

ALLEN COUNTY ZONING ORDINANCE

ARTICLE 3 – DEVELOPMENT PROCESSES AND STANDARDS

Chapter 1 Development Plans

3-3-1-1 Purpose

The Development Plan process is intended to:

- (a) Promote and encourage quality **development** that has a positive impact on surrounding **structures** and **land uses**; and
- (b) Allow for public, **Commission** and staff review of and input on the site layout, access and circulation, and **development** quality of certain **development** proposals, the potential impacts of those proposals on surrounding areas, and the ability of the **County** and other governmental or quasi-governmental entities to provide public services required by those **developments**.

3-3-1-2 When Required

- (a) A Development Plan application shall be submitted and approved when an applicant is proposing the types of **development** indicated in the following table. If a Secondary Development Plan is not required, an administrative Site Plan Review process will generally be required following the Primary Development Plan approval.

TYPE OF DEVELOPMENT	PRIMARY DEVELOPMENT PLAN REQUIRED	SECONDARY DEVELOPMENT PLAN REQUIRED
Rezoning (when accompanied by a specific development project proposal, for which the applicant is requesting Plan Commission approval)	✓	
Projects involving multiple buildings on a single lot or development site	✓	✓
Projects involving the phased construction of infrastructure or streets	✓	✓
Projects requesting a waiver from one or more ordinance standards	✓	

- (b) In addition to the provisions above, an applicant or **lot owner** may choose to voluntarily submit a project or **development** through the Development Plan process.
- (c) As part of its consideration and approval of a request for a **contingent use**, **special use**, or **use** variance, the **Board of Zoning Appeals** may require the submission and approval of a Development Plan.

ALLEN COUNTY ZONING ORDINANCE

3-3-1-3

Primary Development Plans

(a) Pre-Application Meeting

DPS staff shall hold a pre-application meeting at least five (5) business days prior to the filing deadline for an application for approval of a Primary Development Plan. The purpose of this pre-application meeting is to:

- (1) Acquaint the applicant with the standards, procedures and requirements of this ordinance, the **Comprehensive Plan**, and any other applicable standards or requirements;
- (2) Review the Development Plan procedures and submittal requirements;
- (3) Acquaint the applicant with any inherent limiting characteristics of the specific site or surrounding areas; and
- (4) Reduce the time period between initial application and **Commission** approval.

(b) Submittal Requirements

The applicant for a Primary Development Plan approval shall submit an application and **fee**, the required number of Primary Development Plan Site Plans, and supporting information as established by the **Commission's** rules. Only applications that have been determined by **DPS** staff to be complete shall be placed on the **Plan Commission's** agenda for the next available public hearing. A determination made by **DPS** staff with regard to the completeness of a Primary Development Plan application may be appealed to the **Commission**, pursuant to the **Commission's** rules.

(c) Review

- (1) The **Commission** shall adopt filing **fees**, filing deadlines, meeting dates, and a hearing procedure for this process by rule.
- (2) After receipt of a complete application, the **DPS** staff shall provide notice of the public hearing by publication in accordance with IC 5-3-1, and as established by the **Commission's** rules:
- (3) **DPS** staff shall review the application and shall make a recommendation on the application.
- (4) The **Commission** shall hold a public hearing on the application for approval of the proposed Primary Development Plan in accordance with the **Commission's** rules.

(d) Action and Additional Provisions

The following standards and requirements shall apply to the **Commission's** actions on a Primary Development Plan.

(1) Decision

After public hearing on the Primary Development plan, the **Commission** shall approve or deny the application. The **Commission** shall approve the Primary Development Plan if it determines that the application meets the **development** requirements of the applicable **zoning district**. The **Plan Commission** may approve the plan subject to **conditions** if the **conditions** are reasonably necessary to satisfy those **development** requirements.

ALLEN COUNTY ZONING ORDINANCE

(2) Deferral

The **Commission** may also defer action on the Primary Development Plan if it needs more information or time to determine if the Primary Development Plan is eligible for approval. In deferring action on a Primary Development Plan, the **Commission** shall notify the applicant in writing of the reasons for the deferral, in accordance with the rules of the **Commission**. If the reason for the deferral is a **Commission** determination that the application cannot be approved until specific changes are made or additional information is submitted by the applicant, the applicant shall have twenty one (21) days to submit corrected materials or additional information (or other specific period of time, up to sixty (60) days, as established by the **Commission** at the time of deferral). If the corrected materials or additional information is not submitted within the **Commission's** established period of time, the **Commission** may deny the application.

(3) Findings

The **Commission** shall enter written findings, setting forth the reasons for its action on an application to approve a Primary Development Plan. If approval is denied, the written findings entered by the **Commission** shall set forth the reasons for such denial.

(4) Notice of Decision

Notice of the **Commission's** decision on a Primary Development Plan shall be provided by furnishing a copy of its decision and findings to the applicant and any interested party as established by rule.

(5) Appeal of Decision

Any action by the **Commission** on a Primary Development Plan application shall be a final decision and may be reviewed as provided in IC 36-7-4-1016.

(6) Period of Valid Approval

- (A) Approval of the Primary Development Plan by the **Commission** is valid for twenty-four (24) months from the date of approval. If approval of a Secondary Development Plan or Site Plan for some portion of the land covered by the Primary Development Plan approval is not obtained within that twenty-four (24) month period, the Primary Development Plan approval shall be null and void, unless an extension is obtained pursuant to subsection (B) below.
- (B) The applicant may request approval from the **Commission** for an extension of time to obtain approval of a Secondary Development Plan or a Site Plan, for the proposed **development**, as applicable. The request shall be made prior to the expiration of the twenty-four (24) month approval period.
- (C) If a Secondary Development Plan is required pursuant to A.C.C. 3-3-1-2 and the applicant obtains approval of a Secondary Development Plan but then fails to obtain an **Improvement Location Permit** for at least part of the **development site** included in that Secondary Development Plan within the time required by A.C.C. 3-3-1-4(c)(6)(A), both the Secondary Development Plan and the Primary Development Plan related to that **development site** shall lapse and be null and void.

ALLEN COUNTY ZONING ORDINANCE

- (D) If a **Certificate of Compliance** has been obtained for at least a portion of the Primary Development Plan area, the applicant thereafter will not be obligated to adhere to any time limitations for requesting Secondary Development Plan or Site Plan approval of the remainder of the Primary Development Plan area.

