- B. Pledge of allegiance
- C. Approval of the agenda
- D. Public hearings – Old Business
- E. Public hearings – New Business
- F. Violations
- G. Approval of minutes of previous meeting(s)
- H. Reports, resolutions, communications, administration and general discussions
- I. Adjournment

6.4 Public hearing

6.4.1 Representation of the applicant. The applicant, or the applicant’s attorney or other representative must be present for a public hearing to be held as scheduled.

- A. Written appearances by those augmenting the presentation, as well as those either supporting or remonstrating against it will only be accepted prior to the public meeting, pursuant to 5.2 of these Rules.
- B. Failure of the applicant or their representative to appear will result in the Commission either dismissing the application per Section 6.5.3 or continuing the application per Section 6.5.5. In either case, the petitioner will then be required to repeat the notification process.

6.4.2 Opening the public hearing. The president shall call the docket number of the item scheduled for public hearing and declare the hearing open.

- A. The president shall explain the process and the order of testimony.
 - 1.) Process
 - a.) All presenters must appear before the APC, sign the roster and identify themselves by name and address for the record.
 - b.) All commentary is to be addressed to the APC through the president; no dialogue between the presenter and any other person present, even individual members of the APC or its attorney, will be tolerated.
 - c.) Discourteous, disorderly or contemptuous conduct will not be tolerated. Examples include applause or booing and personal attacks on people expressing opposing views. Violators may be removed from the hearing at the discretion of the president.
 - d.) The president may ask for the number of persons planning to speak on behalf of the applicant or in opposition, as well as the amount of time

expected to be necessary for purposes of considering the suspension or amendment of time limitations specified in the order of testimony below.

- 2.) Order of testimony
 - a.) APC Staff Report
 - b.) TAC member comments
 - c.) Presentation by the applicant (limited to 20 minutes)
 - d.) Presentation by remonstrance (limited to 30 minutes)
 - e.) Rebuttal by the applicant (limited to 5 minutes)
 - f.) Hearing closed
 - g.) Deliberation by the APC, including questioning both applicant and remonstrators
 - h.) Action

6.4.3 Presentation by the applicant.

- A. Applicant(s) and persons appearing in support of the application shall have twenty (20) minutes for the presentation of evidence, statements and arguments in support of the matter being considered.
- B. The APC may seek clarification on any issue raised by the applicant. The applicant shall not be penalized for the time required to clarify requests by the APC.

6.4.4 Presentation by remonstrance.

- A. Remonstrance shall have thirty (30) minutes for the presentation of evidence, statements and arguments in opposition to the matter being considered. The president shall have the authority to prohibit repetitious or irrelevant testimony and shall have the authority to limit the length of testimony by each speaker as deemed appropriate to a fair and efficient public hearing.
- B. The APC may seek clarification on any issue raised by remonstrators. Remonstrators shall not be penalized for the time required to clarify requests by the APC.

6.4.5 Rebuttal by applicant. Applicant(s) shall have five (5) minutes for rebuttal, which shall only include evidence, statements and arguments in rebuttal of remonstrators' evidence and APC comments. No new evidence or testimony will be permitted during rebuttal. The applicant may add to rebuttal time by reducing the time of the initial presentation, and publicly stating that intention.

6.4.6 Waiver or amendment of time limits. Time limits may be suspended or amended and new limits established only upon a favorable vote of the APC on a motion (properly seconded). It is understood that such deviations from the time prescriptions will be granted only in extraordinary circumstances and will not be routinely permitted.

6.4.7 APC examination. APC members shall be granted adequate opportunity to examine the applicant(s) and the remonstrators and question any evidence, statements and arguments in the interest of a fair and efficient hearing.

6.5 APC Action.

6.5.1 APC action. Upon conclusion of deliberations, the president shall call for a motion of action.

- A. Any motion that is made and seconded is open for further APC discussion.
- B. Each motion that has received a second shall be voted upon.
- C. Any motion with multiple parts must have a separate vote for each part.
- D. The Commission may make any of the following motions:
 - a. Motion for Approval
 - b. Motion for Denial
 - c. Motion for Dismissal
 - d. Motion for Withdrawal
 - e. Motion for Continuance
 - f. Motion for Amendment

