

**ELKHART COUNTY
PLAN COMMISSION
Rules of Procedure**

Article 1 Authority, Duties and Jurisdiction

1.01 Authority

The Elkhart County Plan Commission (hereinafter called “Commission”) exists as an advisory plan commission under authority of Indiana Code 36-7-4-202. These rules are adopted in accordance with the requirements of Indiana Code 36-7-4-401.

1.02 Duties

- A. The duties and powers of the Commission shall be those set forth in Indiana Code 36-7-4-400 Series, and such other responsibilities as may be assigned to it by the Board of County Commissioners of Elkhart County (hereinafter called “Board of Commissioners”).
- B. The Commission delegates to the Plan Director, Zoning Administrator and staff the authority to review and approve plans and specifications, and to grant Improvement Location Permits (Zoning Clearances), in accordance with the Elkhart County Comprehensive Plan, Elkhart County Subdivision Control Ordinance, Elkhart County Zoning Ordinance, Elkhart County Advisory BZA Rules of Procedure and these Rules. *(Updated by the Plan Commission 11/14/13)*
- C. The Plan Director and Zoning Administrator may refer any matter before him or her to the Commission for review and decision. *(Updated by the Plan Commission 11/14/13)*

1.03 Jurisdiction

The Commission’s jurisdiction consists of all of unincorporated Elkhart County and the incorporated Towns of Bristol, Wakarusa, Middlebury and Millersburg.

1.04 Seal

The seal which has heretofore been used by the Board of Commissioners as its official seal is hereby readopted as the seal for the Commission.

Article 2 Membership, Officers, Staff, and Committees

2.01 Membership

- A. The Commission shall consist of nine (9) members consistent with the provisions of Indiana Code 36-7-4-208 and 216. The respective appointing authority may appoint an alternate member to participate with the Commission in a hearing or decision if the regular member has a disqualification under Indiana Code 36-7-4-223(c); an alternate member has all the powers and duties of a regular member while participating in the hearing or decision.
- B. Citizen members of the Commission shall be entitled to receive compensation for their services as a member of the Commission at the regular meetings of the Commission in an

amount that the Elkhart County fiscal body may determine. However, citizen members shall only be permitted up to two (2) compensated absences per calendar year from regular meetings of the Commission. *(Updated by the Plan Commission 1/08/09)*

- C. An appointed member of the Commission who misses three (3) consecutive regular meeting of the Commission may be treated as if the member had resigned, at the discretion of the respective appointing authority.
- D. Each citizen member shall confirm that he/she meets all applicable residency requirements for appointment by executing and filing with the Plan Commission a certification of residency in the form set forth in Exhibit K of these Rules and incorporated herein by reference. *(Updated by the Plan Commission 9/08/11 and modified 2/9/12)*

2.02 Officers

A. General

- 1. At its first regular meeting in each year, the Commission shall elect from its members a Chairman, Vice Chairman and Secretary.
- 2. A person receiving a majority vote of the entire membership of the Commission shall be declared elected. Each elected officer shall enter into office immediately upon being declared elected and shall serve until his or her successor is declared elected or until the officer is no longer a member of the Commission.
- 3. When an office becomes vacant, the Commission shall elect a successor to complete the remainder of the unexpired term at its next regular meeting.

B. Chairman

- 1. The Chairman shall preside at all Commission meetings and perform the duties of a presiding officer, including the appointment of committees and representatives (except as otherwise provided by statute, ordinance, or these rules), and ruling on all points of order and procedure. The Chairman shall be a voting member in all matters.
- 2. The Chairman shall sign all official documents on behalf of the Commission, or otherwise delegate these duties to the Secretary.

C. Vice Chairman

The Vice Chairman shall have the authority to act as the Chairman during the absence or disability of the Chairman.

D. Secretary

The Secretary shall certify all official acts of the Commission. In the event of the absence or disability of both the Chairman and the Vice-Chairman, the Secretary shall serve as Chairman pro tempore. In the event of the absence or disability of the Secretary, the Chairman of the Commission shall, when necessary, select a Secretary pro tempore. The Secretary shall serve as the Chairman of the Plat Committee. The Secretary shall be

responsible for conducting all official correspondence of the Commission, serve notice of all public hearings, and serve notification to all members of the meetings.

E. Chairman Pro Tempore

In the absence of the Chairman, Vice Chairman, and Secretary, the Commission shall elect a Chairman Pro Tempore who shall act as Chairman for the specific meeting or item(s) of business affected.

2.03 Plan Director

- A. The Plan Director (hereinafter called the “Director”) shall be appointed by the Commission with the concurrence of the Board of Commissioners. The duties and qualifications of the Director are as prescribed by the Commission and consistent with the personnel policies of Elkhart County.
- B. All Commission requests for information or technical advice shall be made to the Director who will be responsible for assigning staff members to gather such information or provide such advice and for conveying such information or advice to the Commission.
- C. The Director shall establish personnel policies and administrative office procedures consistent with personnel policies of Elkhart County.

2.04 Staff

- A. The Commission may hire staff necessary to discharge the duties of the Commission.
- B. Staff shall be hired and their duties and qualifications as are prescribed by the Director and consistent with personnel policies of Elkhart County.
- C. The Commission may contract for special or temporary service and any professional counsel.

2.05 Committees

- A. Advisory Citizens’ Committee. The Commission may establish advisory committees in accordance with Indiana Code 36-7-4-407. Such committees may include Commission members, and/or citizens interested in matters of planning and zoning.
- B. Executive Committee. The Commission establishes an executive committee in accordance with Indiana Code 36-7-4-408 which shall operate consistent with these Rules. The executive committee shall consist of the Commission’s Chairman, Vice-Chairman, Secretary and a fourth member elected by the Commission from its members. The executive committee shall be a permanent committee which shall be authorized to act, by a majority vote of said committee, on behalf of the Commission on all personnel and budgetary matters, with concurrence by the Commission. The Chairman shall be the chairman of said committee.
- C. Plat Committee. The Commission establishes a Plat Committee as a standing committee to act on certain cases on behalf of the Commission. The Plat Committee shall operate consistent with these Rules, the Elkhart County Subdivision Control Ordinance, and in accordance with Indiana Code 36-7-4-402(d), 36-7-4-710(e), and 36-7-4-1402 (c).

1. Members

The Plat Committee shall consist of five (5) members appointed by the Commission from its members, with two (2) of these being the County Surveyor or representative thereof serving on the Commission and the other being the Secretary of the Commission. Each member shall be appointed annually by the Commission for one (1) year. Any decision of the Plat Committee may be appealed to the Commission.

2. Officers and Staff

The officers of the Plat Committee shall consist of a Chairman, Vice-Chairman, and Secretary. These officers shall be elected at the first meeting of each year.

- a. Chairman. The Chairman shall be the Commission Secretary and shall preside over Plat Committee meetings.
- b. Vice-Chairman. The Vice-Chairman shall be elected by the members of the Plat Committee and shall preside over meetings in the Chairman's absence.
- c. Secretary. The Secretary shall be charged with keeping records of all meetings, executing all required notifications and letters, and certifying all official acts of the Plat Committee.
- d. The staff of the Commission shall be the staff for the Plat Committee.

3. Powers

The Plat Committee may:

- a. Grant primary approval or disapproval of all minor subdivisions;
- b. Impose necessary conditions for secondary approval in those subdivisions;
- c. Grant secondary approval for all subdivisions;
- d. Waive certain standards as described in the Subdivision Control Ordinance; and *(Updated by the Plan Commission 11/14/13)*
- e. Allow or require a commitment to be made under Section 6.05 of these Rules as a condition of granting a waiver under "e" above.

4. Meetings

- a. Meetings shall be scheduled no earlier than ten (10) calendar days after the filing deadline for petitions before the Commission. The filing deadlines for the Plat Committee shall be as established on the

Commission's annual Planning Calendar. *(Updated by the Plan Commission 11/14/13)*

- b. Special meetings may be called by the Chairman of the Plat Committee.
- c. A majority of the Plat Committee shall constitute a quorum. No action of the Plat Committee shall be official unless it is approved by a majority of its members.
- d. All provisions adopted by the Commission under these Rules, for the conduct of meetings and procedures related thereto, which are not inconsistent with state law and/or the Elkhart County Subdivision Control Ordinance shall apply to all proceedings before the Plat Committee.

5. Notice

For all subdivision matters before the Plat Committee, decisions of the Plat Committee shall be mailed to the applicant and all interested parties.

6. Appeal

Any person may appeal the decision of the Plat Committee to the Commission within five (5) business days of the mailing of the decision to the applicant and interested parties by making written request to the Commission staff and by tendering the fee set forth in the Uniform Schedule of Fees. *(Updated by the Plan Commission 11/14/13)*

D. Hearing Officer. The Commission establishes a Hearing Officer procedure to act on certain cases on behalf of the Elkhart County Advisory Board of Zoning Appeals (BZA). The Hearing Officer shall operate consistent with these Rules, the Elkhart County Zoning Ordinance, and in accordance with Indiana Code 36-7-4-923 and 924.

1. Appointment of the Hearing Officer

The hearing officer shall be appointed annually by the Commission for one (1) year. The Commission may appoint an alternate hearing officer to act on those cases where the hearing officer is unable, because of a conflict of interest or being otherwise unavailable, to hear and render a decision.

2. Limitations of Powers of the Hearing Officer

The Hearing Officer shall have the powers and duties to hear and render decisions as designated in the Elkhart County Zoning Ordinance.

3. Hearings Before the Hearing Officer – Conduct

- a. All provisions adopted by the BZA under its rules of procedure and as designated in the Elkhart County Zoning Ordinance for the conduct of public hearings and procedure related thereto, which are not inconsistent with law and/or these Rules, shall apply to hearings and proceedings before the Hearing Officer.

- b. Conflicts of interest and communication with the Hearing Officer shall be regulated consistent with Indiana Code 36-7-4-909 and 920.
 - c. The BZA recording secretary shall prepare and maintain a record of all Hearing Officer proceedings conducted. A copy of the record shall be filed in the offices of the Commission and shall be a public record.
 - 4. Transfer of Proceedings from Hearing Officer to the Board of Zoning Appeals
 - a. Once a petition has been filed for consideration before the Hearing Officer the proceedings may not be transferred to the BZA for hearing upon request by either the remonstrator(s) or the petitioner(s), unless otherwise allowed by law or these Rules.
 - b. The Hearing Officer may transfer a petition currently scheduled under the hearing officer procedure to the BZA, without first conducting a hearing or making a decision, when the Hearing Officer determines that it would be in the best interest of all parties and/or the public for the BZA to hear, consider and act upon such petition.
 - c. In the event: (i) the staff files a written objection to a petition, (ii) the staff indicates that it does not object the approval of the petition if specified conditions are attached and the petitioner does not accept the conditions, or (iii) the Hearing Officer imposes conditions and permits or requires the owner of the property to make a written commitment and the petitioner does not accept these conditions or make the commitment, then the petition or application shall be considered either withdrawn or transferred to the BZA if requested by the petitioner.
 - d. Any order, requirement, decision or determination of the Hearing Officer may be appealed to the BZA by any interested party who files the appeal in accordance with the procedures set forth in the Elkhart County Zoning Ordinance within five (5) business days of that respective Order, requirement, decision or determination.
- E. Technical Review Committee. The Commission establishes a Technical Review Committee which shall be a permanent committee whose members shall consist of a representative from each of the following: County Planning Director , County Highway Engineer, County Surveyor, County Environmental Officer, and such other representatives as the Director may invite to aid in the review of scheduled petitions. The Director or her/his designee shall serve as chairman of the committee. The Technical Review Committee is established for the purposes listed below. In no way is the existence of this committee to be construed to limit the scope of discussion or findings of fact on any matter before the Commission or to prevent any member of the committee from raising additional issues which may come to light after the committee meeting. The Technical Review Committee shall send its comments to the required hearing but the preparation of these comments is not necessary for action by the Commission. *(Updated by the Plan Commission 11/14/13)*
 - 1. Powers
 - a. To review all subdivision petitions, Detailed and General Planned Unit Developments and Right-of-Way Vacations filed with the Commission

for compliance with the technical requirements of the Elkhart County Code of Ordinances; *(Updated by the Plan Commission 11/14/13)*

- b. To enhance the coordination of efforts to evaluate proposed land development;
- c. To encourage cooperation between the Commission, staff, and petitioners by resolving problems at the staff level where possible; and
- d. To provide nonbinding findings of fact and recommendations on subdivision petitions before the Commission.