3-3-1-4 Secondary Development Plans

If a Secondary Development Plan is required pursuant to A.C.C. 3-3-1-2, the approval of a Secondary Development Plan shall be governed by the provisions of this A.C.C. 3-3-1-4. In cases where a Primary Development plan has been previously approved for the same **development site**, a Secondary Development Plan may be submitted simultaneously with the submittal of an amended Primary Development Plan. A Secondary Development Plan may only be submitted simultaneously with a Primary Development Plan if the applicant provides all required application materials in the level of detail required to constitute a complete application for both if they were submitted sequentially. The **Commission** may make a decision on both a revised Primary Development Plan and a Secondary Development Plan as part of a single review process, provided that all submittal requirements and all approval criteria for both a Primary and Secondary Development Plan have been met.

(a) Submittal Requirements

The applicant for a Secondary Development Plan approval shall submit an application and **fee**, the required number of Secondary Development Plan Site Plans, and supporting information as established by the **Commission's** rules. Only applications that have been determined by **DPS** staff to be complete shall be placed on the **Plan Commission's** agenda for the next available meeting. A determination made by **DPS** staff with regard to the completeness of a Secondary Development Plan application may be appealed to the **Commission**.

(b) Review

- (1) The **DPS** staff shall distribute the application materials to those public and quasi-public agencies identified by the **Commission** by rule.
- (2) **DPS** staff shall review the application and shall make a recommendation on the application.
- (3) The **Commission** shall review the application for approval of the proposed Secondary Development Plan at a meeting of the **Commission**, in accordance with the **Commission's** rules.

(c) Action and Additional Provisions

The following standards and requirements shall apply to the **Commission's** actions on a Secondary Development Plan.

(1) Decision

After review of the Development Plan, the **Commission** shall approve or deny the application. The **Commission** shall approve the Secondary Development Plan if it determines that the application meets the following criteria, and may approve subject to **conditions** if it determines that those **conditions** will enable it to make a determination that:

ALLEN COUNTY ZONING ORDINANCE

- (A) The application is consistent with the approved Primary Development Plan for the **development site**, including any **conditions** attached to the Primary Development Plan approval;
 - (B) The application meets those design and **development** standards for Development Plans in A.C.C. 3-3-1-5;
 - (C) If the application involves multiple **buildings** on a single **parcel**, or on several contiguous **parcels**, where each **building** is not located on a separate **parcel**, then the location and layout of those **buildings** and their orientation to each other will not create adverse impacts on the occupants or users of the **development site** or on the surrounding area.
 - (D) If the application involves the phased construction of **infrastructure** or **streets**, the order of phased **development** will not create adverse impacts on the occupants or users of the **development site** or on the surrounding area, and are within the capacity of the **County** or applicable service provider to service and maintain.
- (2) Deferral
The provisions of A.C.C. 3-3-1-3(d)(2) apply.
 - (3) Findings
The provisions of A.C.C. 3-3-1-3(d)(3) apply.
 - (4) Notice of Decision
The provisions of A.C.C. 3-3-1-3(d)(4) apply.
 - (5) Appeal of Decision
The provisions of A.C.C. 3-3-1-3(d)(5) apply.
 - (6) Period of Valid Approval
 - (A) Approval of the Secondary Development Plan by the **Commission** is valid for thirty-six (36) months from the date of approval. If approval of an **Improvement Location Permit** for some portion of the land covered by the Secondary Development Plan approval is not obtained within that thirty-six (36) month period, both the Secondary Development Plan approval and the related Primary Development Plan approval shall be null and void, unless an extension is obtained pursuant to subsection (B) below.
 - (B) The applicant may request approval from the **Commission** for an extension of time to obtain approval of an **Improvement Location Permit**, for all or part of the proposed **development**. The request shall be made prior to the expiration of the thirty-six (36) month approval period.
 - (C) If a **Certificate of Compliance** has been obtained for a portion of the Primary Development Plan area, the applicant thereafter will not be obligated to adhere to any time limitations for requesting Secondary Development Plan approval of the remainder of the Primary Development Plan area.

ALLEN COUNTY ZONING ORDINANCE

(d) Issuance of Permit

Prior to the issuance of an **Improvement Location Permit** for any **use, building, or structure** in a project where a Primary and/or Secondary Development Plan is required, all of the following requirements shall be satisfied.

- (1) If the **use, building, or structure** is part of a **development** for which only a Primary Development Plan is required, the **Commission** shall have approved a Primary Development Plan and **DPS** staff shall have approved a Site Plan Review pursuant to A.C.C. 3-3-2 (Site Plan Review).
- (2) If the **use, building, or structure** is part of a **development** for which a Secondary Development Plan is required, the **Commission** shall have approved a Primary Development Plan and a Secondary Development Plan.
- (3) The applicant shall have met or adequately committed to meet all of the **conditions** of approval placed on each approved Development Plan.
- (4) The applicant shall have installed or adequately committed to have installed all of the public improvements and **infrastructure** required to serve the **development**. If the applicant has delivered assurances to the **County** pursuant to A.C.C. 3-5-3-1(e) (**Commitments**) that it will provide to the **Commission** approvals of required improvements, and the applicant does not then deliver those approvals in a timely fashion, the **Commission** is hereby empowered to refuse to issue either **Improvement Location Permits** or Certificates of Compliance for the **development site** within that Primary or Secondary Development Plan until the required approvals are received by the **Commission**.
- (5) The applicant shall have recorded in the Allen **County Recorder's** Office all of the required documents, **rights-of-way, utility easements, plans, deed restrictions, restrictive covenants, commitments, and any other instruments** required by the **Commission** or staff, in a form approved by the **Commission**.

3-3-1-5 **Development** and Design Standards

Development and design standards applicable to Development Plans are listed in A.C.C. 3-4-4. Some **waivers** and exceptions to **development** and design standards are permitted for Development Plans pursuant to A.C.C. 3-4-5-2.

3-3-1-6 **Commitments**

As part of its approval of a Primary or Secondary Development Plan, the **Commission** or **Executive Committee** may permit or require the **owner** of the **development site** included in the request to make a **commitment** concerning the **use or development** of that **development site**, in accordance with IC 36-7-4-613, A.C.C. 3-5-3-1(e), and the **Commission's** rules.

3-3-1-7 Amendments to Approved Development Plans

After the **Commission** has granted approval of a Primary or Secondary Development Plan, any amendments to the Development Plan shall be submitted by the applicant to the Executive Director by way of an amended application for the type of approval sought. The application shall also be accompanied by the pertinent submissions required by the **County** for the proposed amendments involved, as determined by the Executive Director. For purposes of all amendments to approved Development Plans, the **Zoning Administrator** shall determine whether there is a **substantial change** by considering the scope of the overall project, the possible impact of amended land **uses** or site activities, **structure** locations, sizes, or heights, or

ALLEN COUNTY ZONING ORDINANCE

transportation access, systems, or volumes upon the community and land **uses**, both existing and planned, which surround the Development Plan area and areas within the Development Plan that have already been developed.

