

SUBDIVISION CONTROL ORDINANCE
CITY OF GAS CITY, INDIANA
ORDINANCE No. 92-5

OFFICE COPY

ok/wc

Passed and adopted by the Common Council of the City of Gas City,
Indiana, this 21st day of July, 1992.

COMMON COUNCIL OF THE CITY OF GAS CITY

James M. Leach

Robert D. Chapman

B. E. Fisher

James A. Sprague

Douglas Carter

ATTEST:

Anita L. Smith
ANITA SMITH, CITY CLERK

Presented by me to the Mayor of the City of Gas City, Indiana,
this 21st day of July, 1992.

Anita L. Smith
Anita Smith, City Clerk Gas City, IN

Approved by me as Mayor of the City of Gas City, Indiana, this
21st day of July, 1992.

Eugene Linn
Eugene Linn, Mayor City of Gas City, IN

SUBDIVISION CONTROL ORDINANCE
CITY OF GAS CITY, INDIANA
ORDINANCE NO: 1992 - 5

AN ORDINANCE PROVIDING RULES AND PROCEDURES FOR THE DESIGN
AND PLATTING OF SUBDIVISIONS WITH THE CITY OF GAS
CITY; PROVIDING FOR THE PAYMENT OF FEES FOR FILING OF PROPOSED
PLATS; PROVIDING FOR PROCEDURE FOR APPROVAL OF PLATS BY THE GAS
CITY ADVISORY PLAN COMMISSION; PROVIDING FOR THE ENFORCEMENT OF
THIS ORDINANCE AND PENALTIES FOR THE VIOLATION THEREOF.

SECTION I
General Provisions

1.1 Title

These regulations shall hereafter be known and cited as the Subdivision Regulations of the City of Gas City, Indiana.

1.2 Policy

(1) The declared policy of the City is to consider the subdivision of land and the subsequent development of subdivided plat as being subject to the official comprehensive plan and related policies as embodied in the Gas City zoning ordinance for the orderly and efficient development of the City.

(2) Land to be subdivided shall be of such a character that it can be developed without peril to health or peril from flood, fire or other menace, and land shall not be subdivided until having access to available existing public facilities and until improvements and proper provision have been made for drainage, water, sewerage, other necessary new public improvements such as schools, parks, recreation facilities, and transportation facilities adequate for serving the subdivision.

(3) Both existing and proposed public facilities serving the subdivision shall be properly related and conform to the official City Comprehensive Land Use Plan, related policies and implementation programs including the Capital Budget, Official Map, Thoroughfare Plan, Zoning Ordinance, and Housing and Building Codes.

1.3 Purposes of These Regulations

(1) To protect and provide for the public health, safety, and general welfare of the City.

(2) To guide the future development and renewal of the City in accordance with the Comprehensive Plan and related policies.

(3) To provide for the safety, comfort, and soundness of the built environment and related open spaces.

(4) To protect the compatibility, character, economic stability, and orderliness of all development through reasonable design standards.

(5) To guide public and private policy and action adequate and efficient public and private facilities, the most aesthetically pleasing and beneficial interrelationship between land uses, conserve natural resources such as natural beauty, woodlands, open spaces, and energy both during and after development.

1.4 Authority And Jurisdiction

(1) This ordinance which was enacted pursuant to Indiana home rule and planning enabling legislation (Indiana Code, titles § 36-1-3-4 and the §36-7-4-700 series, as amended) authorizes the Gas City Advisory Plan Commission to review and approve or disapprove plats for subdivision throughout the City, which show lots, blocks, or sites with or without new streets or highways. This authority extends to the development or resubdivision of undeveloped portions of already recorded plats.

(2) No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effect date of, and not in conformity with, the provisions of these subdivision regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations contained herein and in conformity with construction standards adopted by the City.

1.5 Enactment

In order that land may be subdivided in accordance with these purposes and policies, these subdivision regulations are hereby adopted.

1.6 Interpretation, Conflict, and Separability

(1) In their interpretation and application, the provisions of these regulations all be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

(2) Conflict with Public and Private Provisions

(a) Public Provisions. The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or

other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

- (b) Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Commission in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder.

(3) Separability. If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The City hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.

1.7 Saving Provision

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the city under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City except as shall be expressly provided for in these regulations.

1.8 Repealer

Upon the adoption of this ordinance according to law, Subdivision Control Ordinance of Gas City, Indiana adopted October 6, 1964, AS General Ordinance No. 64-9 is hereby repealed, except for such sections expressly retained herein.

1.9 Amendments

For the purpose of providing for the public health, safety, and general welfare, the City, on recommendation of the Commission, may from time to time amend the provisions imposed by these subdivision regulations. Public hearings on all proposed amendments shall be held by the Commission and/or the City in the manner prescribed by law.