2. Meetings

Meetings of the Technical Review Committee shall be as established on the Commission's annual Planning Calendar. *(Updated by the Plan Commission 11/14/13)*

2.06. Ponding Soils Map

- A. The Zoning Administrator shall maintain the Ponding Soils Map dated November 10, 2014.
- B. An application to amend the Ponding Soils Map for a particular property or portion of a property shall be in the form of a written request to the Zoning Administrator explaining the specific error in the map and the proposed modification. The application shall be accompanied by certified information from a soil scientist, geotechnical engineer, or hydrologic engineer satisfactorily demonstrating that the Ponding Soils Map is in error and that the proposed modification is appropriate.
- C. Any decision of the Zoning Administrator to deny the Ponding Soils Map amendment may be appealed to the Plan Commission by the applicant filing a written request with the staff within ten (10) calendar days from the date of the Zoning Administrator's decision. The appeal request must specifically set forth all grounds for the appeal. The appeal shall be heard by the Plan Commission as a staff item at a public meeting. *(Updated by the Plan Commission 1/8/15)*

Article 3 Meetings

3.01 Time, Place of Public Meetings

- A. Regular meetings of the Commission shall be held on the second Thursday of each month beginning at 9:00 a.m. at the Elkhart County Department of Public Services Building, 4230 Elkhart Road, Goshen, IN, unless another time or location is published. If the second Thursday is a County designated holiday, the meeting shall be held on a different date published on the Commission's annual Planning Calendar.
- B. As necessary, the Commission may also give notice and hold meetings at other places within Elkhart County where the meetings would be desirable to afford a better opportunity for public participation.

3.02 Applicability

These Rules apply to all meetings (including public hearings) required by state law, the Elkhart County Zoning Ordinance, the Elkhart County Subdivision Control Ordinance, or to any other special or regular meeting of the Commission.

3.03 Meetings Open To Public

- A. Except for executive sessions as permitted by law, all meetings of the Commission shall be conducted in accordance with the Indiana Open Door Law, Indiana Code 5-14-1-1.5-1 et. seq. On-site inspections of property involved in petitions before the Commission shall not be considered meetings.
- B. Public meetings are meetings that are open to the public, at which the public may attend and observe, but the public does not have to be allowed to participate or make comments, except as the Commission may allow at its sole discretion. Public hearings are formal proceedings to seek public comment on a particular matter and the public shall be allowed to participate or make comments within the guidelines of these Rules.

3.04 General Rules

- A. No action of the Commission is official unless authorized at a regular or special meeting by a majority of the entire membership of the Commission, or by a majority of the Executive Committee within the guidelines of these Rules.
- B. All meetings at which official action is taken shall be open to the general public.
- C. An agenda shall list all items to be considered by the Commission at a regular or special meeting.
- D. An agenda establishing the order of business shall be prepared for each meeting by the Commission staff and shall be distributed to members of the Commission in a manner acceptable to them at least two (2) business days before any regular meeting. The agenda shall be available for public inspection at the offices of the Commission at least two (2) business days before any regular meeting and shall also be posted at the location of the regular meeting at least two (2) business days prior to the regular meeting date.
- E. The Commission shall keep minutes of its meetings. The minutes of Commission meetings and records shall be filed in the offices of the Commission and are public records.

3.05 Quorum and Voting

- A. Five (5) voting members of the Commission shall constitute a quorum.
- B. Voting on matters requiring a public hearing shall be by a roll call voice vote, unless an alternative method is deemed appropriate by the Commission. Items of business not requiring a public hearing may be decided by a voice vote; if the outcome of a particular voice vote is unclear, the Chairman or any member may request a roll call voice vote.
- C. A record of the vote shall be kept in the minutes.

- D. If disqualified under Indiana Code 36-7-4-223, a member of the Commission may not participate in a hearing, decision, and/or recommendation concerning a “legislative act” or “zoning decision”, as applicable, as those terms are defined in Indiana Code 36-7-4-1016. A member shall declare his own disqualification. Questions as to whether such disqualification is appropriate may be determined by the Chairman of the Commission or the Commission’s attorney. The Commission shall enter in its records the fact that its member has a disqualification. Members are expected to disclose any personal, non-financial interest in any matter before the Commission, and may abstain from participation and voting on such matter. Nothing in this section shall prevent a member of the Commission from presenting a petition on his own behalf, but members may not directly or personally represent another person in a hearing before the Commission concerning a “zoning decision” or a “legislative act” as those terms are defined in Indiana Code 36-7-4-1016. Further, Commission members shall avoid expressions of bias both on the record at Commission meetings and off the record.
- E. Except as provided in “D” above, all Commission members present shall vote on each matter for which a public hearing is held. An abstention for any other reason shall have the same effect as a negative vote.

3.06 Regular Meetings

- A. The Commission shall conduct its regular meetings according to a yearly schedule (the annual “Planning Calendar”) adopted no later than the last meeting of the previous year. The Commission may amend the Planning Calendar at any time during a calendar year at a public meeting.
- B. If it is impossible to conduct a meeting at its regularly scheduled time, date or place, the Chairman may set an alternative time, date or place.
- C. The order of business at a regular meeting shall be as listed below, except that the staff may, after consulting with the Chairman, alter the order of business to promote efficiency and/or convenience for the Commission members, the public, or the petitioners. Except as noted below, after the agenda is announced the order may be changed at a public meeting by the Chairman upon consenting vote of a majority of those members present.
 - 1. Roll Call
 - 2. Approval of minutes of previous meetings
 - 3. Approval of Legal Ads
 - 4. Introduction of zoning and Subdivision Control Ordinances and staff reports into the record
 - 5. Action Items
 - 6. Audience Items
 - 7. Staff/Board Items discussed at the discretion of the presiding officer.
 - 8. Adjournment

3.07 Public Hearings and Notice

- A. The Commission may conduct a public hearing as part of any meeting, or at any other place or time if proper notice is given.
- B. In addition to those required by law, the Commission may hold public hearings when it decides that hearings will be in the public interest.
- C. Notice of public hearings shall comply with Indiana Code 5-3-1.
- D. Notice by publication and additional written notice shall be made as follows:
 - 1. Notice by Publication. The Commission staff shall cause to be published a notice one (1) time at least ten (10) calendar days prior to the date set for the public hearing in two (2) newspapers of general circulation in Elkhart County. The notice shall contain the following information: *(Updated by the Plan Commission 11/14/13)*
 - a. Date and place of the meeting.
 - b. Name of the applicant.
 - c. Reason for the public hearing.
 - d. Name of Township.
 - e. That the proposal is on file and available for inspection at the offices of the Commission.
 - f. The general location of the property described in the application.
 - g. That comments regarding the proposal may be made in writing and filed at the offices of the Commission. The comments must be received prior to the public hearing in order to be considered by the Commission.
 - h. That oral comments concerning the proposal will be heard.
 - i. That the hearing may be continued from time to time as may be found necessary by the Commission.
 - 2. Mailed Notice
 - a. Definition-Interested Parties
 - i. For primary approval of all subdivision matters by the Commission, interested parties shall include all owners of property within 300 feet of the area included in the petition.
 - ii. For Zoning Map matters, interested parties shall include all owners of property within 300 feet of the area included in the petition.

- iii. Interested parties shall also include all owners of property within the area included in a petition who are not petitioners.
- iv. If the subject matter of the Zoning Map proposal abuts or includes a county line (or a county line street or road or county line body of water), then all owners of real property to a depth of two (2) ownerships or one-eighth (1/8) of a mile into the adjacent county, whichever is less, are interested parties who must receive notice. The names and addresses of these interested parties shall be provided by the applicant with its application materials.
- v. For replacement and text change Zoning Ordinance matters, interested parties shall be all residents of Elkhart County but no mailed notice shall be required, notice by publication being reasonable and sufficient under the circumstances.
- vi. For matters involving vacation of all or a part of a plat, interested parties shall include every owner of land in the plat.
- vii. For matters involving the modification or termination of a commitment, interested parties shall be the same class of persons designated as interested parties for the type of underlying matter out of which the commitment arose. *(Updated by the Plan Commission 1/8/15)*
- viii. For matters involving the minor modification of an approved DPUD site plan, interested parties shall include the owners of land involved in the request and all owners of property which are adjacent to the area involved in the request. *(Updated by the Plan Commission 1/8/15)*

b. Method of Notice

- i. For Zoning Map matters, notice shall be given by the Commission staff as follows: By first class mail, postage prepaid, to all interested parties, deposited in the United States mail at least ten (10) calendar days before the date set for the public hearing.
- ii. For primary approval of all subdivision matters and for matters involving vacation of all or a part of a plat by the Commission, notice shall be given by the Commission staff as follows: By first class mail, postage prepaid, to all interested parties, deposited in the United States mail at least ten (10) calendar days before the date set for the public hearing.

- iii. For matters involving the minor modification of an approved DPUD site plan, written notice of the decision shall be mailed to the applicant and interested parties within five (5) business days of the decision of the Plan Director or the Plan Commission, as applicable.
(Updated by the Plan Commission 1/8/15)

c. Determination of Owners

The Commission staff shall determine the names and addresses of property owners to be notified from the property ownership records of the County Auditor. Such list shall be determined no more than one (1) month prior to the appropriate filing deadline.
(Updated by the Plan Commission 11/14/13)

d. The written notice shall include the following information.

- i. The general location and common address, if applicable, of the property and a general description of the land as stated in the application. *(Updated by the Plan Commission 11/14/13)*
- i. That the proposal is on file and may be examined at the offices of the Commission.
- ii. That the addressee may file written comments concerning the proposal with the offices of the Commission. The comments must be received prior to the public hearing in order to be considered by the Commission.

e. Purpose of Written Notice

Written notice is not required by state law. It serves to supplement the legally required public notice for persons in the vicinity of a proposal before the Commission. Written notice shall be considered helpful in disseminating information, but not necessary to meet legally required public notice. Having complied with the provisions of Section 3.07.D.2 of these Rules, the applicant shall be considered to have met the intent of written notice and adequate notice is deemed to have been served.

3. Supplemental Forms of Notice

- a. The Commission may, in its discretion, authorize supplemental forms of notice deemed necessary by the Commission to improve the dissemination of information regarding its activities.
- b. These supplemental forms of notice are not required by law and shall be considered helpful in disseminating information but not necessary to meet legally required public notice.

- c. All properties which are the subject of a Zoning Map change application or a Planned Unit Development application shall be posted as per the requirements on the respective adopted application forms. The current application forms adopted by the Commission are set forth on Exhibits A through H attached hereto and incorporated herein by reference.

4. Evidence of Notice

A certificate of mailing issued by the staff shall be considered evidence that mailed notice has been given. Personal appearance at the respective hearing shall also constitute evidence of notice.

- E. For matters involving vacation of all or a part of a plat, the petitioner shall pay all expenses of providing the required Mailed Notice.

3.08 Special Meetings

- A. Special meetings of the Commission may be called by the Chairman or by two (2) members of the Commission upon written request to the Secretary.
- B. The Secretary, by and through the staff, shall send a written notice fixing the time, date and place of the meeting to all members of the Commission at least three (3) business days before the meeting.
- C. Written notice of a special meeting is not required if:
 1. The date, time, and place of a special meeting are fixed in a regular meeting of the Commission; and
 2. All members of the Commission are present at that regular meeting.
- D. The order of business shall be established by the Commission staff.

3.09 Cancellation and Rescheduling

Whenever there is a lack of business for Commission consideration, the Chairman may dispense with a regular meeting. In such cases, the staff of the Commission shall give written notice to all members and the news media. Whenever it is determined that a quorum is not available for a regular or special meeting, the Chairman of the Commission may dispense with such meeting, and all business scheduled for such meeting will be automatically continued to the next regular or special meeting. In such cases, the staff of the Commission, shall to the extent possible, give written or oral notice to the Commission members, to those having business before the Commission, and to the news media. The Chairman of the Commission also may dispense with a scheduled regular or special meeting in the event of natural disaster, weather emergency, or similar causes. However, when the Commissioners declare a County-wide weather related emergency thereby closing all County buildings, the scheduled meeting shall be cancelled automatically without any action by the Chairman. In such cases, the staff of the Commission shall, to the extent possible, give written or oral notice to the Commission members, to those having business before the Commission, and to the news media. In the event of cancellation under this Section of the Rules, the Chairman may require renotification to interested parties, with such notice to be paid for by the Commission.