(a) Purpose

The purpose of this section is to describe how an approved Primary or Secondary Development Plan may be amended, and to clarify the difference between minor amendments that may be approved by **DPS** staff and amendments that are determined to be a **substantial change** that requires approval by the **Commission**.

(b) Amendment after Approval of a Primary Development Plan

Proposed amendments to an approved Primary Development Plan shall be reviewed in accordance with the following:

- (1) If the **Zoning Administrator** determines that the amendment does not constitute a **substantial change** to the previously approved plan, and the proposed **development** requires the approval of a Secondary Development Plan, the revised plan may be submitted as an application for a Secondary Development Plan.
- (2) If the **Zoning Administrator** determines that the amendment constitutes a **substantial change** to the previously approved plan, or the proposed **development** does not require approval of a Secondary Development Plan, the submission of a new Primary Development Plan shall be required. The previous Primary Development Plan shall be void once the new Primary Development Plan is approved. The new Primary Development Plan shall require a new application and filing **fee**, and shall be reviewed under the provisions of this ordinance.

(c) Amendments after Approval of a Secondary Development Plan Prior to **ILP** Issuance

Proposed amendments to an approved Secondary Development Plan prior to approval of an **Improvement Location Permit** shall be reviewed in accordance with the following:

- (1) If the **Zoning Administrator** determines that the amendment does not constitute a **substantial change** to the previously approved plan, the revised Secondary Development Plan may be submitted with the application for an **Improvement Location Permit**, and shall be considered by **DPS** staff at the same time as the **Improvement Location Permit**.
- (2) If the **Zoning Administrator** determines that the amendment constitutes a **substantial change** to the previously approved plan, the submission of a new Secondary Development Plan shall be required. The previous Secondary Development Plan shall be void once the new Secondary Development Plan is approved. The new Secondary Development Plan shall require a new application and filing **fee** and shall be reviewed under the provisions of this ordinance.

ALLEN COUNTY ZONING ORDINANCE

(d) Amendments after Issuance of the **ILP**

A proposed amendment or **addition** to an approved Secondary Development Plan where **Improvement Location Permits** have been issued, but where no construction on any **structures** has taken place, shall be reviewed in accordance with the following:

- (1) If the **Zoning Administrator** determines that the amendment does not constitute a **substantial change** to the previously approved plan, the revised Secondary Development Plan may be submitted with an application for a new **Improvement Location Permit**.
- (2) If the **Zoning Administrator** determines that the amendment constitutes a **substantial change** to the previously approved Secondary Development Plan the submission of a new Secondary Development Plan shall be required. The previously approved Secondary Development Plan and previously issued **Improvement Location Permit** shall be revoked and declared void once the new Secondary Development Plan is approved. The amended Secondary Development Plan shall require a new application and filing **fee**, and shall be reviewed under the provisions of this subchapter.
- (3) If the **Zoning Administrator** determines that the amendment is substantial enough that another public hearing should be required, the applicant shall resubmit the revised plan as a new Primary Development Plan, and the previously issued **Improvement Location Permit** shall be voided. The new Primary Development Plan shall require a new application and filing **fee** and shall be reviewed under the provisions of this ordinance.

ALLEN COUNTY ZONING ORDINANCE

Chapter 2 Site Plan Review

3-3-2-1 Purpose

The purpose of this chapter is to:

- (a) Provide a process that allows for administrative review of certain projects for compliance with the provisions of this ordinance; and
- (b) Allow reviewing staff to provide input on proposed projects.

3-3-2-2 When Required

Except as excluded in A.C.C. 3-2-1, any proposal for a new **building** or **structure** or an **addition** to an existing **building** in the following categories that does not require the submission of a Development Plan under the provisions of A.C.C. 3-1, requires submittal, review and approval through the Site Plan Review process:

- (a) New individual multiple **family buildings** of over two (2) units;
- (b) A nonresidential **structure** or **building** (including a single **building** on an individual **lot** or **development site**, an **accessory structure** or **building**, **additions** to an existing **building**, a **gas station canopy** or pumps, and an outdoor eating/drinking/smoking area);
- (c) If the **Plan Commission, Board of Zoning Appeals**, or Hearing Officer determines in the course of application review that the proposal is large, complex, or raises potential unanticipated **development** impacts, the **Plan Commission, Board of Zoning Appeals**, or Hearing Officer may require that the proposed project complete the Site Plan review process.

3-3-2-3 Exclusion

Projects of less than 1,000 square feet that do not have sanitary sewer or water facilities and fire sprinkler systems (including mobile classrooms but excluding **gas station canopies** or outdoor eating/drinking/smoking areas), shall be exempt from the Site Plan review process. Temporary construction or temporary sales/leasing facilities that do not have water and sanitary sewer connections shall also be exempt from the Site Plan review process.

3-3-2-4 Pre-Application Meetings

- (a) Prior to the submission of an application for approval of a Site Plan, a pre-application meeting between **DPS** staff and the applicant is recommended. The purpose of the pre-application meeting is to:
 - (1) Acquaint the applicant with the standards, procedures, and requirements of this ordinance and any other applicable requirements or ordinances;
 - (2) Review the Site Plan Review process procedures and submittal requirements;
 - (3) Acquaint the applicant with any potential issues or problems regarding the specific site or surrounding area, including **significant** cost or permit delay issues; and
 - (4) Provide the applicant with a list of application submittal requirements based on the nature and size of the proposed **development**.

ALLEN COUNTY ZONING ORDINANCE

3-3-2-5 Submittal Requirements

The applicant for Site Plan Review shall submit an application form and supporting information as established by the **Commission**. **DPS** staff shall only distribute applications for review that have been determined by **DPS** staff to be complete. A determination made by **DPS** staff with regard to the completeness of a Site Plan Review application may be appealed to the **Commission** in accordance with the **Commission's** rules.

3-3-2-6 **Development** and Design Standards

Development and design standards applicable to Site Plan Review are listed in Title 3, Chapter 4 (A.C.C. 3-4-4). No **waivers** of or exceptions to those standards are permitted through Site Plan Review.

3-3-2-7 Approval

(a) Filing Deadline

Application submission deadlines shall be according to the schedule and times established by **DPS** staff.

(b) Distribution and Review Schedule

Proposals submitted prior to the application deadline and determined to be complete submittals by **DPS** staff shall be distributed to the applicable review agency staff. The proposals shall be reviewed and comments submitted by the established review deadline. If no response is received from a review agency within ten (10) business days after transmittal of Site Plan Review materials, **DPS** staff may consider that the review agency has no objection to approval of the application as submitted.