1.10 Conditions

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to this city. The developer has the duty of compliance with reasonable conditions laid down by the Commission for design, dedication, improvement, and restrictive use of the land in order to conform to the physical and economical development of the City and to the safety and general welfare of the future plot owners in the subdivision and of the City at large.

1.11 Resubdivision of Land

(1) Procedure for Resubdivision. For any change in a map of an approved or recorded subdivision plat, if such change affect any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affect any map or plan legally reached prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the Commission by the same procedure, rules, and regulations as for a subdivision.

(2) Procedure for Subdivisions Where Future Resubdivision is Indicated. Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into smaller building sites, the Commission may require that such parcel of land allow for the future opening and extension of such streets may be made a requirement of the plat.

1.12 Vacation of Plats

Any recorded plat or part of any recorded plat may be vacated only in accordance with I.C. 36-7-3 as amended 1982, 1983, and 1986.

1.13 Variances

(1) General. Where the Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, the Commission may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variances shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

- (a) the granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other nearby property;
- (b) the conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;
- (c) because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;
- (d) the variance will not in any manner contravene the provisions of the Zoning Ordinance, Comprehensive Plan, or Official Map as interpreted by the Commission and the City Engineer; and,

(2) Conditions. In approving variances, the Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards of requirements of these regulations.

(3) Procedures. A petition for any such variance may be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

1.14 Enforcement, Violation, and Penalties

(1) General

- (a) It shall be the duty of the Administrator to enforce these regulations and to bring any violations or lack of compliance to the attention of the Commission Attorney.
- (b) No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Commission, in accordance with the provisions of these regulations, and filed with the County Recorder.
- (c) The division of any lot or any parcel of land into a subdivision, as defined in this ordinance, by the use of metes and bounds description for the purpose of sale, or transfer, or lease resulting in the creation of one or more new building sites shall not be permitted. All such described divisions shall be subject to all the appropriate requirements of this ordinance.

- (d) No Improvement Location Permit or Building Permit required under the Uniform Building Code, the Zoning Ordinance, or this ordinance shall be issued on any property subject to this ordinance until compliance with the provisions of this ordinance.

(2) Violations and Penalties. Any person who violates any provisions of this ordinance or any regulations herein contained or fails to perform any duty lawfully or supply any information lawfully required within the time prescribed by this ordinance or any regulations herein contained shall be deemed to have committed an ordinance violation, and, upon entry of a judgment finding an ordinance violation pursuant to I.C. 34-4-32-4, shall be fined not less than Twenty-five Dollars (\$25.00), and not more than One Thousand Dollars (\$1,000.00). Each day a violation continues constitutes a separate ordinance violation.

(3) Restraining Provisions

- (a) Any land within the participating jurisdictions subdivided in violation of the terms of this ordinance after the effective date hereof, is hereby declared to be a common nuisance, which may be restrained, enjoined or abated in any appropriate action or proceeding.
- (b) The Commission may institute an injunction suit requesting an individual or governmental unit be directed to remove a structure erected in violation of this ordinance, or to make the same comply with its terms. If the Commission is successful in its suit, the respondent shall pay the Commission's reasonable attorney fees and all costs related to the enforcement of this Ordinance.
- (c) The Commission may institute a suit for mandatory injunction requesting an individual or governmental unit be directed, where such individual or governmental unit has violated any provisions of this ordinance, to comply with the provisions of this ordinance. If the Commission is successful in its suit, the respondent shall pay the Commission's reasonable attorney fees and all costs related to the enforcement of this Ordinance.

SECTION II
Definitions

2.1 Usage

(1) For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.

(2) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations", the word "regulations" means "these regulations".

(3) A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; "shall" is always mandatory, "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designated to be used or occupied".

2.2 Definitions

Accessory Building. A subordinate structure, the use of which is incidental to that of the dominant use of the principal building or land.

Administrator. The officer appointed by and/or delegated the responsibility for the administration of these regulations by the planning commission. This term shall be construed to include those planning staff members working under the direction of the Administrator in the exercise of his responsibilities in regard to the processing of these Subdivision Regulations.

Advisory Plan Commission. A plan commission serving a single local government jurisdiction established as defined under the Indiana Code, § 36-7-1-2 (1981) as amended.

Agency. See Public Agency.

Alley. A public or private vehicular right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant. The owner of land proposed to be subdivided or his agent or his legal representative.

Arterial. Either a Primary Arterial or a Secondary Arterial as defined in this section.

Average Density Procedures. Procedures for calculating overall density of development prescribed in the Zoning Ordinance

as a flexible tool for maintaining overall densities while allowing individual lot sizes to vary from the minimum size allowed in a given zone. (See Flexible Zoning also).

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of municipalities.