Article 4 Applications

4.01 Applications

- A. Each application to the Commission shall be filed with the staff on application forms adopted by the Commission and made available at the offices of the Commission or on the Plan Commission website and shall be accompanied by such information and exhibits as specified on such forms and/or required by applicable laws, rules and ordinances, including but not limited to all the application submission requirements of the Elkhart County Zoning Ordinance and the Elkhart County Subdivision Control ordinance. Staff may require additional information if the proposal warrants it. *(Updated by the Plan Commission 11/14/13)*
- B. The current application forms adopted by the Commission are set forth on Exhibits A through H attached hereto and incorporated herein by reference.
- C. The staff shall review the application and determine whether or not it is sufficient for review. If the application is sufficient, the staff shall set a date for the application's hearing. If the application is not sufficient for review, the staff may return the application to the applicant and shall not set a date for the application's hearing. Any communication purporting to be an application not on the prescribed application forms or not containing the information required shall be considered insufficient for review. *(Updated by the Plan Commission 11/14/13)*
- D. All application fees as required by the Commission's Uniform Schedule of Fees are due at the time of application. Upon written request, the Plan Director may waive an application fee only when the applicant is a local government entity functioning within Elkhart County. *(Updated by the Plan Commission 1/8/15)*
- E. The deadline for filing an application is on the date established as a filing deadline on the Commission's annual Planning Calendar. Any application which is insufficient for review at the time of the filing deadline shall not be docketed for hearing. *(Updated by the Plan Commission 11/14/13)*
- F. The Commission may limit the number of proposals to be heard at a regularly scheduled meeting.
- G. Except for proposals initiated by the Commission or by a legislative body, or proposals involving the vacation of all or a part of a plat under Indiana Code 36-7-4-711 and 714, the owner(s) of property included in any petition before the Commission must consent to the filing of the application. Such consent may be evidenced by the owner's signature on said application or by signature of a person having power of attorney authorizing such signature. In the case of property which is being purchased under a land contract or an option to buy, the signatures of both the purchasers and sellers or the duly authorized agents shall be required. Staff shall be entitled to rely upon the representations made and the documents submitted by the person filing the application as to ownership. *(Updated by Plan Commission 2/11/10)*
- H. Changes which are requested by the staff or the Technical Review Committee for compliance with the technical standards of the Elkhart County Subdivision Control Ordinance may be made after the application has been filed and required notices have been given; however, such changes will be reviewed by the staff only if they are filed with the staff by the deadlines detailed in the Planning Calendar. Additionally, it shall be

the responsibility of the applicant to secure the necessary written confirmations of technical compliance from the department responsible for the administration of their respective Elkhart County ordinance and to file the written confirmation with the staff by the deadlines in the Planning Calendar. These deadlines may be varied in the sole discretion of the staff in consideration of the nature of the changed to be made, the extent of the review required, the current workload, and other relevant factors. If the changes or corrections have not been made or addressed and filed by the deadlines detailed in the Planning Calendar, the Commission shall have the discretion to table the application. *(Updated by the Plan Commission 11/14/13)*

- I. Notwithstanding the foregoing, the application for a minor modification to an approved DPUD site plan shall be in the form of a written request explaining the specific modifications requested and the reasons for the modifications, and shall be accompanied by an updated site plan graphically demonstrating the proposed modifications. *(Updated by the Plan Commission 1/8/15)*
- J. Any decision of the Plan Director to allow or deny a minor modification to an approved DPUD site plan may be appealed to the Plan Commission by the applicant or interested party by filing a written request with the staff within ten (10) calendar days from the date of the Plan Director's decision. The appeal request must specifically set forth all grounds for the appeal. The appeal shall be heard by the Plan Commission as a staff item at a public meeting. *(Updated by the Plan Commission 1/8/15)*

4.02 Applications where the Elkhart County Advisory Plan Commission is the Designated Municipal Plan Commission.

- A. The Commission and the following Municipalities have adopted Comprehensive Plans that include areas within the corporate boundaries and/or Area(s) of Influence (a.k.a Urban Growth Boundaries; 10 or 20 Year Annexation Plans; Urban Services Boundaries; etc.):
 - 1. Town of Wakarusa, Indiana.
 - 2. (reserved)
 - 3. (reserved)
 - 4. (reserved)
- B. All applications under Section 4.01 to be considered by the Commission for land located within the corporate boundaries and/or the Area(s) of Influence for the above designated Municipalities shall also require a **Letter of Review and Consideration** from the respective Municipality be filed with the application.
- C. The **Letter of Review and Consideration** will state whether or not the application being submitted to the Commission conforms to the all pertinent municipal policies and ordinances of the respective Municipality.
 - 1. The **Letter of Review and Consideration** shall specify any deviations from those pertinent municipal policies and ordinances.
- D. Limitations for the **Letter of Review and Consideration**:

1. The **Letter of Review and Consideration** shall not conflict with the powers and duties reserved to the Commission.
 2. The **Letter of Review and Consideration** shall not conflict with the powers and duties reserved to the Board of County Commissioners for Elkhart County.
 3. The **Letter of Review and Consideration** shall be prepared by a “technical committee” determined by each respective Municipality. While this “technical committee” may have members of the respective Municipality’s legislative body on it, the number of legislative members on the “technical committee” shall not constitute a quorum for that body or otherwise be in violation of any applicable Open Door laws.
- E. Each Municipality shall establish a format and designate signatories for the **Letter of Review and Consideration**. The form for the **Letter of Review and Consideration** as established by each respective Municipality shall be filed with and approved by the Commission as amendment to its Rules of Procedure.
1. Town of Wakarusa, Indiana. – See Exhibit G
 2. (reserved)
 3. (reserved)
 4. (reserved)
- (Updated by the Plan Commission 3/12/09; modified 11/14/13)*
- F. Each Municipality may establish filing deadlines for the **Letter of Review and Consideration** and such deadlines, if filed with and approved by the Commission, may be included with application information distributed by the Commission Staff.
- G. Each Municipality may establish procedures to give notice to the Municipality that a request for a **Letter of Review and Consideration** has been filed.
- H. This Section 4.02 shall not be implemented for a Municipality until the following items have been complied with:
1. The form of the **Letter of Review and Consideration** from the respective Municipality has been approved by the Commission.
 2. A period of sixty (60) calendar days has lapsed from the date of approval of said form of the **Letter of Review and Consideration** by the Commission.

(Updated by the Plan Commission 8/14/08; modified 11/14/13)

Article 5 Conduct of Pubic Hearings

5.01 Conduct

- A. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of courtesy.
- B. The presiding officer shall preserve order and may warn any person present that particular conduct is a breach of courtesy. If a Commission member persists in this conduct following a warning, the Commission may vote to censure the offending member. If any other person persists in this conduct following a warning, the presiding officer may order that person expelled from the meeting.

- C. Every person appearing before the Commission shall abide by the directions of the Chairman or presiding officer.
- D. The Chairman shall determine the admissibility of any evidence and shall have the authority to prohibit repetitious and irrelevant testimony.
- E. All commentary at a public hearing shall be addressed to the Commission. Such commentary shall not be permitted between opposing parties without the consent of the Commission.
- F. Commission members may preside over public hearing items on a rotating basis as determined by the staff and said member shall be the presiding officer for purposes of their respective public hearing items.

5.02 Presentation Order

A. Staff Report.

1. The Commission's staff shall present a report on the proposal. The report may include letters of remonstrance or other information received by staff, site history, background information, analysis, comments on technical conformity, and a staff recommendation or other information as the staff or Commission deems advisable or appropriate in their discretion. The report shall be available to the applicant and the public three (3) business days before the respective scheduled meeting date at the offices of the Commission. However, letters of remonstrance or other information received by the staff up to the time of the scheduled hearing shall be presented to the Commission at the public hearing. The Commission may interject during the staff report with comments or questions. *(Updated by the Plan Commission 11/14/13)*

B. Applicant.

1. The applicant or the applicant's representative must appear before the Commission for the proposal to be heard. If no one appears to represent a proposal, the Commission may, in its discretion, table it, dismiss it, take final action, and/or hear testimony from persons appearing at the hearing on the proposal.
2. The applicant shall first present the facts and arguments in support of its proposal.
3. The burden shall be on the applicant to supply all information necessary for a clear understanding of the proposal.
4. The Commission and staff may interject during the applicant's presentation with comments or questions.
5. The applicant may supplement its application at the public hearing at the discretion of the Commission. The supporting or supplemental information offered by the applicant shall include sufficient copies for the Commission, the staff and for the general public.

C. Public Comments.

1. Following the applicant's presentation, comments from the public shall be taken.
2. Any person may appear in person or by representative to participate in a discussion of an item before the Commission.
3. Any person wishing to speak must state their name and address.
4. The Commission and staff may query any person speaking to clarify that person's position.
5. Remonstrator's may present evidence in opposition to the application at the discretion of the Commission. Any such evidence or information shall include sufficient copies for the Commission, the staff, and the applicant. The staff may assist the remonstrator's in presenting sufficient copies as required under this Rule.
6. Any petition in support of or in opposition to any application or matter being considered by the Commission shall be in the form prescribed by the Commission or substantially similar thereto, and shall include the signers' names and addresses.
7. Any person speaking shall use their best efforts to present new evidence and not be repetitious regarding evidence already presented to the Commission.

D. Time for Rebuttal and to Answer Questions Raised.

1. The applicant should avoid presenting new areas of evidence except as required for rebuttal and to answer questions raised by the public, the Commission or the staff.
2. The Commission and staff may interject during the applicant's rebuttal with questions or comments.

E. Public Portion of the Hearing Closed.

1. Once all testimony is taken, the public portion of the hearing may be closed by a voice vote of the Commission.
2. No further testimony will be taken once the public portion of the hearing is closed except that the Commission may address questions or comments to the applicant or other persons if, in the Commission's opinion, the information is necessary to make an informed decision.

3. The Commission may discuss the proposal with staff or among its members for any length of time deemed necessary.
4. After the public hearing is closed and the Chairman concludes the Commission discussion, the Chairman shall call for a motion on the item before the Commission.

F. Commission Discussion and Voting.

Any motion which has been made and seconded is open for discussion by the Commission members. Voting shall be in accordance with the provisions of Section 3.05 of these Rules. At the conclusion of the vote, the recording Secretary shall report the vote and it shall be so recorded.

G. Evidence

Any evidence presented to the Commission at the public hearing, or an accurate copy thereof, shall be kept by the Commission for its records for at least thirty (30) calendar days after the hearing date or for as long as the Commission or its staff may otherwise deem advisable. *(Updated by the Plan Commission 11/14/13)*

5.03 Time Limits

The Commission, in its discretion, shall have the authority to limit the length of testimony by each speaker as deemed appropriate to a fair public hearing.

5.04 Tabling

A. The hearing of any case may be tabled subject to the following provisions:

1. Applicant or Interested Party. The applicant or an interested party as defined by these Rules may request and be granted a tabling if the Commission deems it necessary to make an informed decision. The applicant may also request an administrative tabling in accordance with these Rules.
2. The Commission. The Commission may, on its own, table any item from one (1) meeting to another.
3. Staff. Staff may recommend tabling of any item, subject to Commission approval.

B. Procedure for applicant-initiated tabling request.

1. Initial applicant-initiated tabling request.
 - a. Administrative Tabling.
 - i. A request for an administrative tabling shall be filed with the Director or staff prior to the scheduled hearing.
 - ii. A request for administrative tabling shall be made in writing and shall describe the need for the tabling.

- iii. The Director or staff shall automatically grant the request if the staff has not yet sent the required legal notice for the application to the newspaper(s) for publication pursuant to Section 3.07.D.1 of these Rules.
- iv. Once the staff has sent the required legal notice for the application to the newspaper(s) for publication pursuant to Section 3.07.D.1 of these Rules, the Director or staff shall not grant the administrative tabling and the request shall thereafter only be considered by the Commission at the public hearing.

b. Requesting a Tabling at a Public Hearing.

- i. An applicant may request a tabling directly from the Commission at a public hearing.
- ii. Unless expressly authorized otherwise by the Commission, the tabling shall be until the next regularly scheduled meeting of the Commission.
- iii. The Commission may accept public comment for the record even if a tabling has been requested and even when the applicant or its representative is not present.

2. Subsequent Applicant-Initiated Tabling Requests.

Any tabling request after the initial request shall be made by the applicant directly to the Commission at a public hearing.