(c) Action

Following review of a submitted Site Plan Review application, review staff may take the following actions:

- (A) The application may be approved, with or without **conditions**; review staff may place a hold on the **Certificate of Compliance** as part of the approval, to allow for: inspections of project improvements; issuance of project-related permits from other reviewing agencies; confirmation that previous **commitments** have been met or adequately committed to be met; or to obtain other information as necessary to confirm compliance with standards or requirements.
- (B) Changes to the application may be required if necessary to bring the application into compliance with the applicable standards and requirements; or
- (C) Additional information may be required if necessary to determine whether the application complies with the applicable standards and requirements; or
- (D) The application may be denied if it does not comply with the applicable standards and requirements and cannot be made to comply through the imposition of **conditions**.

(d) Reserved

(e) Time Frame for Valid Application or Approval

The following time frames shall apply to the validity of Site Plan review applications and approvals:

ALLEN COUNTY ZONING ORDINANCE

(1) Validity of Application

A Site Plan Review application shall remain valid for twelve (12) months from the application date, except that the applicant can request an extension from **DPS** staff prior to the expiration of the application. Extensions may be approved if **DPS** staff determines that the need for the extension arises due to unforeseen circumstances relative to the project.

(2) Validity of Approval

A Site Plan Review approval shall remain valid for six (6) months from the approval date, except that the applicant can request an extension from **DPS** staff prior to the expiration of the approval. Extensions may be approved if **DPS** staff determines that the need for the extension arises due to unforeseen circumstances relative to the project.

(f) **Improvement Location Permit**

(1) Revised Plans or Documents

After the review agency comments are received by **DPS** staff, it is the responsibility of the designated project representative to provide the **DPS** or reviewing staff with any requested information or revised plans or documents.

(2) Issuance of Permit

After all of the reviewing agencies have sent approvals for the proposal to **DPS** staff (or failed to respond for 10 business days following the transmittal of application materials), and any revised plans or documents have been approved by reviewing staff, an **Improvement Location Permit** shall be issued for the project.

(g) **Certificate of Compliance**

After the issuance of an **Improvement Location Permit** for a **building** or **structure**, no occupancy or **use** of that **building** or **structure** shall take place prior to the issuance of a **Certificate of Compliance** for the **building** or **structure**.

(1) **Certificate of Compliance** Release

It is the designated project representative's responsibility to contact the reviewers and provide any requested information or schedule any required inspections required by the reviewing agencies for their release of the **Certificate of Compliance**. When all of the reviewing departments/entities have approved the release of the **Certificate of Compliance**, indicating compliance with all applicable standards and requirements, or that the applicant has adequately committed to meet the applicable **conditions** of approval, the **DPS** staff will issue the Certificate to the **Allen County Building Department**. **DPS** staff may require the issuance of multiple Certificates of Compliance for **ILPs** for projects with phased occupancy.

(2) Survey

For new **structures** the applicant may be required to submit a certified survey to document that the **structure(s)** meet **setback** requirements, in addition to satisfying any other **conditions** of approval established by the **DPS** staff.

ALLEN COUNTY ZONING ORDINANCE

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ALLEN COUNTY ZONING ORDINANCE

Chapter 3 Subdivision Control

3-3-3-1 Title

This chapter shall be known and cited as the Allen **County Subdivision** Control Regulations. The provisions in this chapter are an updated replacement of the previous Allen **County Subdivision** Control Ordinance (A.C.C. Title 4).

3-3-3-2 Purpose

(a) Major Subdivisions

The purpose of the **Major Subdivision** regulations in this chapter is to provide standards and procedures to regulate all divisions of land that do not qualify as **Minor Subdivisions** or **exempt divisions of land**, to ensure that **Major Subdivisions** are consistent with the **Comprehensive Plan**, that **Major Subdivisions** do not occur within the A-1 or A-3 **zoning districts**, and to provide minimum rules, regulations, and standards in order to achieve orderly **development** in the **County** through land **subdivision**; to provide for the proper arrangement of **streets** in relation to other existing or proposed **streets**; to promote the **use** of land to assure the best possible environment; to reduce the unplanned **development** and the public service and enforcement costs associated with that **development**; to promote the health, safety, and general welfare of the public, and the provision of sufficient capital improvements to maintain community standards while meeting the standards and specifications of the **County**.

(b) Minor Subdivisions

The purpose of the **Minor Subdivision** regulations in this chapter is to establish an expedited procedure to review the **platting** of residential **developments** containing no more than six (6) **lots** for single **family** and **two family dwellings** in the A-1 or A-3 **zoning districts**. An administrative review and **platting** process is hereby established to provide assurance that a **Minor Subdivision** meets certain minimum requirements and design standards.

3-3-3-3 When Required

(a) Jurisdiction

Each division of land within the **planning jurisdiction** of the Allen **County Plan Commission** is required to obtain approval of either **Minor Subdivision** pursuant to A.C.C.3-3-3-5 or a **Major Subdivision** pursuant to A.C.C. 3-3-3-6, as applicable, unless it qualifies as an **exempt division of land** pursuant to A.C.C. 3-3-3-3(b).

- (1) No **subdivision** of land, as defined in this ordinance, may occur until such time as all the provisions of this A.C.C. 3-3-3 are complied with, the Allen **County Plan Commission** has acknowledged its approval by affixing its signatures and seal, and the sealed **plat** has been recorded in the Office of the Allen **County Recorder**.
- (2) No **lot** in a **subdivision** may be sold, and no permit to erect, alter, or repair any **building** upon land in a **subdivision** be issued, unless and until a **Major** or **Minor Subdivision** has received final approval and been recorded, and until the improvements required in connection with the **subdivision** have either been constructed or guaranteed as provided in this chapter.

ALLEN COUNTY ZONING ORDINANCE

(b) Exempt Divisions of Land

(1) The following divisions of land do not have to obtain approval of a **Minor Subdivision plat** pursuant to A.C.C.3-3-3-5 or a **Major Subdivision plat** pursuant to this A.C.C. 3-3-3-6:

- (A) Land located within a **metes and bounds subdivision** that has been approved and registered in accordance with A.C.C. 3-3-3-7(b);
- (B) The **conveyance** of not more than one (1) **lot** or **parcel** from a **parcel** of land not more than once in each twelve (12) consecutive months, or the **conveyance** of any number of **lots** or **parcels** twenty (20) acres or greater, and further provided that the **lots** or **parcels** have adequate width to meet the **lot width** requirements of the **zoning district** where the **lot** or **parcel** is located; or are served by an access **easement** of at least twenty-five (25) feet in width located on an existing **parcel** that meets the **minimum lot width** requirements (such an access **easement** shall only serve one **parcel**, shall be located a minimum of sixty (60) feet from any other access **easement**, and shall be approved by the **Zoning Administrator**);
- (C) The **conveyance** of land located within a Development Plan that has been approved by the **Commission**;
- (D) A division of a **parcel** of land for the transfer of a **parcel** of land to correct errors in an existing legal description, provided that no additional **building** sites are created;
- (E) A **conveyance** of a **parcel** of land pursuant to a distribution of land to a devisee, legatee or other heir pursuant to a last will and testament or intestate proceeding;
- (F) The **conveyance** of **parcel(s)** of land to one or both parties in a divorce proceeding pursuant to a court order regarding disposition of marital assets;
- (G) A division of a **parcel** of land for federal, state, or local government to acquire for public purposes;
- (H) A division of land resulting in the transfer or sale of land between contiguous **parcels** of land, provided that no additional **building** sites are created by the **subdivision**; and
- (I) A division of a **parcel** of land into **cemetery** plots.