g. Motion for Commitments

- 6.5.2 Approvals/Denials. The Commission may approve or deny a petition as follows:
- A. Approval. The Commission should approve a petition if all established criteria are substantially met. Approvals may be amended from the submitted applications as permitted in Section 6.5.6 below. Approvals may also have commitments attached as permitted in Section 6.5.7 below.
 - B. Denial. The Commission should deny a petition if the applicant fails to substantially prove any established criteria.
- 6.5.3 Dismissals. The Commission may dismiss a petition under the following conditions:
- A. Want of Prosecution. The Commission may dismiss a petition if the petitioner or authorized representative does not appear to present and speak in favor of such petition or if such petition has been improperly filed (including public notification.)
 - B. Lack of Jurisdiction. The Commission shall dismiss a petition if it finds it has not jurisdiction over such matter.
 - C. Excessive continuances. The Commission may dismiss a petition for want of prosecution if an application has been continued for a total of three (3) months, either by interested parties, the applicant and/or the Commission.
 - D. Dismissed Applications. All dismissed applications shall not again be placed on the APC agenda for hearing within a period of three (3) months from the date of dismissal, except upon a motion duly adopted by a majority of the members of the Commission to permit such rescheduling.
- 6.5.4 Withdrawals. A petition may be withdrawn under the following conditions:
- A. Request by Applicant. Any petition may be withdrawn provided a written request for withdrawal signed by the applicant or authorized representative is received by the Commission's staff at least ten (10) days before the scheduled hearing. Any request for withdrawal made less than ten (10) days before the scheduled hearing may be granted or denied by the Commission. Such request may be in writing or oral and must state the reasons for the request.
 - B. Not Permitted. No petition may be withdrawn after a motion has been made and seconded.
 - C. All withdrawn applications shall not again be placed on the APC agenda for hearing within a period of three (3) months from the date of the originally scheduled hearing, except upon a motion duly adopted by a majority of the members of the Commission to permit such rescheduling.
- 6.5.5 Continuances. A petition may be continued (tabled) under the following conditions:
- A. Requests by Interested Party. Any interested party as defined in Section 5.3.2 may request a continuance in writing prior to the hearing and/or orally during the hearing. The party requesting such continuance shall be required to show good and sufficient cause for such continuance, and it shall be within the discretion of the commission to grant or deny such request.
 - B. Requests by Applicant. Any petition may be continued provided a written request for withdrawal signed by the petitioner or authorized representative is received by the Commission's staff at least ten (10) days before the scheduled hearing. Any request for withdrawal made less than ten (10) days before the scheduled hearing may be granted or denied by the Commission. Such request may be in writing or oral and must state the reasons for the request.

- C. Motion by Commission. Any member of the Commission may at any time move to continue the hearing of any petition. However, except in cases allowed in Section 6.4.1, such motion is generally warranted only when additional pertinent information is needed and is not available during the hearing. Continuances should not be used to simply give additional time for the Commission to consider all facts. Such motion duly seconded and adopted shall continue the hearing to the time specified in the motion. The Commission may include in the motion specific instruction for readvertising and/or renotification of interested parties. If such renotification is required, the petitioner may be required to pay the costs associated therewith at the Commission's discretion.
 - D. Continuances permitted and not permitted. A continuance may be permitted during the public hearing or the APC deliberation. No petition may be continued after a motion has been made and seconded except as permitted in Section 6.5.8.
- 6.5.6 Amendments. The Commission may amend petitions as follows:
- A. Increased Density or Intensity. No petition can be amended in a manner which increases the intensity of use (ie. adds additional lots or land, changes to zoning district permitting more uses or more intensive uses) after the filing deadline. Any such amendment request will result in postponing the scheduling of the petition for one (1) month. If notice in accordance with section 5.3 has already been given, the item as amended shall be readvertised and new notice given to interested parties. The petitioner shall be required to pay the costs of such readvertising and renotification.
 - B. Decreased Density or Intensity. It shall be within the discretion of the Commission to approve a petitioner's request to amend the petition in a manner which decreases the intensity of use (removes lots or land, changes to a zoning district which is less restrictive). Any interested party may be heard on the subject of such amendment. The Commission may require such amended petition to be continued and may require readvertising and renotification in the interest of providing a fair and adequate hearing.
 - C. Amendments permitted. Amendments may be permitted during the public hearing, during the APC deliberation or after a motion has been made and seconded.
- 6.5.7 Commitments. In all cases where authorized by the respective zoning or subdivision control ordinance, the APC may permit or require the owner of a parcel of real property to make written commitments concerning the use or development of that parcel.
- A. Form. The commitment must be in substantially the form set forth in the Appendix to these Rules, and must identify any specially affected persons or who may enforce the commitment.
 - B. Recording. A commitment must authorize its recording by the Executive Director in the Office of the Boone County Recorder and otherwise comply with the ordinance under which it is authorized.
 - C. Modification or termination. Except as provided in the ordinance under which it is authorized, a commitment made under this section may be modified or terminated only by the APC made at a public hearing after notice of the hearing has been given under these rules.
 - D. Voting. Each commitment requires its own motion and vote by the APC.
- 6.5.8 Voting. All decisions of the APC, on matters heard in public hearings, shall be by record vote. The vote of each member shall be a matter of public record.
- A. Voting shall be by a show of hands.
 - B. A majority of the entire membership of the APC is required to take official action on a petition.
 - C. In the event that a vote results in a tie vote or does not receive a majority of the entire membership of the APC and no other motion is made and seconded, a "no decision vote" will be declared, and the petition will be continued until the next meeting for action.