3. Maximum Number and Total Time of Applicant-Initiated Tablings.

- a. The maximum number of applicant-initiated tablings granted for any particular agenda item shall be limited to three (3).
- b. In no case shall a particular agenda item be tabled by an applicant for more than ninety (90) calendar days total time.
- c. The Commission may agree to applicant-initiated tabling in excess of the maximum number permitted, or for more than the total time permitted, or both, if the Commission finds that unusual circumstances warrant it.

C. Dismissal of Tabled Items.

- 1. Any agenda item that has been previously tabled and is unable to proceed to hearing may be dismissed by the Commission in its discretion.
- 2. A dismissal by the Commission under this Section of these Rules does not constitute a denial of the agenda item.

3. Any item dismissed under Section 5.04.C.1 or 5.04.C.2 of these Rules shall be eligible for rehearing as a new case with a new case number only after a new application is submitted and all applicable fees have been paid.

D. Withdrawal or Denial of Tabled Items.

Nothing in these Rules prevents the Commission from accepting a withdrawal of, or denying, an agenda item subject to Section 5.04, in lieu of a tabling if the Commission deems it appropriate under the circumstances.

E. Interested Party Tabling Request.

Any tabling request made by an interested party shall be made directly to the Commission at a public hearing. The interested 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.

F. Re-Notification.

1. For any tabling, the Commission may require re-notification of property owners within the written notification boundary established under these Rules if doing so serves the public interest.
2. Any tabling granted beyond the next regular Commission meeting shall automatically require re-notification of property owners within the written notification boundary established under these Rules.
3. Re-notification costs shall be paid for by the applicant, interested party or the Commission, as deemed appropriate by the Commission.

Article 6 Final Disposition of Cases

6.01 Action By The Commission

Except as otherwise allowed by these Rules, action by the Commission shall follow the following guidelines:

A. Replacement Zoning or Subdivision Control Ordinances after Repealing the Entire Ordinance.

Action by the Commission shall be in the form of a recommendation on the proposal to the Board of Commissioners. The proposal may be voted on as submitted or as modified by the Commission. Modifications to the proposal as submitted shall be made part of the motion. The following recommendations are possible:

1. Recommend adoption of the proposal as submitted.
2. Recommend adoption of the proposal as modified by the Commission.

B. Text Changes to the Zoning and Subdivision Control Ordinances.

Action by the Commission shall be in the form of a recommendation on the proposal to the Board of Commissioners. The proposal may be voted on as submitted or as modified by the Commission. Modifications to the proposal as submitted shall be made part of the motion. The following recommendations are possible:

1. Recommend adoption of the proposal as submitted.

2. Recommend adoption of the proposal as modified by the Commission.
 3. Recommend the proposal not be adopted as submitted.
 4. Make no recommendation.
- C. Zoning Map Amendments (Excluding Planned Unit Developments and Conditional Industrial Unit Developments) and Public Way Vacations.
1. Action by the Commission shall be in the form of a recommendation on the proposal to the Board of Commissioners. The proposal may be voted on as submitted or as modified by the applicant as permitted by section 6.05.B. of these Rules. Modifications to the proposal as submitted shall be made part of the motion. The following recommendations are possible:
 - a. Recommend adoption of the proposal as submitted.
 - b. Recommend adoption of the proposal as modified by the applicant.
 - c. Recommend the proposal not be adopted as submitted.
 - d. Make no recommendation.
 2. When recommending adoption of a Zoning Map amendment to the Board of Commissioners, the Commission may, as part of its recommendation, require or allow the owner of the parcel of real property involved in the proposal to make a written commitment to the Commission concerning the use or development of that parcel.
 3. The final determination of the Commission shall be in writing, signed and certified by the Secretary.
- D. Planned Unit Developments and Conditional Industrial Unit Developments.
1. Action by the Commission shall be in the form of a recommendation on the proposal to the Board of Commissioners. The proposal may be voted on as submitted or as modified by the applicant as permitted by section 6.05.B. of these Rules. Modifications to the proposal as submitted shall be made part of the motion. The following recommendations are possible:
 - a. Recommend adoption of the proposal as submitted.
 - b. Recommend adoption of the proposal as modified by the applicant.
 - c. Recommend the proposal not be adopted as submitted.
 - d. Make no recommendation.
 2. When recommending adoption of a Planned Unit Development or a Conditional Industrial Use Development to the Board of Commissioners, the Commission may, as part of its recommendation: (a) impose reasonable conditions and conditions for issuance of Improvement Location Permits, and/or (b) require or allow the owner of the parcel of real property involved in the proposal to make a

written commitment to the Commission concerning the use or development of that parcel.

3. The final determination of the Commission shall be in writing, signed and certified by the Secretary.

E. Plats; Appeals of Decisions of the Plat Committee, Plan Director or Zoning Administrator; DPUD Site Plan Minor Modifications; and any other action not requiring adoption by the Board of Commissioners.

1. Action by the Commission shall be in the form of an approval or denial. The proposal may be voted on as submitted or as modified by the Commission. Modifications to the proposal as submitted shall be made part of the motion.
2. As part of its primary approval of a proposed subdivision plat, its waiver of the standards fixed in the Elkhart County Subdivision Control, or its approval of a vacation of all or part of a plat, the Commission may: (a) impose reasonable conditions and/or (b) require or allow the owner of the parcel of real property involved in the proposal to make a written commitment to the Commission concerning the use or development of that parcel.
3. The final determination of the Commission shall be in writing, signed and certified by the Secretary. Written notice of the action of the Commission shall be sent to the applicant. In the case of a vacation of all or a part of a plat, the Commission shall furnish a copy of its decision to the Elkhart County Recorder for recording.

F. Reports from Staff, Committees or Other Third Parties. Action by the Commission shall take an appropriate form:

1. Vote to approve or deny.
2. Take information without any action.

G. Adverse Decisions.

No petition for subdivision of land or for vacation of all or a part of a plat which has been denied by the Commission and no petition for amendment to the Zoning Ordinance or Zoning Maps which has been denied by the Board of Commissioners shall again be placed on the docket for hearing within a period of one (1) year from the date of such respective decision unless the Commission finds that there is a substantial change in the petition or circumstances effecting the petition, in which case the matter may again be placed on the docket for hearing at a subsequent meeting after a new application has been filed and new application fees have been paid. A motion to permit redocketing shall be duly adopted by the unanimous vote of all Commission members present.

H. Indecisive Vote.

In any event where not all members of the Commission are present and there is a tie or indecisive vote, and the matter is continued or tabled to a subsequent meeting, the member(s) not present at the original hearing(s) on the matter may read the minutes and review the evidence presented at that hearing(s) and that member(s) shall be entitled to participate and vote on the matter at the subsequent hearing(s).

6.02 Findings Of Fact

Where appropriate or as required by statute or ordinance, the Commission shall set forth its determinations, recommendations, and conditions of approval in written findings of fact.

6.03 Dismissal

- A. The Commission may dismiss a case for lack of prosecution or lack of jurisdiction when:
 - 1. An applicant or representative thereof fails to appear at any meeting;
 - 2. The Commission, for any reason, is unable for two (2) consecutive meetings to obtain from the applicant or representative thereof information needed to determine the compliance of a petition with applicable ordinances; or
 - 3. The application has been filed improperly.
- B. Nothing in this section shall be interpreted to mean that the Commission is required to dismiss a petition, if the Commission members determine that additional continuance be warranted.
- C. A case so dismissed shall not be heard again until one (1) year after the date of the dismissal decision by the Commission.
- D. A proposal so dismissed may be considered for hearing before one (1) year if it is substantially changed from the original. To qualify for a hearing before one (1) year, the Commission shall determine if a change sufficient enough to warrant hearing before one (1) year has been made to the proposal, in which case the matter may again be placed on the docket for hearing at a subsequent meeting after a new application has been filed and new application fees have been paid. A motion to permit redocketing shall be duly adopted by the unanimous vote of all Commission members present.

6.04 Withdrawal

- A. An applicant may withdraw a case without prejudice by filing a written request with the Director or staff before the staff has sent the required legal notice for the application to the newspapers(s) for publication pursuant to Section 3.07.D.1 of these Rules. A withdrawal so made shall be removed from the Commission agenda by the staff.
- B. After the staff has sent the required legal notice for the application to the newspaper(s) for publication pursuant to Section 3.07.D.1 of these Rules, an applicant may appear at a hearing and request the case be withdrawn. The request may be granted or denied by the Commission. Where the request is granted by the Commission, the proposal shall not be heard again until six (6) months after the date of the action by the Commission.
- C. An applicant may not request to withdraw a case after a vote has been ordered by the Chairman of the Commission.
- D. Where the request is granted by the Commission, the proposal may be considered for hearing before six (6) months if it is substantially changed from the original. Before the

withdrawn proposal can be placed again on the docket, the Commission shall determine if (6) months has been made to the proposal, in which case the matter may again be placed on the docket for hearing at a subsequent meeting after a new application has been filed and new application fees have been paid. A motion to permit redocketing shall be duly adopted by the unanimous vote of all Commission members present.

6.05 Commitments

- A. The Commission (or Plat Committee, as applicable) may require or allow the owner of a parcel of real property subject to a proposal for rezoning, primary approval of a proposed subdivision plat, or a vacation of all or part of a plat before the Commission to make a written commitment concerning the use or development of that real estate as permitted by Indiana Code 36-7-4-1015. This commitment document may be created by the Commission attorney/staff or the owner of the parcel of real property and shall include the specific commitments set forth by the Commission and/or the owner in addition to the standard terms in the commitment form adopted by the Commission; the resulting commitment document shall be in substantially the form set forth in Exhibit J of these Rules and incorporated herein by reference.
- B. The completed commitment form shall be signed by the owner in front of a notary public and then approved by the Commission; within thirty (30) calendar days after Commission approval, the completed commitment form shall be recorded in the Office of the Elkhart County Recorder by the owner with a copy of the recorded document placed in the proposal or application file. The commitment shall be effective immediately upon approval by the Commission. *(Updated by the Plan Commission 11/14/13)*
- C. The owner shall give notice of the commitment, whether recorded or unrecorded, to any subsequent owner and/or any other person or persons acquiring an interest in any portion of the parcel of real property. The owner and any subsequent owner and/or any other person or persons acquiring an interest in any portion of the parcel of real property shall be bound by the terms of the commitment.
- D. If any person fails to comply with the commitment, that person and the respective parcel of real property shall be considered to be violation of the Elkhart County Zoning Ordinance and the commitment itself, and the commitment shall be enforced in accordance with the provisions of the Elkhart County Zoning Ordinance and/or I.C. 36-7-4-1015. The Commission and/or the Elkhart County Zoning Administrator are authorized to enforce the terms of the commitment; also, any property owner adjacent to the parcel of real property or any specifically affected person listed in the commitment are entitled to enforce the terms of the commitment separately and independently from the Commission and/or Elkhart County Zoning Administrator.
- E. A commitment may contain terms providing for its own expiration or terms providing for automatic termination. A commitment does not automatically terminate upon: (1) a legislative body's adoption of a Zoning Map amendment (a.k.a. rezoning) covering all or any portion of the parcel of real property, or (2) a change in the land use on the parcel of real property to which the commitment relates. Except as otherwise stated in the commitment, any commitment may be modified or terminated only by a decision of the Commission made at a public hearing after notice is given in accordance with Commission rules.

- F. Requiring or allowing a commitment to be made does not obligate the Commission to adopt, approve or favorably recommend the proposal or application to which the commitment relates.

6.06 Amendment

- A. Except as may be required under Section 4.01 of these Rules, no petition can be amended in a manner which increases the intensity of use (e.g., adds additional lots or land, or changes to a zoning district permitting more uses or more intensive uses) or substantially effects the proposal in any other way that is less restrictive after the filing deadline. Any such amendment request shall be treated as a new application and the item as amended shall be refiled, readvertised, docketed for hearing at a subsequent meeting, and notice given to interested parties. If notice in accordance with these Rules already has been given, the original item shall be deemed automatically withdrawn and the item as amended shall be docketed for hearing at a subsequent meeting, readvertised and notice again given to interested parties. The applicant shall be required to pay the cost of such readvertisement and renotification.
- B. Except as may be required by section 4.01 of these Rules, it shall be within the discretion of the Commission at the scheduled hearing to approve a petitioner's request to amend the petition in any manner which decreases the intensity of use (e.g., removes lots or land, changes to a zoning district which is more restrictive) or-substantially effects the proposal in any other way that is more restrictive. Any interested parties 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; the applicant shall be required to pay the cost of any such readvertisement and renotification.