(2) Certificate of Exempt **Subdivision**

An approved certificate of exemption, in lieu of a **plat**, shall be recorded contemporaneously with, or on the face of, the deeds that shall document the **conveyances** set forth in A.C.C.3-3-3-3(b)(1)(A), (B), and (C). The certificate of exemption shall state that the **conveyance** is an exempt **subdivision** and the certificate shall be signed by the **Zoning Administrator**, or his or her designee.

(c) Minor Subdivisions

Each division of land that does not qualify as an **exempt division of land** pursuant to A.C.C. 3-3-3-3(b) is required to obtain approval of **Major Subdivision** pursuant to A.C.C. 3-3-3-6 unless it meets all of the following requirements, in which case it is required to obtain a **Minor Subdivision Plat** pursuant to A.C.C 3-3-3-5.

ALLEN COUNTY ZONING ORDINANCE

- (1) **Minor Subdivisions** shall only be permitted in an A-1 or A-3 zoning district.
- (2) **Minor Subdivisions** shall only be used to create lots for single family or two family dwellings.
- (3) **Minor Subdivisions** may contain no more than six (6) lots, and land included in an approved **Minor Subdivision** may not later be divided into more lots through the exempt land division process pursuant to A.C.C. 3-3-3-3(b)
- (4) There shall be only one (1) **Minor Subdivision** approved per parcel of land every eighteen (18) months; provided however, that an application may seek to replat a previously approved **Minor Subdivision** so long as the application only within the boundaries of the previously approved **Minor Subdivision**.
- (5) A **Minor Subdivision** served by private streets shall be permitted to have up to one (1) point of connection to an adjacent parcel (interconnection) and this interconnection shall only be to another **Minor Subdivision**. **Minor Subdivisions** served by public streets shall not have a limitation on interconnections.
- (6) **Minor Subdivisions** shall be served by individual on-site sewage systems or a sanitary sewer system of a sewage disposal provider that holds a certificate of territorial authority issued by the Indiana Utility Regulatory Commission, authorizing such sewage disposal service for the area in which the **Minor Subdivision** is located. Package sewage treatment plants and similar private sanitary sewer systems shall not be permitted.
- (7) **Minor Subdivisions** shall be served by individual private wells or public water systems. Community water systems shall not be permitted.

(d) **Major Subdivisions**

Each division of land that does not qualify as an exempt division of land pursuant to A.C.C. 3-3-3-3(b) and does not qualify for a **Minor Subdivision** pursuant to A.C.C. 3-3-3-3(c) is required to obtain approval as a **Major Subdivision** pursuant to A.C.C. 3-3-3-6.

3-3-3-4

Pre-application Meeting

DPS staff shall hold a pre-application meeting at least five (5) business days prior to the filing deadline for an application for approval of a **Minor** or **Major Subdivision**. The purpose of this pre-application meeting is to:

- (a) Acquaint the applicant with the standards, procedures and requirements of this ordinance, the **Comprehensive Plan**, and any other applicable standards or requirements;
- (b) Review the **subdivision** procedures and submittal requirements;
- (c) Acquaint the applicant with any inherent limiting characteristics of the specific site or surrounding areas; and
- (d) Reduce the time period between initial application and approval.

ALLEN COUNTY ZONING ORDINANCE

3-3-3-5

Minor Subdivision

(a) Delegation of Authority

The **Commission** may delegate authority to grant primary approval of a **Minor Subdivision** to a Committee of the **Commission** by rule, and may delegate authority to grant **secondary approval** of a **Minor Subdivision** to the **DPS** staff, by rule. If the **Commission** has not delegated such authority, the **Commission** shall review applications for primary and/or **secondary approval** of **Minor Subdivision**, as applicable.

(b) Submittal Requirements

The applicant for a primary or **secondary approval** of a **Minor Subdivision** shall submit an application and **fee**, a **subdivision plat**, and supporting information as established by the **Commission's** rules. Only applications that have been determined by **DPS** staff to be complete shall be placed on the **Plan Commission's** agenda for the next available public meeting. A determination made by the **DPS** staff with regard to the completeness of a **Minor Subdivision** application may be appealed to the **Commission** pursuant to the **Commission's** rules.

(c) Primary Review

- (1) The **Commission** shall adopt filing **fees**, filing deadlines, meeting dates, and a hearing procedure for this process by rule.
- (2) After receipt of a complete application, the **DPS** staff shall provide notice of the public hearing by publication in accordance with IC 5-3-1, this ordinance, and as established by the **Commission** by rule.
- (3) **DPS** staff shall review the application and shall make a recommendation on the application. If the applicant has submitted an incomplete application, **DPS** staff shall notify the applicant of the missing information and provide the applicant with thirty (30) business days to submit the missing information.
- (4) The Committee of the **Commission** shall hold a public hearing on the application for primary approval of the proposed **Minor Subdivision** in accordance with the **Commission's** rules.

(d) Action and Additional Provisions

(1) Decision

- (A) After the public hearing on the primary approval of a **Minor Subdivision**, the Committee shall approve or deny the application. The Committee shall grant primary approval to the **Minor Subdivision** if it determines that the application meets the **development** requirements of the applicable **zoning district**. The **Plan Commission** may approve the **subdivision** subject to **conditions** if the **conditions** are reasonably necessary to satisfy those **development** requirements.
- (B) If an application for a **Minor Subdivision** would constitute the third or more **Minor Subdivision** on the same **parcel** or **adjacent parcels** of land, then **DPS** staff and the Committee shall review the application in accordance with the following additional standards:
 - (i) Whether the approval of the **Minor Subdivision** in combination with all of the other previously approved **Minor Subdivisions** in the

ALLEN COUNTY ZONING ORDINANCE

immediate surrounding area would provide for safe vehicular traffic along the **public street** to which the **Minor Subdivision** would have access, including, but not limited to, visibility at intersections, impact on existing public road **infrastructure, driveways**, curb cuts, and improvements needed for the safe movement of vehicles and pedestrians, in accordance with the standards of the Allen County Highway Department; and

- (ii) Whether the approval of the **Minor Subdivision** in combination with all of the other previously approved **Minor Subdivisions** in the immediate surrounding area would meet the storm drainage standards of the Allen County Surveyor's Office, including, but not limited to, the need to adequately handle the discharge of storm water and the impact on existing drains and drainage **structures**; and
- (iii) Whether the private **on-site sewage systems** in the **Minor Subdivision** in combination with the private **on-site sewage systems** in the other previously approved **Minor Subdivision** in the immediate surrounding area would present a health risk to the public, as determined by the guidelines of the Fort Wayne-Allen County **Department of Health**; and
- (iv) Whether the private wells in the **Minor Subdivision** in combination with the private wells in the previously approved **Minor Subdivision** in the immediate surrounding area would have an adverse impact on the other private wells, as determined by state law or other regulations.