Bond. Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Advisory Plan Commission. All bonds shall be approved by the Commission wherever a bond is required by these regulations.

Buffer Landscaping. Any trees, shrubs, walls, fences, berms, or related landscaping features required under this ordinance or the Zoning Ordinance on private lots and privately maintained for buffering lots from adjacent properties or public rights of way for the purpose of increasing sound and/or visual privacy. (See Screening also.)

Building. Any roofed structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

Building Code. The Gas City ordinance or group of ordinances which establishes and controls the standards for construction of buildings, utilities, mechanical equipment and all forms of structures and permanent installations and related matters, within the City. This ordinance referred to herein as the Gas City Building Code.

Building Permit. A certificate issued by the Building Permit Official of a governing body permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within its jurisdiction, or cause the same to be done.

Building Permit Official. That official of local government authorized to issue building permits.

Capital Improvement Program. A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the more durable, longer lived physical assets for the community are included.

Central Sewerage System. A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision or an existing public sewer system.

Central Water System. A community water supply system including existing and new wells and/or surface water sources and intakes, treatment facilities, and distribution lines and includes such of the above facilities established by the developer to serve a new subdivision.

Certificate. The signed and attested document which indicates that a subdivision has been granted secondary approval by the Commission subsequent to proper public notice of its hearing.

Checkpoint Agency. A public agency or organization called upon by the Commission to provide expert counsel with regard to a specific aspect of community development or required by law to give its assent before subdivision may occur.

Clerk-Treasurer. The City Official empowered to examine and settle all accounts and demands that are chargeable against the City and not otherwise provided for by statute.

Collector Street. A street intended to move traffic from local streets to secondary arterials. (A collector street serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it and no driveway access to it is permitted unless the property is to be in multi-family use for four (4) or more dwelling units.)

Commission. The Gas City Advisory Plan Commission as referred to herein.

Commission Attorney. The licensed attorney designated by the Commission to furnish legal assistance for the administration of this ordinance or as provided by statute.

Comprehensive Plan. Inclusive physical, social, economic plans and policies in graphic and verbal statement forms for the development of the City prepared and adopted by the Commission and, pursuant to State Acts, including any part of such plan and/or policy separately adopted and any amendment to such plan or policies or parts thereof.

Condominium. The division of building(s) and the related land into horizontal property interest meeting the requirements of and controlled by Indiana statutes for condominiums and prescribed by the Indiana Code § 32-1-6-1 through 31.

Construction Plan(s). The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed for the subdivision in accordance with the requirements of this ordinance as a condition of the approval of the plat.

City Attorney. The licensed attorney designated by the legally authorized body to furnish legal assistance for the administration of these regulations in lieu of the Commission having its own attorney.

County Auditor. The County official empowered to examine and settle all accounts and demands that are chargeable against the County and not otherwise provided for by statute.

City Building Code. (See Building Code.)

City Design Review Committee. A committee established by the City to provide technical services to the Advisory Plan Commission in the administration of these regulations.

City Engineer. The licensed engineer designated by the City to furnish engineering assistance in the administration of these regulations.

City Government. The governmental body of the City empowered to adopt planning and public policy ordinances.

County Health Officer. (See Health Officer)

County Recorder. The county official empowered to record and file land description plats.

Cul-de-sac. A local street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement including public safety vehicles.

Dead-end Street. A street or a portion of a street with only one (1) vehicular traffic outlet, and no turnaround at the terminal end.

Department. (See Public Agency.)

Designated Officials. The President and Secretary of the Commission who are designated in the subdivision ordinance as required signatories for the execution of secondary approval.

Developer. The owner of land proposed to be subdivided or his representative. Consent for making applications for development approval shall be required from the legal owner of the premises.

Drives, Private. Vehicular street and driveways, paved or unpaved, which are wholly within private property except where they intersect with other streets within public rights-of-way.

Easement. An authorization grant by a property owner for the use by another of any designated part of his property for a clearly specified purpose(s).

Escrow. A deposit of cash with the Commission in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be held by the Clerk-Treasurer.

Exempt Divisions. (See definition of Subdivision.)

Final Plat. The map, drawing, or plan described in this ordinance of a Subdivision and any accompanying material submitted to the Commission for secondary approval, and which if approved and signed by the designated officials, may be submitted to the County Recorder for recording.

Flood Hazard Areas. Those flood plains which have not been adequately protected from flooding by the Regulatory Flood by means of dikes, levees, or reservoirs, and are shown on the Floodway-Flood Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the State Natural Resources Commission.

Flood Plain. The area adjoining the river or stream which has been or may hereafter be covered by flood water from the Regulatory Flood.

Flood Protection Grade. The elevation of the lowest point around the perimeter of a building at which flood waters may enter the interior of the building.