Article 7 Miscellaneous

7.01 Amendments To These Rules

- A. Amendments, supplements or changes to these Rules may be made by the Commission at any regular or special meeting upon the motion of any member of the Commission, duly seconded and receiving an affirmative vote of two-thirds (2/3rds) of the total membership of the Commission.
- B. The suspension of any rule may be ordered at any meeting by an affirmative vote of two-thirds (2/3rds) of the total membership of the Commission.

7.02 Schedule of Fees

- A. The Commission shall, in accordance with the requirements of Indiana Code 36-7-4-411 and Indiana Code 36-7-4-704, establish a uniform schedule of fees ("Uniform Schedule of Fees"). Such fees shall not exceed the actual costs of providing such services. Fees established may include fees for copying documents under the provisions of Indiana Code 5-14-3-8(d). The Uniform Schedule of Fees is attached hereto as Exhibit I and incorporated herein by reference.
- B. In no case shall the Commission take action on any application for which applicable fees have not been paid in full. No part of any fee paid pursuant to these Rules shall be returnable to the petitioner without approval of the Director.

C. Nothing herein shall be construed to require a fee for actions initiated in the public interest by the Commission.

7.03 Severability

If a court of competent jurisdiction finds any provisions of these Rules to be illegal, invalid, or unenforceable as to any person or circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other person or circumstance. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of these Rules shall not affect the legality, validity or enforceability of any other provision of these Rules.

(Updated by the Elkhart County Plan Commission 3/12/09)

7.04 Conflict

To the extent these Rules conflict with provisions of the Elkhart County Zoning Ordinance, the provisions of the Elkhart County Zoning Ordinance shall control. *(Updated by the Plan Commission 1/8/15)*

The foregoing Rules of Procedure of the Elkhart County Advisory Plan Commission were approved and adopted by the affirmative vote of said Commission on the 8th day of January, 2015, and shall enter into effect immediately upon adoption by said Commission.

Elkhart County Advisory Plan Commission

Attest:

By: _____
Steve Warner, its Chairman

Steven Edwards, its Secretary

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EXHIBIT TABLE OF CONTENTS

- A. Elkhart County Application for Primary Approval Form
- B. General Planned Unit Development Procedures
- C. Detailed Planned Unit Development Procedures, Requirements & Application Checklist
- D. Rezoning Application Requirements and Forms
- E. Notice of Sufficiency
- F. Notice of Insufficiency
- G. Letter of Review and Consideration from Wakarusa Technical Review Committee
- H. Administrative Adjustment Application Requirements & Questionnaire
- I. Uniform Schedule of Fees
- J. Commitment Form
- K. Residency Form

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Exhibit A - Elkhart County Application for Primary Approval

For a Subdivision with a proposed name of: _____

I the undersigned acknowledge that a "Sufficient Application" is the filing of the following identified documents with the required number of copies.

Furthermore, I acknowledge that the acceptance of these documents and application fees shall not be construed as waiving the requirement for the filing of a "Sufficient Application" Or a waiving of any technical deficiencies or irregularities identified by the technical review committee.

I have submitted the following:

12 Copies with One Original of this Application Form. (Signed by Property Owner or Agent of the owner)

3 Copies of the Health Department Packets. (This packet includes "The Matrix" and "The Standards") (see SCO* 3.04C)

3 Copies of the Highway Department Packet. (Including TIVE Form for Major Residential Subdivisions or Any Nonresidential Subdivision) (see SCO 3.04D)

3 Copies of the County Surveyor Map. (On a 11" by 17" sheet) (see SCO 3.04E)

3 Copies of the Soil & Water Conservation District / Stormwater Management Map. (see SCO 3.04F)

12 Copies of the Primary Development Plan.

12 Copy of Primary Development Plan. (Reduced to an 11" by 17" sheet)

12 Copies with One Original (if required) **of the Urban Growth Boundary Letter Or Jurisdiction Review Letter.**

*SCO = Subdivision Control Ordinance

Signature _____

Agent

Owner

Licensed Surveyor

Registration Number

Date: _____

This application is for Primary Approval of a (-Major -Minor) Subdivision. Generally located

N S E W Corner/Side of _____, _____ mile / feet

N S E W Corner/Side of _____, _____ mile / feet

Of _____ Township (Political Township)

Present Zoning: _____ Tax Code Number _____ - _____ - _____
Township Section Block parcel part of additional Parcels
(see notes)

Located in the following Jurisdiction(s):

- Town of Bristol
- Town of Wakarusa
- Town of Millersburg
- Town of Middlebury
- Elkhart County

- Urban Growth Area for:

 - Wakarusa
 - Bristol
 - Millersburg
 - Middlebury
 - City of Elkhart
 - Goshen
 - Syracuse

Name

Address

Phone

Email

Land Owner:

If a Corporation or Business this must be the resident agent's information

Name

Address

Phone

Email

Developer:

If different from the Owner(s)

Name

Address

Phone

Email

Agent:

Name

Address

Phone

Email

Surveyor /
Engineer:

I will accept Notice of Sufficiency or Insufficiency by:

Fax at () _____

E-Mail at _____

Notes:

Exhibit B - General Planned Unit Development Procedures

Filing Date: _____ with a possible Public Hearing: _____

Filing Procedures:

- All applications will be accepted as submitted to the staff on or before the noted filing dates.
- Application must be submitted with a \$ 250.00 filing fee.
- In order for an application to be submitted to the Elkhart County Advisory Plan Commission for Public Hearing it must be complete and have all items noted on the Application Checklist.
- All items noted on the Application Checklist must be submitted at the time of application or the application will not be processed by the staff. Processing will begin upon receipt of the noted deficiencies.
- When all Application Deficiencies have been corrected the processing of the petition will be for the next available Public Hearing.

Application Processing:

- Will begin upon the receipt of a complete application and filing fees.
- Review Procedures:
 - The application will be submitted to the Technical Review Committee with the date and time being sent to the applicant.
 - The Technical Review Committee will make the following recommendations:
 - Non-compliance with Specifications - I Planned Unit Developments
 - Suggestions to meet the purposes and criteria of Specifications - I Planned Unit Developments
 - Make a Recommendation of Compliance.

Setting for Public Hearing:

- All General Planned Unit Developments must be considered at a Public hearing by the Elkhart County Advisory Plan Commission and only after a complete and correct proposal has been submitted.
- The mailing of Notice to the Neighboring Property Owners and the publishing of the Legal Advertisement will be done by the staff as follows:
 - When the Technical Review Committee gives a favorable recommendation; or
 - Upon receipt of a the corrections (deficiencies) that reflect the items of non-compliance stated by the Technical Review Committee; or
 - By written request of the applicant.
 - Please Note: The application for a General Planned Unit Development will be considered as a proposal for a map amendment only after the Legal Advertisement and Notice to the Neighboring Property Owners have been mailed or published in accordance with Indiana Codes.
- The applicant will be required to post the property ten (10) calendar days prior to the public hearing with signs supplied by the staff in an area visible from a public right of way. Should the actual Public Hearing date change it is the applicant's responsibility to secure from the staff corrected signs.

Public Hearing:

- The applicant and the neighboring property owners within 300 feet will be given notice of the date and the time of the public hearing by mail.
 - The Public Hearing Procedures are as follows:
 - The Staff for the Plan Commission will present the Staff Report, the Technical Review Committee Recommendation and Suggestions, with the Staff Recommendations and findings.
 - The Applicant/petitioner will then present the proposal for the General Planned Unit Development with information and facts to justify a favorable finding.
 - The Plan Commission will:
 - Ask for persons in support of the petition to comment.
 - Then persons needing to have more information.
 - Then persons in remonstrance.
- It is suggested that all persons not repeat presented information.
- The Applicant/petitioner will be permitted to answer request for more information and to rebut the remonstrance presented. The presentation of new information will not be permitted.

Recommendations by the Plan Commission:

- The Plan Commission will close the Public Hearing and will consider the proposal.
 - At this time no further input will be permitted.
 - The Plan Commission Members can make specific request for more fact, findings, and information after the Public Hearing has been closed.
- After consideration the following recommendations can be made by the Plan Commission with written findings of fact based on the criteria established by Specification - I.
 - Favorable recommendation.
 - Favorable recommendation with Reasonable Conditions.

- Favorable recommendation with Conditions for issuance of Improvement locations permits.
- Unfavorable recommendation.
- No recommendation.

Legislative Body:

- All General Planned Unit Development proposals will be certified to the appropriate Legislative body with jurisdiction over the General Planned Unit Development.
- The Legislative Body may:
 - Adopt a General Planned Unit Development Ordinance as certified by the Plan Commission.
 - Adopt a General Planned Unit Development Ordinance as proposed and/or impose reasonable conditions for issuance of Improvement locations permits.
 - Reject the proposal.
 - Return proposal for further review and consideration by the Plan Commission.

General Planned Unit Development Requirements

- Applications forms adopted by the Plan Commission**
- Legal Description for parcel**
- 13 Copies Narrative of Request describing**
 - Intention for ownership,**
 - Proposed Land-uses and Percentage of site for each uses**
 - Open Space ___%
 - Buffers ___%
 - Single Family residential ___%
 - Two Family Residential ___%
 - Multi-Family Residential ___%
 - Office ___%
 - Limited Business ___%
 - General Business ___%
 - Business and Wholesale ___%
 - Limited Manufacturing ___%
 - General Manufacturing ___%
 - Intentions regarding water and sewage disposal**
 - Listing of all deviations from the development standards requested**
 - Dwelling Densities for residential ___/ per acres**
 - How development relates with surrounding land uses**
 - Other information Reports (13 copies)**
- Site Plan (13 copies) showing:**
 - Name of General Planned Unit Development
 - Scale used
 - General location of structures
 - North arrow
 - Building coverage approximate calculations
 - Phasing of projects
 - Demonstrations of vehicle and pedestrian circulation
 - Parking areas
 - Landscaping
 - Height, scale, materials, and style of improvements
 - Signage (location, height, and size)
 - Recreation Space
 - Name of Owner and Developer and address
 - Boundary of General Planned Unit Development by unique and identified line
 - Adjacent parcels boundaries lines shown in hatched lines
 - General property lines and easements
 - Residential and commercial driveways adjacent to and with in 200 feet
 - Broad identifications of all land uses

Exhibit C - Detailed Planned Unit Development Procedures

- Filing Date: _____ with a possible Public Hearing: _____
- Filing Procedures:
 - All applications will be accepted as submitted to the staff on or before the noted filing dates.
 - Application must be submitted with a \$ 300.00 filing fee.
 - In order for an application to be submitted to the Elkhart County Advisory Plan Commission for Public Hearing it must be complete and have all items noted on the Application Checklist.
 - All items noted on the Application Checklist must be submitted at the time of application or the application will not be processed by the staff. Processing will begin upon receipt of the noted deficiencies.
 - When all Application Deficiencies have been corrected the processing of the petition will be for the next available Public Hearing.
- Application Processing:
 - Will begin upon the receipt of a complete application and filing fees.
 - Review Procedures:
 - The application will be submitted to the Technical Review Committee with the date and time being sent to the applicant.
 - The Technical Review Committee will make the following comments:
 - Non-compliance with Specifications - I Planned Unit Developments
 - Suggestions to meet the purposes and criteria of Specifications - I Planned Unit Developments
 - Make a Recommendation of Compliance.
- Setting for Public Hearing:
 - All Detailed Planned Unit Developments must be considered at a Public hearing by the Elkhart County Advisory Plan Commission and only after a complete and correct proposal has been submitted.
 - The mailing of Notice to the Neighboring Property Owners and the publishing of the Legal Advertisement will be done by the staff as follows:
 - The Technical Review Committee makes a recommendation of compliance; or
 - Upon receipt of a the corrections (deficiencies) that reflect the items of non-compliance stated by the Technical Review Committee; or
 - By written request of the applicant.
 - Please Note: The application for a Detailed Planned Unit Development will be considered as a proposal for a map amendment only after the Legal Advertisement and Notice to the Neighboring Property Owners have been mailed or published in accordance with Indiana Codes.
 - The applicant will be required to post the property ten (10) calendar days prior to the public hearing with signs supplied by the staff in an area visible from a public right of way. Should the actual Public Hearing date change it is the applicant's responsibility to secure from the staff corrected signs.
- Public Hearing:
 - The applicant and the neighboring property owners within 300 feet will be given notice of the date and the time of the public hearing by mail.
 - The Public Hearing Procedures are as follows:
 - The Staff for the Plan Commission will present the Staff Report, the Technical Review Committee Recommendation and Suggestions, with the Staff Recommendations and findings.
 - The Applicant/petitioner will then present the proposal for the Detailed Planned Unit Development with information and facts to justify favorable findings.
 - The Plan Commission will:
 - Ask for persons in support of the petition to comment.
 - Then persons needing to have more information.
 - Then persons in remonstrance.
 - It is suggested that all persons not repeat presented information.
 - The Applicant/petitioner will be permitted to answer request for more information and to rebut the remonstrance presented. The presentation of new information will not be permitted.
- Recommendations by the Plan Commission:
 - The Plan Commission will close the Public Hearing and will consider the proposal.
 - At this time no further input will be permitted.
 - The Plan Commission Members can make specific request for more fact, findings, and information after the Public Hearing has been closed.
 - After consideration the following recommendations can be made by the Plan Commission with written findings of fact based on the criteria established by Specification - I.
 - Favorable recommendation.