(2) Deferral

The Committee may also defer action on primary approval of the proposed **Minor Subdivision** if it needs more information or time to determine if the **subdivision** is eligible for approval. In deferring action on a Primary **Minor Subdivision**, the Committee shall notify the applicant in writing of the reasons for the deferral, in accordance with the rules of the **Commission**. If the reason for the deferral is a Committee determination that the application cannot be granted primary approval until specific changes are made or additional information is submitted by the applicant, the applicant shall be notified of that fact and the applicant shall have twenty-one (21) days to submit corrected materials or additional information (or other specific period of time, up to sixty (60) days, as established by the **Commission** at the time of deferral). If the corrected materials or additional information is not submitted within the **Commission's** established period of time, the Committee may deny the application.

(3) Findings

The Committee shall enter written findings, setting forth the reasons for its action on an application for primary approval of a **Minor Subdivision**. If the **subdivision** is denied, the written findings entered by the Committee shall set forth the reasons for such denial.

ALLEN COUNTY ZONING ORDINANCE

(4) Notice of Decision

Notice of the Committee's decision on an application for primary approval of a **Minor Subdivision** shall be provided by furnishing a copy of its decision and findings to the applicant and any interested party as established by **Commission** rule.

(5) Period of Valid Approval

(A) Any primary approval of a **Minor Subdivision** by the **Executive Committee** shall be valid for a period of twenty-four (24) months from the date of that approval. If the **Minor Subdivision** has not received **secondary approval** within that twenty-four (24) month period, the preliminary approval of the **Minor Subdivision** shall be null and void, unless an extension is obtained pursuant to subsection (B) below.

(B) The applicant may request approval from the **Executive Committee** for an extension of time to obtain **secondary approval** of a **Minor Subdivision**. The request shall be made prior to the expiration of the twenty-four (24) month approval period.

(e) **Secondary Approval**

(1) Review

(A) Following primary approval of a **Minor Subdivision**, the applicant shall file an application for **secondary approval** of the **Minor Subdivision**.

(B) The **DPS** staff shall distribute the application materials to those public and quasi-public agencies identified by the **Commission's** rules.

(C) The **DPS** staff shall review the application materials to insure the requirements for **secondary approval** stated in this ordinance have been satisfied, shall coordinate the comments and requirements of the reviewing agencies, and shall make a recommendation to the **Commission** for the granting or denial of **secondary approval** of the **plat**.

(D) The **Commission** shall consider reviewing the application at its next available business meeting.

(E) No notice or public hearing is required for approval of a Secondary **Minor Subdivision**.

(F) If an appeal of the Committee of the **Commission's** primary approval of a **Minor Subdivision** was filed, the **DPS** staff shall take no further action until the **Commission** has made a decision on the appeal, and any action on the application for **secondary approval** of a **Minor Subdivision** shall be consistent with the **Commission's** decision on the appeal.

(2) Decision

(A) After review of an application for **secondary approval** of a **Minor Subdivision**, the **DPS** staff shall approve or deny the application. The **DPS** staff shall grant **secondary approval** of the **Minor Subdivision** if it determines that the application meets the following criteria, and may approve subject to **conditions** if it determines that those **conditions** will enable it to make a determination that:

ALLEN COUNTY ZONING ORDINANCE

- (i) The application is consistent with the primary approval of the **Minor Subdivision** for the **development site**, including any **conditions** attached to the **Minor Subdivision** primary approval;
 - (ii) The application meets those **development** design standards for **Minor Subdivisions** in A.C.C. 3-4-4; and
 - (iii) All required improvements and **infrastructure** for the **Minor Subdivision** have been completed.
- (B) If **secondary approval** is denied, the **DPS** Staff shall within three (3) business days after that denial furnish the applicant with a written list of the reasons for such denial.
- (C) If **secondary approval** is granted by **DPS** Staff, all certifications required by the **Commission's** rules shall be obtained by the applicant prior to recording.
- (D) The **Commission** may grant **secondary approval** of the **Minor Subdivision plat** subject to the expiration of the time provided for appeal under IC 36-7-4-708 of the primary approval of the **Minor Subdivision**; provided however, that the **plat** for which **secondary approval** has been granted shall not be signed or certified on behalf of the **Commission**, prior to the expiration of such appeal period.
- (3) Recording and Period of Validity
The provisions of A.C.C. 3-3-3-6(d)(4) shall apply.
- (f) **Development** and Design Standards
Development and design standards applicable to **Minor Subdivisions** are listed in Title 3, Chapter 4 (A.C.C. 3-4-4). No **waivers** of or exceptions to those standards are permitted for **Minor Subdivisions**.

ALLEN COUNTY ZONING ORDINANCE

3-3-3-6

Major Subdivision

Major Subdivisions are not permitted in the A-1 and A-3 **districts**. In all other **districts**, **Major Subdivisions** of land are subject to the following standards and procedures.

(a) Delegation of Authority

The **Commission** may delegate authority to grant **secondary approval** of a **Major Subdivision** to a Committee of the **Commission** by rule. If the **Commission** has not delegated such authority, the **Commission** shall review applications for **secondary approval** of **Major Subdivision**.

(b) Submittal Requirements

The applicant for a **Major Subdivision** shall submit an application form, a **subdivision plat**, and supporting information as established by the **Commission's** rules. Only applications that have been determined by **DPS** staff to be complete shall be placed on the **Plan Commission's** agenda for the next available public meeting. A determination made by the **DPS** staff with regard to the completeness of a **Major Subdivision** application may be appealed to the **Commission** in accordance with the **Commission's** rules.

(c) Primary Approval

(1) Review

- (A) The **Commission** shall adopt filing **fees**, filing deadlines, meeting dates, and a hearing procedure for this process by rule.
- (B) After receipt of a complete application, the **DPS** staff shall provide notice of the public hearing by publication in accordance with IC 5-3-1, this ordinance, and as established by the **Commission** by rule.
- (C) **DPS** staff shall review the application and shall make a recommendation on the application. If the applicant has submitted an incomplete application, the **DPS** staff shall notify the applicant of the missing information and provide the applicant with thirty (30) business days to submit the missing information.
- (D) The **Commission** shall hold a public hearing on the application for primary approval of the proposed **Major Subdivision** in accordance with the **Commission's** rules.