- 6.5.9 Documentation. The final disposition of cases requiring APC approval shall include the action taken, together with any modifications, specification or limitation included in the action.
- 6.5.10 Disposition requiring legislative body approval. The disposition of cases requiring final approval from a participating legislative body shall be in the form of a recommendation given to that body. The recommendation must be one of the following: favorable recommendation, unfavorable recommendation or no recommendation. Within ten (10) days of the recommendation, the Executive Director shall provide the legislative body with a letter of transmittal, certifying it of the action of the APC and the reasons for such action. The legislative body will also be provided the minutes and staff reports of hearings for the case.
- 6.5.11 Approved subdivision plats. Approved subdivision plats shall require the signature of the president and the Executive Director prior to being recorded with the Office of the Recorder.
- 6.6 Adverse APC Decision. A specific application that has been disapproved by the APC shall not be placed on an agenda for reconsideration for a period of six (6) months following the date of the adverse decision by the APC.
- 6.7 Minutes. The APC shall keep minutes of all regular and special meetings.
- A. Recorded minutes shall state the date, time and place of each meeting; reflect the business conducted, and show names of all APC members and staff present, indicating the late arrival or early departure of these personnel.
- B. Minutes shall include the vote of each member present and voting on every question, whether or not a final decision is rendered.
- C. The minutes of each meeting shall be amended, if necessary, and approved at the next regular meeting, or if such is not practicable, as soon thereafter as is possible.
- D. The approved minutes shall become official when signed by the president or acting president and the Executive Director.
- E. Copies of the minutes of the previous meeting shall be submitted to APC members along with the agenda and staff report no less than ten (10) days prior to the meeting.
- 6.7.1 Audio-visual minutes. The APC may tape or otherwise record the proceedings of each meeting to substantiate and clarify the official minutes.
- 6.7.2 Public records. The APC shall keep all material relevant to each agenda item in the public record.
- A. This shall include, but is not limited to, required documents from the applicant and documents from supporters and remonstrators at the public hearing, completed Findings of Fact forms, and any correspondence received by the APC pertinent to the item.
- B. All records shall be receipt stamped and retained in the office of the APC and shall be a matter of public record, open for inspection during business hours.

Article 7 Conduct of APC Members

- 7.1 APC Representation of Applicants and Appellants. No member of the APC shall represent applicants or appellants on matters on which the APC is to make determinations.
- 7.2 Conflict of Interest.
- 7.2.1 APC Members. No member of the APC shall participate in any case in which he/she has financial or personal interest in the property of action concerned, or will be directly affected by the decision, or believes he/she has any other conflict or interest as defined by applicable law.
- 7.2.2 APC Staff. No member of the staff of the APC or of any agency serving the APC shall prepare or present arguments or reports, or attempt to influence decisions on the APC, in any case in which he/she has financial or personal interest in the property or action concerned, or will be directly affected by the decision, or believes he/she has other conflicts of interest as defined by applicable law.

- 7.2.3 Relationships Constituting a Conflict of Interest.
- A. Relationships to persons either actual or legal as follows:
 - 1.) Any relationship or kinship, whether by blood or affinity,
 - 2.) Any appointment as legal guardian,
 - 3.) Any appointment as trustee,
 - 4.) Any appointment as administrator of an estate,
 - 5.) Any appointment as agent,
 - 6.) Any appointment as broker,
 - 7.) Any appointment on retainer, whether or not service was provided,
 - 8.) Any consultantship,
 - 9.) Any employer-employee relationship,
 - 10.) Any mortgagor-mortgagee relationship,
 - 11.) Any option to purchase, preliminary sales agreement, or sales agreement for real property,
 - 12.) Any contract for goods and services,
 - 13.) Any of the legal or contractual relationships associated with the following third parties: any relationship of kinship, members or partnerships (general or limited) or officer or director of a corporation, or member of a limited liability company, in which the APC member holds interest,
 - 14.) Serving as an officer or director of a professional, fraternal, civic, or public service organization, neighborhood association or community organization,
 - 15.) Serving as an officer or director of a non-profit corporation.
 - B. Relationships to real property. Relationships to real property as follows:
 - 1.) Any interest in real property enjoyed by a member of the APC or any of the above third parties, lying near or otherwise affected by the decision of the APC.
 - 2.) Any interest in real property enjoyed by a corporation (or limited liability company) of which an APC member is an officer or director (or member, in the case of a limited liability company) lying near or otherwise affected by the decision of the APC.
- 7.2.4 Non-Conflict Relationships. Relationships that DO NOT constitute a conflict of interest include:
- A. Holding membership in a professional, fraternal, civic, or public service organization, neighborhood association, or community organization,
 - B. Holding personal accounts, commercial accounts, or liens of credit in financial institutions,
 - C. Holding appointment to other public commissions,
 - D. Election to other public office.
- 7.2.5 Notification of Conflict of Interest.
- A. APC Member or Officer:
 - 1.) When a member has reasonable doubt as to whether a conflict exists, the member shall seek legal advice from the legal counsel of the APC.
 - 2.) Upon concern of any potential conflict of interest in any case to come before the APC, the APC member shall notify the president, or acting president, and counsel of the situation.
 - B. President: Upon concern of a potential conflict by the president, he/she shall notify the vice-president and counsel.
- 7.2.6 Determination of Conflict of Interest. Determination of whether a conflict of interest exists shall be made by the APC as a whole.
- A. Voluntary disqualification. A member may disqualify himself/herself from voting in either the instance of a conflict of interest, or when the applicant, his agent or any other party has influenced the vote of the member on his appeal or application, other than in the public hearing.
 - B. Involuntary disqualification. When a potential conflict of interest is raised by another member, the APC will determine whether, in fact, such conflict does exist.