- Favorable recommendation with Reasonable Conditions.
 - Favorable recommendation with Conditions for issuance of Improvement locations permits.
 - Unfavorable recommendation.
 - No recommendation.
- Legislative Body:
- All Detailed Planned Unit Development proposals will be certified to the appropriate Legislative body with jurisdiction over the Detailed Planned Unit Development.
 - The Legislative Body may:
 - Adopt a Detailed Planned Unit Development Ordinance as certified by the Plan Commission.
 - Adopt a Detailed Planned Unit Development Ordinance as proposed and/or impose reasonable conditions for issuance of Improvement locations permits.
 - Reject the proposal.
 - Return proposal for further review and consideration by the Plan Commission.
- Recording of Detailed Planned Unit Development Ordinance:
- The Detailed Planned Unit Development Ordinance may be recorded by the staff, upon receipt of necessary recording fees or by the applicant.

Detailed Planned Unit Development Requirements

- Applications forms adopted by the Plan Commission**
- Legal Description for parcel**
- 13 Copies Narrative of Request describing**
 - Intention for ownership,**
 - Proposed Land-uses and Percentage of site for each uses**
 - Open Space ___%
 - Buffers ___%
 - Single Family residential ___%
 - Two Family Residential ___%
 - Multi-Family Residential ___%
 - Office ___%
 - Limited Business ___%
 - General Business ___%
 - Business and Wholesale ___%
 - Limited Manufacturing ___%
 - General Manufacturing ___%
 - Intentions regarding water and sewage disposal**
 - Listing of all deviations from the development standards requested**
 - Dwelling Densities for residential ___/ per acres**
 - How development relates with surrounding land uses**
 - Other information Reports (13 copies)**
- Soil Report (not required if on City Sewer)**
 - Soil Boring / Soil Pit location Site plan
 - Soil Profile Logs for all borings or pits
 - Depth to All Limiting
- Municipal Sewer and Water Report**
 - Distance to nearest public water or sewer utility
 - Projected cost for extension and connection
 - If development is to be on private well and septic reason for not extending and connection (e.g., not in service area of utility)
- Traffic Projection and Thoroughfare Report**
 - Description of existing road surface and right of way (e.g., two lane vs four lane, concrete vs chip and seal, swale vs curb and gutter, ten foot lanes vs twelve foot lanes, etc.)
 - Vehicle counts from state or local information's sources
 - Projected vehicle counts to and from development with peak times
 - Projected vehicle count broken down by end trip generated and drive by
- Project Demographic for all Residential Developments (over five acres)**
- Site Improvement Report:**
 - Listing of All site improvements
 - Projected cost of improvements
 - Time line for Installations
- Storm Water Drainage Report**
 - Off-site Information
 - Watershed size draining onto the site
 - Projected runoff
 - Undeveloped Site:
 - Projected runoff from the undeveloped site
 - Developed Site:
 - Projected Developed runoff from site
 - Site Retention Calculation:
 - Retain one hundred percent of the project increased runoff; Plus twenty percent of the undeveloped runoff
 - Runoff projection Model
 - ✓ $CFR = ART \times PPR \times 25$ (3 inch rain event)
 - ✓ CFR = Cubic Feet of Runoff
 - ✓ ART = Square foot area of Runoff based on development type (eg Undisturbed grasses, Sodded grass areas, Wooded areas, Pavement area, Drives, Roads, Buildings etc)
 - ✓ PPR = Percent of projected runoff for the development type
- Drawing showing**
 - Off-site watershed
 - Area Runoff Type
 - Storm-water retention

Development Plan Requirements

- One eighteen inch by twenty-four inch mylar
- 13 Copies of the Development Plan
 - Name of Planned Unit Development
 - Location description to the Quarter Quarter Section, Township, Range, and Political Township
 - Legal description
 - Scale used
 - Date of Drawing
 - Surveyors Certificate
 - North Arrow
 - Boundary of Planned Unit Development
 - Shown by a heavy line (unique to drawing)
 - Bearing and lengths
 - All changes in bearings on the boundary must be shown as monumented monuments will be noted as being installed after construction of all public or bonded improvements
- Show the Location of
 - Easements
 - Rights of way
 - All easements and rights of way to be dedicated for public use
 - All bearings, lengths, widths and instrument numbers (for all previously recorded documents)
 - Corporate boundaries
 - Township lines
 - County lines
 - Section lines
 - Platted tracts adjacent to the Planned Unit Development
 - Special Flood Hazard Area (if site is within the One hundred year flood zone) by a unique line
 - General Location Map showing the Planned Unit Development
 - Development setback lines
 - Referenced to:
 - Property lines
 - Right of way centerlines
- Notarized certification by owner(s) of property Submitted Signed Un-signed
- Certifications of compliance with Specifications I by Plan Commission
- Certifications of Adoptions and Compliance with Specifications - I by the Legislative Body
- Auditor statement
- Recorder Statement
- Planned Unit Development Ordinance Number statement

Site Plan/Support Drawing

- 13 Copies
 - Name of Planned Unit Development
 - Legal Description
 - Scale used
 - Developments building set back lines
 - Name of Surveyor and address
 - North Arrow
 - Building Coverage calculations
 - Proposed structure(s) and Improvements
 - Phasing of projects
 - Building Separations on site
 - Building separations to adjacent off site buildings within 100' of petitioners property
 - Demonstrations of Vehicle and Pedestrian Circulation
 - Parking areas
 - Landscaping
 - Height, scale, materials, and style of improvements
 - Signage (location, height, and size)
 - Recreation Space
 - Outdoor Lighting (all lighting must be maintained to reduce off- site impacts)
 - Name of Owner and Developer and address
 - Boundary of Planned Unit Development by unique and identified line
 - Adjacent parcels boundaries lines shown in hatched lines
 - Property lines and easements
 - Monuments and corner marker
 - Residential and commercial driveways adjacent to and with in 200 feet
- Show the Location of:
 - All existing utilities
 - Distances to sanitary sewer and municipal water
 - Existing well and septic onsite
 - Off site well(s) and septic(s) within 100' of the petitioners property
 - Onsite well(s), septic(s) area and septic repair area(s)
 - Soils as identified in the Soil Report
 - One-hundred year floodplain designated by a unique line
- Contours in two foot intervals
- Identifications of all land uses
- All information shown on the General Development Plan from the GPUD ordinance (If the petition is for a portion of GPUD)

Applications Checklist:

Detailed Planned Unit Development

Tax Code _____ Number:

Transaction _____ Number:

Planned Unit Development _____ Name:

Submitted Omitted N/A

- | | | | |
|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Applications forms adopted by the Plan Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Legal Description for parcel. |

Narratives: (13 Copies)

Submitted Omitted N/A

- | | | | |
|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Intention for ownership, |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Proposed Land-uses |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Intentions regarding water and sewage disposal. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Listing of all deviations from the development standards |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Dwelling Densities for residential |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | How development relates with surrounding land uses. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Other information |

Reports: (13 Copies)

Submitted Omitted N/A

- | | | | |
|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Soil Report (not required if on City Sewer) |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Municipal Sewer and Water Report |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Storm Water Drainage Report |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Traffic Projection and Thoroughfare Report |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Project Demographic for all Residential Developments (over five |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Site Improvement Report: |

Development Plan Requirements

Submitted Omitted N/A

- | | | | |
|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | One eighteen inch by twenty-four inch mylar |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 13 eighteen inch by twenty-four inch copies |

Site Plan/Support Drawing

Submitted Omitted N/A

- | | | | |
|--------------------------|--------------------------|--------------------------|------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 13 copies. |
|--------------------------|--------------------------|--------------------------|------------|

Give Public Notice Signs for each Right of way

Notes:

Detailed Planned Unit Development Application Checklist
Reviewed by _____ Date: _____

Exhibit D – Rezoning Application Requirements and Forms

A. FILING PROCEDURE

1. The application shall be filed in the office of the Department of Public Services, 4230 Elkhart Road, Goshen, IN 46526.
2. The application shall be accompanied by a fee of \$300.00.
3. The applicant shall be the property owner, a purchaser on land contract or a person specifically authorized in writing to make application.

B. INFORMATION ON THE APPLICATION

1. All information on the attached form shall be completed.
2. The application must have the name and address of the property owner and be signed by the owner. Names and addresses of option purchasers, land contract purchasers or prospective buyers may be included in addition.
3. A complete and proper legal description of the property must be submitted. The property's legal description may be found in the deed or deed abstract or from records on file in the County Recorder's Office.
4. The application shall include an accurate drawing or site plan of the property showing existing and proposed streets and drives, parking areas, existing and proposed buildings, property lines, etc.

C. POSTING OF PROPERTY

1. At the time of filing an application for a zone change, you will receive signs stating the date of the public hearing and the zone change request. You must post the signs in a conspicuous place on the property from not less than ten (10) calendar days prior to the public hearing to not more than five (5) calendar days following the public hearing.
2. These signs must be posted on the property in such a way as to be easily visible from the street while traveling in either direction. If the property has frontage on more than one street, signs will be required on each street.

D. PREPARING YOUR REZONING PRESENTATION

A petition to rezone property is a request to change the land use of that property. As such, you must be prepared to present your request to the Plan Commission and public at the public hearing.

1. You must do the following as part of your presentation:
 - a. Explain the proposed use.
 - b. Explain how the proposed use will fit onto the property, covering such points, where applicable, as:
 - 1) Topography
 - 2) Drainage
 - 3) Off-street parking and loading
 - 4) Access from street
 - 5) Sanitary facilities and water supply
 - 6) Yard setbacks
 - 7) Density of dwelling units
 - 8) Other