(2) Action and Additional Provisions

The following standards and requirements shall apply to the **Commission's** actions on a **Major Subdivision**.

(A) Decision

After public hearing on the proposed **Major Subdivision**, the **Commission** shall grant primary approval to the **Major Subdivision** if it determines that the application meets the **development** requirements of the applicable **zoning district**. The **Plan Commission** may approve the **plat** subject to **conditions** if the **conditions** are reasonably necessary to satisfy those **development** requirements.

ALLEN COUNTY ZONING ORDINANCE

(B) Deferral

The **Commission** may also defer action on the proposed **Major Subdivision** if it needs more information or time to determine if the **subdivision** is eligible for primary approval. In deferring action on a **Major Subdivision**, the **Commission** shall notify the applicant in writing of the reasons for the deferral, in accordance with the rules of the **Commission**. If the reason for the deferral is a **Commission** determination that the application cannot be granted primary approval until specific changes are made or additional information is submitted by the applicant, the applicant shall be notified of that fact and the applicant shall have twenty-one (21) days to submit corrected materials or additional information (or other specific period of time, up to sixty (60) days, as established by the **Commission** at the time of deferral). If the corrected materials or additional information is not submitted within the **Commission's** established period of time, the **Commission** may deny the application.

(C) Findings

The **Commission** shall enter written findings, setting forth the reasons for its action on an application for primary approval of a **Major Subdivision**. If primary approval is denied, the written findings entered by the **Commission** shall set forth the reasons for such denial.

(D) Notice of Decision

Notice of the **Commission's** decision on an application for primary approval of a **Major Subdivision** shall be provided by furnishing a copy of its decision and findings to the applicant and any interested party as established by rule.

(E) Period of Valid Approval

- (i) Any primary approval of a **Major Subdivision** by the **Commission** shall be valid for a period of twenty-four (24) months from the date of that approval. If **secondary approval** of the **Major Subdivision** is not obtained within that twenty-four (24) month period, the primary approval of the **Major Subdivision** approval shall be null and void, unless an extension is obtained pursuant to subsection (ii) below.
- (ii) The applicant may request approval from the **Commission** for an extension of time to obtain **secondary approval** of a **Major Subdivision**. The request shall be made prior to the expiration of the twenty-four (24) month approval period.

(d) **Secondary Approval**

(1) Delegation of Authority

The **Commission** may delegate authority to grant **secondary approval** of a **Major Subdivision** to a committee of the **Commission**. If such authority has been delegated, each reference to the **Commission** below shall apply to the Committee granted such authority. If the **Commission** has not delegated authority to grant approval of a **Secondary Major Subdivision**, the **Commission** shall review applications for **Secondary Major Subdivisions**.

ALLEN COUNTY ZONING ORDINANCE

- (2) Review
 - (A) Following primary approval of a **Major Subdivision**, the applicant shall file an application for **secondary approval** of all or a specifically described portion of the **Major Subdivision**.
 - (B) The **DPS** staff shall distribute the application materials to those public and quasi-public agencies identified in the **Commission's** rules.
 - (C) The **DPS** staff shall review the application materials to insure the requirements for **secondary approval** stated in this ordinance have been satisfied, shall coordinate the comments and requirements of the reviewing agencies, and shall make a recommendation to the **Commission** for the granting or denial of **secondary approval** of the **plat**.
 - (D) The **Commission** shall consider reviewing the application at its next available business meeting.
 - (E) No notice or public hearing is required for a **secondary approval** of a **Major Subdivision**.
- (3) Decision
 - (A) After review of an application for **secondary approval** of a **Major Subdivision**, the **Commission** shall grant **secondary approval** of the **Major Subdivision** if it determines that the application meets the following criteria, and may approve subject to **conditions** if it determines that those **conditions** will enable it to make a determination that:
 - (i) The application is consistent with the primary approval of the **Major Subdivision** for the **parcel**, including any **conditions** attached to the **Major Subdivision** primary approval;
 - (ii) The application meets those design and **development** standards for **Major Subdivisions** in A.C.C. 3-3-3-6(e);
 - (iii) The applicant has paid in full to the **Commission** all costs incurred for the furnishing of notice related to the primary approval of the **Major Subdivision** required under this ordinance or by the **Commission's** rules;
 - (iv) The applicant has installed all of the improvements required by this ordinance in accordance with the approved plans and specifications on file, and delivered to the **Commission** all necessary approvals and acceptances for those improvements from all applicable agencies and authorities; or in the event all of the required improvements have not been installed, the applicant has filed with the **Commission**, for any improvements already installed all necessary approvals and acceptances from all applicable agencies and authorities and provided financial guarantees pursuant to A.C.C. 3-3-3-6(f) for any required improvements not installed, or installed but for which all necessary approvals and acceptances from all applicable agencies and authorities have not been obtained.

ALLEN COUNTY ZONING ORDINANCE

- (B) If **secondary approval** is denied, the **Commission** shall within five (5) business days after that denial furnish the applicant with a written list of the reasons for such denial.
 - (C) If **secondary approval** is granted by the **Commission**, all certifications required by the **Commission's** rules shall be obtained by the applicant prior to recording.
 - (D) **Secondary approval** may only be granted after the expiration of the time provided for an appeal of the Primary approval under I.C.36-7-4-708.
 - (E) Any action by the **Commission** for **secondary approval** of a **Major Subdivision** shall be a final decision.
 - (F) After **secondary approval** has been granted, the **plat** shall be certified and then released for recordation as established in the **Commission's** rules.
- (4) Recording and Period of Validity
- (A) It shall be the responsibility of the applicant to obtain all **Major Subdivision plat** certifications and signatures required by the **Commission's** rules, and to record the **Major Subdivision plat** with **secondary approval** and any associated covenants, **easements** or similar documents.
 - (B) Within one (1) year of the granting of **secondary approval** of the **Major Subdivision**, the applicant shall furnish to the Executive Director the original of the **subdivision plat** in its final form and with all required contents and restrictive covenants, as approved by or on behalf of the **Commission**.
 - (C) Upon receipt of the **plat**, the Executive Director shall determine whether the **plat** submitted for recording complies strictly in its form and contents with the **secondary approval** granted by or on behalf of the **Commission**.
 - (D) If the Executive Director determines that the submitted **plat** strictly complies with the **secondary approval**, the Executive Director shall have the **plat** signed and certified as established by rule and shall release the **plat** to be recorded.
 - (E) If the Executive Director determines that the **plat** submitted for recording does not strictly comply with the **secondary approval**, the Executive Director shall notify the applicant of any required changes to bring the **plat** into compliance with the **secondary approval** and shall allow the applicant an additional thirty (30) days to make those changes and to submit a corrected **plat** to the Executive Director for recording. If the applicant makes the required changes and submits a corrected **plat** and required recording **fees** within that thirty (30) day period, the Executive Director shall proceed to record the **plat** as described in subsection (D) above. If the applicant does not submit a corrected **plat** with the thirty (30) day period, or the **plat** submitted by the applicant during that period does not include the changes requested by the Executive Director, the primary and **secondary approvals** of the **subdivision** shall lapse and be void.