- 1.) A majority of the members present, excluding the member with the potential conflict, shall be required to make the decision.
- 2.) The outcome of such decision shall be publicly stated by the president at the meeting and shall be reflected in the minutes of the meeting.
- 3.) Should any member(s) be disqualified from participating and voting on any application, an alternate may be placed by the appointing body to fulfill the duties of the disqualified member.

7.3 Ex Parte Contacts.

- 7.3.1 Comprehensive Plan and Ordinance Amendment Ex Parte Contacts. Although not encouraged, members of the APC may have contact with the applicant, his agent or any other party regarding an application for a comprehensive plan amendment or ordinance amendment, including zone map changes, prior to a public hearing. However, each member shall report any external contacts related to matters pending or yet to be presented to the APC.
- 7.3.2 Plat, Replat, Development Plan and Legal Action Ex Parte Contacts. Ex parte contacts are prohibited with respect to the approval or rejection of plats and replats, the approval or rejection of development plans, and decisions or discussions on legal actions involving the APC. Any member MUST disqualify himself/herself from voting in the instance that the applicant, his agent, or any other party has influenced the vote of the member, other than in the public hearing.
- 7.3.3 Referrals. Whenever a person, who is not a member of the APC, it's staff or it's counsel initiates contact with an APC member, it is suggested that the member refer that person to staff and suggest presentation of the information for inclusion in APC deliberations.
- 7.3.4 Reporting Ex Parte Contacts. Whenever an external contact persists in offering information, the member shall report the information and identify the source and date of the contact to the full APC for inclusion in its formal record. Where the informant is unwilling to have the information reported, the member is encouraged to refuse further contact and report the incident to the APC, along with a full disclosure of the content of the contact and any comments or stated positions.
- 7.3.5 Written Information. Written information transmitted to an APC member should be forwarded directly to staff for review and incorporation into its report.
- 7.4 Expressions of Bias, Prejudice or Individual Opinions. APC members may seek information from other members, APC staff or the APC counsel prior to the public meeting. No member shall express any bias, prejudice or individual opinion on proper judgement of the case prior to its hearing and determination.
- 7.5. Presence to Vote. No APC member shall vote on any matter deciding an application or appeal requiring a public hearing, except after attending the public hearing on the application or appeal, or reviewing all documents and records of public testimony presented at the public hearings.

Article 8 Suspension and Amendment

- 8.1 Suspension. The APC shall have the right to suspend, by a majority vote of the APC members present, these rules or any portion thereof, except where otherwise controlled by State Statute or applicable ordinance, at any meeting.
- 8.2 Amendment. The APC shall have the right to amend these rules or any portion thereof at any regular or special meeting, provided that the amendment(s) are approved by a majority vote of the entire membership of the APC.
- 8.3 Nullification of Rules. Should any court or jurisdiction declare these rules to be in part null and void, such ruling shall not affect the remainder of these rules, and they shall stay in full force and effect as if the omitted portion did not exist.

WHEREFORE, the Rules of Procedure of the Boone County Area Plan Commission, Boone County, Indiana, are approved by the affirmative vote of the majority of all members of the APC in attendance at the meeting on the 7th day of December, 2005. These Rules of Procedure shall become effective immediately upon approval and their formal adoption and implementation shall be considered revocation of any prior Rules of Procedure and amendments thereto.

APC President

Approval Date