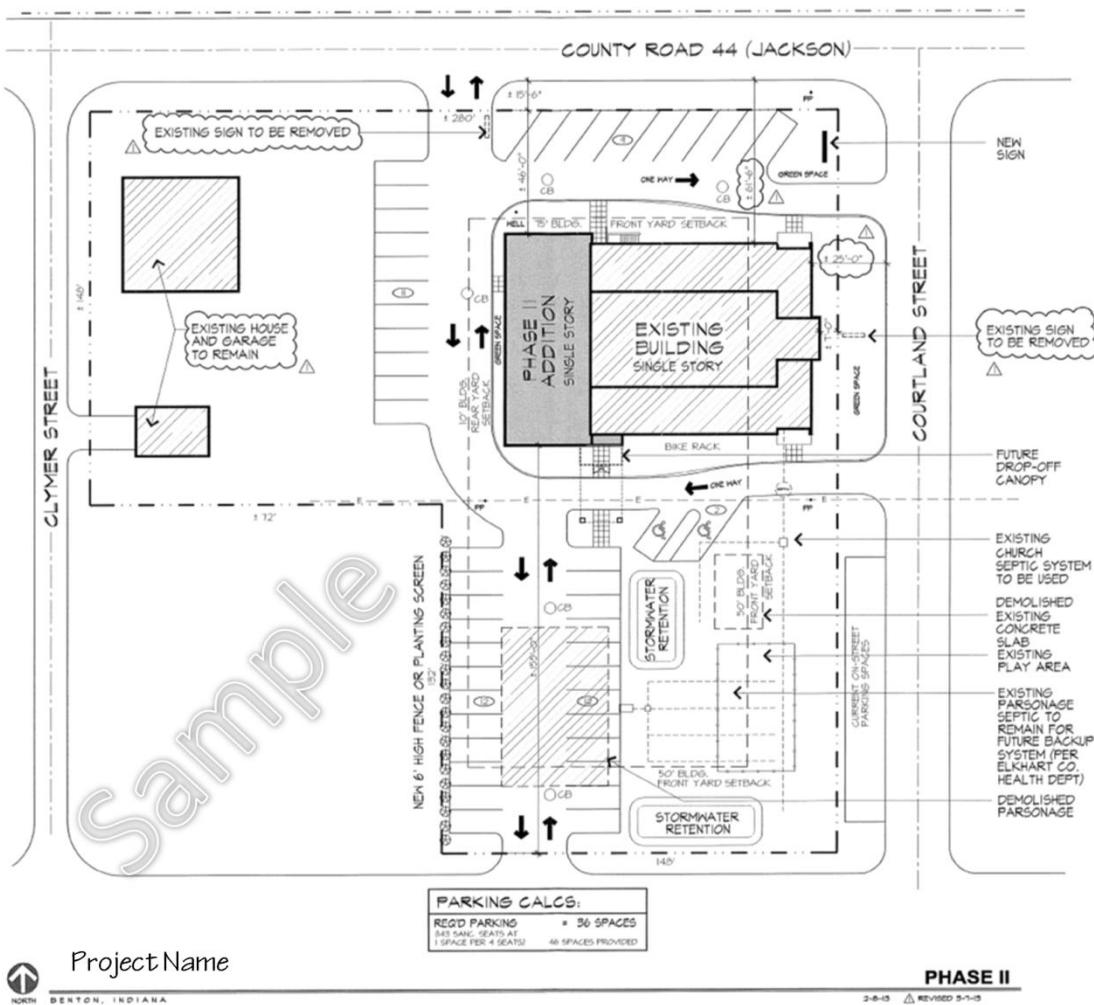
- c. Support the need for a change in use and zoning of the property by using one or more of the following arguments:
 - 1) **Wrong original district.** The Plan Commission and County Commissioners made an error in setting the original zoning on this property and the rezoning would bring the zoning and land use on the property into more compatibility with the neighborhood.
 - 2) **Significant neighborhood change.** Even though the original zoning was correct, there have been significant changes in the neighborhood so that rezoning this property would bring the property into more compatibility with the now-changed neighborhood.
 - 3) **Technological change.** The Zoning Ordinance did not anticipate a change in life styles or business operations or did not provide for life styles or businesses and industries, which have developed since the original zoning was determined and those changes should be reflected by a change in zoning on this property.
 - 4) **Other arguments.**
 - d. Evaluate the impact of the proposed use on the neighborhood, streets and public utilities.
2. The Plan Commission may consider any or all of the points presented together with other information or knowledge of the situation, in arriving at a recommendation. You may wish to present facts relating to the following, not otherwise presented, which the Plan Commission will consider in evaluating your zone change request.
 - a. location of property
 - b. need (is there a supply of suitably zoned land available?)
 - c. topography and drainage
 - d. increased demands on streets and utilities
 - e. effect on adjacent property
 - f. relationship to general land use pattern of neighborhood and community
 - g. relationship to the Comprehensive Plan
 3. Following your presentation opponents to your request will be given an opportunity to contest points made by you as well as presenting other points of their own. When they are finished you will be allowed to rebut their arguments and make final comments. It is important for you to remember that you must present arguments in favor of changing the zoning and land use on the property in question. Without adequate information and facts, it is extremely difficult to justify a zone change.
 4. After the Plan Commission votes on a recommendation at the public hearing, the Legislative Body (Board County Commissioners or specific Town Board, as applicable) will make a final decision on the request.

SITE PLAN

YOU MAY USE THE FOLLOWING BLANK PAGE FOR YOUR SITE PLAN. AT MINIMUM, USE A RULER AND SHOW DIMENSIONS OF ALL SETBACKS, LOT LINES AND BUILDINGS. ILLEGIBLE SITE PLANS ARE NOT ACCEPTABLE.

WHAT MUST BE SHOWN:

- 1. North Arrow
- 2. Property lines and dimensions of the property
- 3. All adjacent edge of rights-of-way, public rights-of-way and their names
- 4. Existing and proposed structures, their sizes and distances from property lines, and edge of right-of-ways
- 5. Existing and proposed signs, their sizes and distance from property lines and edge of right-of-ways
- 6. Existing and proposed parking areas and/or parking spaces, their sizes and distances from property lines and edge of right-of-ways
- 7. Existing and proposed outside storage and/or outside display areas, their sizes and distances from property lines and edge of right-of-ways
- 8. Existing and proposed buffering (ie: fences, trees, mounds) their sizes and distances from property lines and edge of right-of-ways
- 9. Structures, signs or screening (fences, trees, etc.) proposed to be demolished or removed



This site plan is a fair and accurate representation of my property and petition.

Name _____

Date _____

THIS SITE PLAN MUST ACCOMPANY YOUR APPLICATION. IF THE APPLICATION DOES NOT INCLUDE THE COMPLETED SITE PLAN, IT WILL BE CONSIDERED INCOMPLETE AND THE STAFF WILL NOT ACCEPT THE APPLICATION.

MORE DETAILED DRAWINGS WILL BE REQUIRED IN ORDER TO APPLY FOR AN IMPROVEMENT LOCATION OR BUILDING PERMIT.



Elkhart County Planning & Development

Public Services Building
4230 Elkhart Road, Goshen, Indiana 46526
Phone: 574-971-4678 - Fax: 574-971-4578 – email: dps@elkhartcounty.com

Exhibit E – Notice of Sufficiency

Date: _____

RE: The proposed subdivision application to be known as _____

By: Fax E-mail Fax and E-mail Phone Call Hard Copy

Please be informed that your application has been determined to be sufficient for review.

The issuance of this Notice of Acceptance shall not constitute a waiver of any technical deficiencies or irregularities found during further review.

The application for a Subdivision or Planned Unit Development has been placed on the following **Technical Review Committee Agenda Meeting:** _____ at 9:30 a.m. at 4230 Elkhart Road Goshen, Indiana.

Should the proposed subdivision application be determined to not be technically correct; all correction(s) shall be made or addressed in writing and filed by 9:30 A.M. on _____ at the Technical Corrections Meeting at the same location.

The **Elkhart County Advisory Plan Commission Meeting** shall be on _____ with the time to be determined later.

Should your application need corrections or amendments, and the correction or amendments cannot be made or addressed by the date specified, you may request that it be withheld from the established public hearing. The request must be in writing from the identified owner or agent, and filed on or before the noted Technical Revisions Committee Meeting for your application. Once the request has been made, a new “Sufficient Application” will be required for submission.

Should a “Sufficient Application” be received within 90 calendar days of the original submission; the staff will issue a new **Notice of Sufficiency**.

Elkhart County Planning Staff



Elkhart County Planning & Development

Public Services Building
4230 Elkhart Road, Goshen, Indiana 46526
Phone: 574-971-4678 - Fax: 574-971-4578 – email: dps@elkhartcounty.com

Exhibit F - Notice of Insufficiency

Date: _____

RE: The proposed subdivision application to be known as _____

By: Fax E-mail Fax and E-mail Phone Call Hard Copy

Please be informed that your Subdivision or Planned Unit Development Application has been determined to be insufficient for review.

Though the Staff may take an application and issue a receipt for fees, such action does not constitute a confirmation that a "Sufficient Application" has been filed. The Staff will hold these submitted materials for seven calendar days from the date of this notice. All submitted materials will be returned or discarded after that date.

Please provide the following materials, as required on Primary Approval Application, before the next submittal deadline of _____, 2013:

- 12 copies with one original of the Application Form dated March 2009. (Signed by Property Owner or Agent of the owner)
- 3 Copies of the Health Department Packets. (This packet includes "The Matrix" and "The Standards")
- 3 Copies of the Highway Department Packet including the TIVE Form (for Major Residential Subdivisions or Any Nonresidential Subdivision).
- 3 Copies of the County Surveyor Map (On a 11" by 17" sheet)
- 12 Copies of the Primary Development Plan.
- 12 Copy of Primary Development Plan (Reduced to an 11" by 17" sheet)
- 12 Copies with One Original (if required) of the Urban Growth Boundary Letter Or Jurisdiction Review Letter

[delete items above that have been provided in adequate numbers]

Elkhart County Planning Staff

Exhibit G – Letter of Review and Consideration from Wakarusa Technical Committee

To: Elkhart County Advisory Plan Commission

Date:

This **Letter of Review and Consideration** is the result of a cooperative effort established by the "Elkhart County 2006 Comprehensive Land Use Plan" and the "Amendment to the Town of Wakarusa Master Plan (Comprehensive Plan)" in 2008.

The comments and recommendations contained herein do not nullify any power, duty or authority reserved to the Elkhart County Advisory Plan Commission by Indiana Code or local ordinances. Further, the **Letter of Review and Consideration shall** not be construed as an obligation for the Town Council of Wakarusa or the Board of County Commissioners for Elkhart County to act favorably or un-favorably towards the project described in this letter.

Additionally, the Wakarusa Technical Review Committee states that it has complied with the Indiana Open Door Law pertaining to their meetings, action, and availability of public documents.

Technical Review

Project Name:

Project Description:

Location

Legal Location:

Development Corridor Type:

Zoning of Site:

Size: (acreage)

Anticipated uses, square footages:

Impact on Town:

Utilities required

Incorporated, or unincorporated

Development Standards Compliance Status:

Compliance

Complies with standards

(List of standards applicable to project and that those standards have been meet in full)

(Report from utilities that services are available, or can be extended to service site)

(Report from public safety entities detailing access and availability to the development)

Non Compliance:

Standards not in compliance:

(List of Standards not in compliance as well as reason of non compliance)

Recommendation:

Positive, Negative, Partial, or No Recommendation:

(The Wakarusa Technical Review Committee shall give a general description to clarify the reasoning for the committee's recommendation)

The contents of this letter and any referenced attachments have been reviewed and approved by the Wakarusa Technical Review Committee.

Town Manager

Town Council Member

Public Works

Exhibit H – Administrative Adjustment Application Requirements and Questionnaire

A. FILING PROCEDURE

4. The application shall be filed in the office of the Department of Public Services, 4230 Elkhart Road, Goshen, IN 46526.
5. An Administrative Adjustment does not become effective until the applicant pays a \$40 application fee. A fee is not required in order for Staff to initiate review of the request.
6. Although the Zoning Administrator retains records related to Improvement Location Permits, the Applicant should retain proof of Administrative Adjustment approval for future reference.

B. INFORMATION ON THE APPLICATION

5. All information requested on the attached application, questionnaire, and site plan must be complete and shall be as accurate as reasonably possible. If the application, questionnaire, and site plan are not complete and accurate as reasonably possible the staff may request additional information.
6. It will also be necessary to include a drawing of the property ("site plan"), including the size and location of all existing and proposed structures, signs, parking areas, open storage and/or display areas, and existing and/or proposed buffering; setbacks for all existing and proposed structures, signs, parking areas, open storage and/or display areas, and existing and/or proposed buffering from all property lines and roads; the location and name of adjacent streets and roads, and a North point arrow.

C. STANDARDS **INELIGIBLE FOR AN ADMINISTRATIVE ADJUSTMENT**

The following Administrative Adjustments are not approvable and must be processed as a Developmental Variance if the applicant still requests relief.

1. An Adjustment that would result in a violation of conditions, commitments or site plans approved by the County Commission, Plan Commission, Board of Zoning Appeals or Hearing Officer.
2. An Adjustment for work that originally occurred without the appropriate permits. For example, an addition that is being constructed or was constructed without a Building Permit.
3. An Adjustment that would result in the location of a structure within any easement.
4. No Adjustment that would result in a separation between any two buildings of less than five feet.

D. DECISION OF THE ZONING ADMINISTRATOR

1. The Elkhart County Zoning Ordinance allows the Zoning Administrator to approve, approve with conditions or deny a request for an Administrative Adjustment for encroachment of up to 10 percent into a required front, rear or side setback. For example, an encroachment of up to 7' 6" could be approved by Administrative Adjustment for a 75' required setback. Any requested encroachment that is greater than 10 percent or that does not meet the criteria below, may be processed as a Developmental Variance with the Board of Zoning Appeals or Hearing Officer having final decision authority.
2. In making a decision on your request the Zoning Administrator must make positive determinations on all of the following criteria.
 - a. The Administrative Adjustment does not adversely affect the permitted use of adjacent property or the physical character of the surrounding area.
 - b. Granting the Administrative Adjustment will be generally consistent with the purpose of the Zoning Ordinance.
 - c. The Administrative Adjustment requested is the minimum adjustment necessary for reasonable use of the property and compliance with the Zoning Ordinance.