ALLEN COUNTY ZONING ORDINANCE

(e) **Development** and Design Standards

Development and design standards applicable to **Major Subdivisions** are listed in Title 3, Chapter 4 (A.C.C. 3-4-4). Some modifications of or exceptions to **development** and design standards for **Major Subdivisions** are permitted pursuant to A.C.C. 3-4-5-2 and 3-4-5-3.

(f) Performance Guarantees

If an applicant applies for **secondary approval** of a **Major Subdivision** and has not installed all of the improvements required by this ordinance and the **Subdivision** approvals, the **Commission** or its designee may only consider the application if the applicant has executed with the **Commission** an **infrastructure** completion agreement as set forth below:

(1) **Infrastructure** Completion Agreement

The applicant has executed an agreement acceptable to the **Commission** confirming that:

- (A) The applicant will install all required **infrastructure** to serve each **lot** in the **Major Subdivision** before applying for an **Improvement Location Permit** for that **lot**, and
- (B) After **Improvement Location Permits** have been approved for fifty (50) percent of the **lots** in that phase of the **Major Subdivision**, no additional **Improvement Location Permits** for any **lot** in that phase of the **Major Subdivision** shall be issued until all required improvements have been installed, inspected, and approved by the **County** or the applicable governmental or quasi-governmental entity or a **subdivision** improvement **bond** is posted by the applicant, as described in subsection (2) below.
- (C) For purposes of this standard, each phase of a **Major Subdivision** shall be considered separately.

(2) **Subdivision** Improvement **Bond**

- (A) If the **DPS** is holding **Improvement Location Permits** under the terms of an **Infrastructure** Completion Agreement and required improvements in the **Major Subdivision** have not been completed, inspected, and approved as required by that agreement, then, as an alternative to completing those improvements, the applicant may execute and post with the **Commission** a **subdivision** improvement **bond**, in accordance with the **Commission's** rules, to insure installation, acceptance and approval of the remaining improvements as shown on the approved plans and specifications for the **Major Subdivision**.
- (B) The **subdivision** improvement **bond** shall:
 - (i) Be in an amount determined by the **Commission** to be sufficient to complete the improvements and installation in accordance with this ordinance, based on an estimate provided by the **developer** and determined to be adequate by the applicable reviewing entity;
 - (ii) Provide surety satisfactory to the **Commission**;
 - (iii) Run to the **Commission**; and

ALLEN COUNTY ZONING ORDINANCE

- (iv) Specify the time for completion of the improvements and installations.
- (C) If an applicant posts a **subdivision improvement bond** as required by subsection (A) above and the required improvements are not installed within the time stated in the performance **bond**, the **Commission** is authorized to use funds from the **bond** to cause the improvements covered by the **bond** to be installed as shown in the approved plans and specifications for the **Major Subdivision**. Upon submission by the application of the document required under the regulations adopted by the **Commission**, demonstrating that all improvements have been installed in accordance with this ordinance, the **Commission**, or its duly authorized representative, shall release such performance **bond** and discharge the **developer** and surety, if any, from further liability or responsibility under the **bond**.

3-3-3-7 Secondary **Plat** Amendments and Adjustments

(a) General Amendments

After a **secondary approval** of a **Minor** or **Major Subdivision**, the **Commission** or its designee, is authorized to approve amendments to the **subdivision plat** if:

- (1) A request for amendment is filed, accompanied by the signatures of all **owners of lots** in the **plat**, and a survey if the **Commission** or its designee determines that a survey is necessary to accurately evaluate the impacts of the proposed amendment;
- (2) There is no increase in the number of **lots**;
- (3) No public land will be accepted as a result of the amendment, except as may be incidental to the adjustment of **lot lines** and/or **right-of-way** lines; and
- (4) The amendment is consistent with the purposes and requirements of this ordinance.

(b) Errors or Omissions

If an error or omission is found at any time after the recording of a **Minor** or **Major Subdivision plat**, the Executive Director shall be notified of the error or omission in writing, and the property **owner** or his or her successor shall cause the error or omission to be corrected. The Executive Director shall determine how the correction of the error or omission shall be made. The Executive Director may withhold **Improvement Location Permits** for any **lot** within the **subdivision** until the error or omission is corrected.

3-3-3-8 Appeals

(a) Appeals of Decisions of a Committee of the **Plan Commission**

- (1) A decision of a Committee of the **Commission** may be appealed to the **Plan Commission** by the applicant.
- (2) The applicant may appeal the Committee's action on a **Minor** or **Major Subdivision** within five (5) business days after notice of the disposition has been mailed. If an appeal is filed, it shall be placed on the next available scheduled public hearing of the **Commission** that will allow for notice to interested parties.
- (3) The **Commission** may approve, disapprove, or conditionally approve the **Major** or **Minor Subdivision plat** based on a determination of whether the Committee's decision complied with the requirements of this ordinance.

ALLEN COUNTY ZONING ORDINANCE

(4) The approval or disapproval of the appeal is a final decision of the **Commission** that may be reviewed as provided in I.C. 36-7-4-1016.

(b) Appeals of Decision of the **Plan Commission**

Every final decision of the **Commission** or its designee as set forth in I.C. 36-7-4-715 shall be subject to review as provided in I.C. 36-7-4-1016.

3-3-3-9

Additional **Subdivision** Actions

(a) **Subdivision Plat** Vacation

The **Commission** may approve, approve with **conditions**, or deny a decision to vacate a **Minor** or **Major Subdivision plat**, pursuant to I.C. 36-7-4-711.

(b) Registration of Nonconforming **Metes and Bounds Subdivisions**

(1) A **metes and bounds subdivision** was legally created prior to February 1, 2008, and that received a registration certificate on or before October 1, 2008, as a lawful nonconforming **metes and bounds subdivision** may be continued to be **subdivided** under the prior A.C.C. 4-1-3-9 , as was the case prior to February 1, 2008.

(2) A **metes and bounds subdivision** that did not receive a registration certificate as a legal **metes and bounds subdivision** on or before October 1, 2008, shall be subject to this ordinance and no further **subdivision** shall occur on the real estate except in strict conformity with this ordinance.

(3) No nonconforming **metes and bounds subdivision** may be extended beyond the boundaries of the legal description approved in the registration certificate.