E. DENIAL OF ADJUSTMENT AND APPEALS FROM THE ZONING ADMINISTRATOR

1. An applicant may apply for a Developmental Variance if the Zoning Administrator denied his or her Administrative Adjustment request.
2. Any person, other than the applicant for the Administrative Adjustment or the property owner affected by the Adjustment, may appeal the decision of the Zoning Administrator to the Board of Zoning Appeals.

NAME: _____ TAX CODE # _____

IN ORDER FOR THE ZONING ADMINISTRATOR TO CAREFULLY CONSIDER YOUR REQUEST, IT IS IMPORTANT TO FULLY UNDERSTAND THE SCOPE OF YOUR REQUEST. PLEASE COMPLETE THE QUESTIONNAIRE. IF A QUESTION DOES NOT APPLY TO YOUR REQUEST, INDICATE NA (NOT APPLICABLE).

1. What is the reason (field mistake, minor encroachment, etc.) for your request and what is the new construction and/or addition to be used for? (i.e.: garage, bedroom, sign, parking, etc.)

2. Will the construction and/or addition interfere with your well or septic system? _____

3. Is the parcel served by municipal services? _____ Water? _____ Sewer? _____

4. Is the request necessitated by the location of the existing or proposed well or septic system? If so, explain.

5. Will the new construction and/or addition block any light, air, vision, or access of adjacent property owners?

6. Will the new construction and/or addition interfere with any recorded easements? _____

7. Are there structures or buildings on adjacent properties? If so, how close are they to your property lines? (On your site plan show the proximity to your expansion). _____

8. Is the request for a sign? _____ If so, give the size of proposed or existing signs. _____

Single or double faced? _____ Lighted? _____ Electronic? _____

Wall mounted or free standing? _____

9. To the best of your knowledge has this property ever been involved in a previous Board of Zoning Appeals or Plan Commission action? _____ If so, describe when and the action taken: _____

10. How will granting the Administrative Adjustment not adversely affect the permitted use of adjacent property or the physical character of the surrounding area? _____

11. How will granting the Administrative Adjustment be generally consistent with the purpose of the Zoning Ordinance (protection of the public health, safety, general welfare; provision of air, light, access, etc.)?

12. Please explain how the Administrative Adjustment requested is the minimum adjustment necessary for reasonable use of the property and compliance with the Zoning Ordinance. _____

13. Any additional information that you wish to provide the Zoning Administrator regarding the details of your request?

NOTE: The staff recommends you review any deed restrictions and private subdivision covenants and restrictions recorded on the real estate.

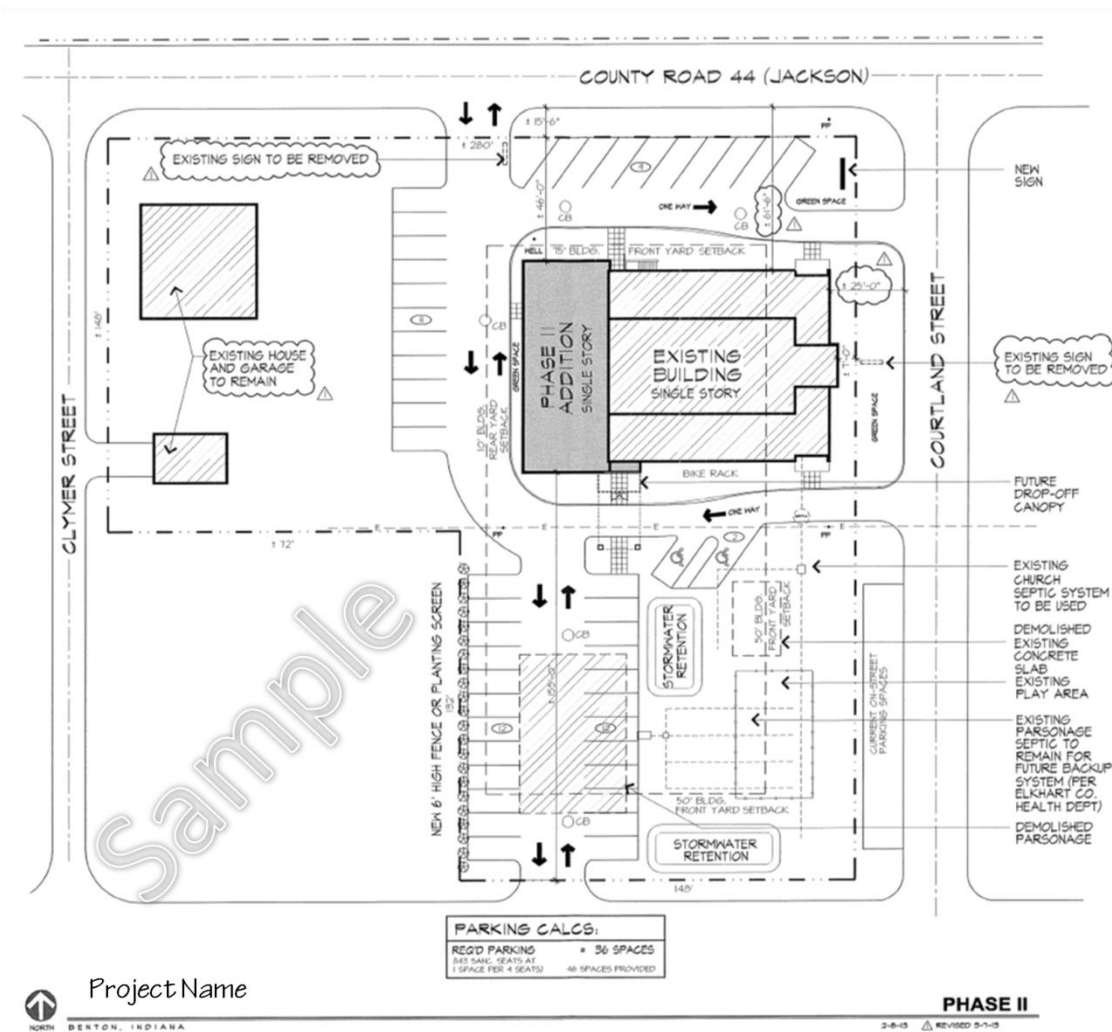
THIS QUESTIONNAIRE **MUST** ACCOMPANY YOUR APPLICATION. IF THE APPLICATION DOES NOT INCLUDE THE COMPLETED QUESTIONNAIRE, IT WILL BE CONSIDERED INCOMPLETE AND THE STAFF WILL NOT ACCEPT THE APPLICATION.

SITE PLAN

AT MINIMUM, USE A RULER AND SHOW DIMENSIONS OF ALL SETBACKS, LOT LINES AND BUILDINGS. ILLEGIBLE SITE PLANS ARE NOT ACCEPTABLE.

WHAT MUST BE SHOWN:

- 1. North Arrow
- 2. Property lines and dimensions of the property
- 3. All adjacent edge of rights-of-way, public rights-of-way and their names
- 4. Existing and proposed structures, their sizes and distances from property lines, and edge of right-of-ways
- 5. Existing and proposed signs, their sizes and distance from property lines and edge of right-of-ways
- 6. Existing and proposed parking areas and/or parking spaces, their sizes and distances from property lines and edge of right-of-ways
- 7. Existing and proposed outside storage and/or outside display areas, their sizes and distances from property lines and edge of right-of-ways
- 8. Existing and proposed buffering (ie: fences, trees, mounds) their sizes and distances from property lines and edge of right-of-ways
- 9. Structures, signs or screening (fences, trees, etc.) proposed to be demolished or removed.



This site plan is a fair and accurate representation of my property and petition.

Name _____

Date _____

THIS SITE PLAN MUST ACCOMPANY YOUR APPLICATION. IF THE APPLICATION DOES NOT INCLUDE THE COMPLETED SITE PLAN, IT WILL BE CONSIDERED INCOMPLETE AND THE STAFF WILL NOT ACCEPT THE APPLICATION.

MORE DETAILED DRAWINGS WILL BE REQUIRED IN ORDER TO APPLY FOR AN IMPROVEMENT LOCATION OR BUILDING PERMIT.

Exhibit I – Uniform Schedule of Fees

Application	Recommended Fee	Application	Recommended Fee
PLAN COMMISSION		BOARD OF ZONING APPEALS	
Rezoning	300.00	Special Uses	200.00
GPUD	250.00	Appeals	100.00
DPUD	300.00	Variances	125.00
PUD Secondary	150.00	Use Variances	200.00
Minor Subdivision Primary	150.00	Special Use Mobile Home	50.00
Minor Subdivision Secondary	100.00	Mobile Home Renewal by Staff	25.00
Major Subdivision Primary	200.00	<p style="text-align: center;">Waiving of Fees:</p> <p>Any scheduled fee, upon written request, <u>may</u> be waived at the discretion of the Director. The waiving of fees should be for, but not limited to, the following: Governmental Departments or Agencies application; any scheduled fee requests caused by a natural disaster or emergency (whether declared or not); for persons having been qualified for County Public Assistance where the Public Assistance Agency would be the sole provider of the fee.</p> <p>Additionally, any fees may be waived at the direction of the Elkhart County Advisory Plan Commission or by the Elkhart County Advisory Board of Zoning Appeals with the approval by a quorum vote of the Commission or Board at a public meeting. (Amended 11/12/09)</p>	
Major Subdivision Secondary	150.00		
Cond. Ind. Unit Development	300.00		
Vacation of right-of-way <i>(Part of Highway Standards and not our Ordinance)</i>	100.00		
Application for an Admin Subdivision Primary	150.00		
Application for an Admin Subdivision Secondary	50.00		
Application for Administrative Adjustment	40.00		
Appeals to Plan Commission	75.00		
Request for a Minor Change Determination from Plan Comm	75.00		
Site Plan Review <i>(this fee is designated in the Building Code Fee Schedule also; applicants will only pay this fee once per project review)</i>	100.00		

Exhibit J – Commitment Form

WRITTEN COMMITMENT

Date:

Grantor:

Grantee:

Elkhart County Advisory Plan Commission

The following shall be referred to as “the Real Estate”:

Common Street Address:

Current Tax Code #:

Legal Description: See Attachment A

The Grantor, jointly and severally, agree to abide by these commitments concerning the use and/or development of the Real Estate:

1. .
2. .
3. .

Further, the Grantor, jointly and severally, agree to the following concerning the procedures associated with maintenance and enforcement of this Written Commitment:

1. That this Written Commitment shall be recorded in the Elkhart County Recorder’s Office.
2. That the Grantor shall give notice of this Written Commitment, whether recorded or unrecorded, to any subsequent owner and/or any other person or persons acquiring an interest in any portion of the Real Estate.
3. That the Grantor and any subsequent owner and/or any other person or persons acquiring an interest in any portion of the Real Estate shall be bound by the terms of this Written Commitment.
4. That the Elkhart County Advisory Plan Commission and/or the Elkhart County Zoning Administrator are authorized to enforce the terms of this Written Commitment.
5. That any property owner adjacent to the Real Estate or any specifically affected persons listed below are also entitled to enforce the terms of this Written Commitment separately and independently from the Elkhart County Advisory Plan Commission and/or the Elkhart County Zoning Administrator; specifically affected persons are: _____.
6. This Written Commitment does not automatically terminate upon a legislative body’s adoption of a zoning map amendment (a.k.a. rezoning) covering all or any portion of the Real Estate, or a change in the land use on the Real Estate to which this Written Commitment relates.
7. This Written Commitment may be modified or terminated only by a decision of the Elkhart County Advisory Plan Commission after public hearing, except as otherwise stated herein.
8. That any and all signatories to this document as a Grantor warrant, jointly and severally, to the Elkhart County Advisory Plan Commission that all persons having interest in the Real Estate have reviewed this Written Commitment and have signed this document.
9. This Written Commitment shall be effective immediately upon approval by the Elkhart County Advisory Plan Commission.

Exhibit J – Commitment Form

Agreed this the _____ day of _____ 201__ by the following owner(s):

Print Name & any title

Print Name & any title

Print Name & any title

Print Name & any title

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, and acknowledged the execution of the foregoing instrument this _____ day of _____, 201__.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

_____, Notary Public
Resident of Elkhart County, Indiana

This Written Commitment was reviewed and approved by the Elkhart County Advisory Plan Commission on the _____ day of _____ 201__.

Elkhart County Advisory Plan Commission

By: _____
 its _____

Exhibit J – Commitment Form

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the Elkhart County Advisory Plan Commission by _____, its _____ and acknowledged the execution of the foregoing instrument this ____ day of _____, 201__.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

_____, Notary Public
Resident of Elkhart County, Indiana

I, _____, did prepare this document and do affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