Floodway. (See Regulatory Floodway.)

Floodway Fringe. Those portions of the Flood Hazard Areas lying outside the Floodway, shown on the Floodway-Flood Boundary Maps of the Federal Insurance Administration.

Foundation. The supporting member of a wall or structure.

Frontage. The side of a lot abutting on a street or way and ordinarily regarded as the front of the lot. Lots shall not be considered to front on stub ends of streets and in the case of corner lots will be considered to front on both intersecting streets. (No access for any one lot is permitted to more than one street and that street generally will be the one calculated to have lower traffic volumes and less frequent intersections.)

Frontage Street. Any street to be constructed by the developer or any existing street in which development shall take place on both sides.

Front Yard. A yard defined herein, encompassing the horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. The front yard of a

corner lot shall be that yard abutting the street upon which the lot has its least frontage.

Governing Body. The Gas City Common Council.

Grade. The slope of a street, or other public way, specified in percentage (%) terms.

Health Department and County Health Officer. The agency and person designated by the County to administer the health regulations within the County's jurisdiction.

High Density. Those residential zoning districts in which the density is equal to or greater than one dwelling unit per 10,000 square feet.

Highway, Limited Access. A freeway, or expressway, providing for through traffic, in respect to which owners or occupants of abutting property or lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such a highway.

Housing Code. The City ordinance controlling the continuing safety and healthfulness of buildings for human occupation within the City's jurisdiction. The ordinance referred to herein as the City Housing Code.

Improvements. (See Lot Improvements or Public Improvements.)

Indiana Code. The Burns Indiana Statutes Code Edition, which codifies all Indiana statutes for reference purposes. The latest edition with any amending supplements must be referred to for the laws "now" in force and applicable. (Usually abbreviated as I.C. herein.)

Individual Sewage Disposal System. A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device approved by the Health Department.

Interested Parties. Those parties who are the owners of properties adjoining or adjacent to the proposed subdivision as shown on the sketch plan.

Joint Ownership. Joint ownership among persons shall be construed as the same owner; "constructive ownership" for the purpose of imposing subdivision regulations.

Land Divider. The owner of a parcel of land to be further divided through making an exempt division.

Landscaping. (See Buffer Landscaping, Screening and Shade Trees.)

Local Street. A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

Lot. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

Lot Corner. A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.

Lot Improvement. Any building, structure, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

Low Density. Those residential zoning districts in which the density is equal or less than one dwelling unit per 40,000 square feet.

Major Street. A collector or arterial street.

Major Street Plan. (See Official Map.)

Major Subdivision. Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.

Map. A representation of a part or the whole of the earth's surface, in signs and symbols, on a plane surface, at an established scale, with a method of orientation indicated.

Marker. A stake, pipe, rod, nail, or any other object which is not intended to be a permanent point for record purposes.

Master Plan. (See Comprehensive Plan.)

Medium Density. Those residential zoning districts in which the density is between 10,000 and 40,000 square feet per dwelling unit.

Minor Subdivision. Any subdivision containing not more than three (3) lots fronting on an existing street which is an improved right-of-way maintained by the City not involving any new street or extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the

remainder of the parcel or adjoining property and not in conflict with any revision or portion of the Comprehensive Plan, Official Map, Zoning Ordinance, or this ordinance.

Model Home. A dwelling unit used initially for display purposes which typifies the kind of units that will be constructed in the subdivision. Such dwelling units may be erected, at the discretion of the Commission, by permitting a portion of a major subdivision involving no more than two (2) lots to be created according to the procedures for minor subdivisions, as set out in these regulations.

Monument. A physical structure which marks the location of a corner or other survey point.

Nonresidential Subdivision. A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.

Off-Site. Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

Official Map. The map or maps established by the City pursuant to law showing existing and proposed street, highways, parks, drainage systems and set-back lines heretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the City or additions thereto resulting from the approval of subdivision plats by the Commission and the subsequent filing of such approved plats.

Official Master Plan. (See Comprehensive Plan.)

Ordinance. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

Owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

Parcel. A part or portion of land having a legal description formally set forth in a conveyance together with the boundaries thereof, in order to make possible its easy identification.

Perimeter Street. Any existing street to which the parcel of land to be subdivided abuts on only one side.

Plan Commission. The City's Advisory Plan Body as established in accordance with Indiana Law, often referred to herein simply as the Commission.

Planned Unit Development. Planned unit development is a means of land regulation which permits large scale, unified land development in a configuration and possibly a mix of uses not otherwise permitted "as of right" under the City Zoning ordinance but requiring under that ordinance or a special ordinance a special review and approval process.

Plat. A map indicating the subdivision or resubdivision of land filed or intended to be filed for record with the County Recorder.

Preliminary Plat. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Commission for approval.

Primary Approval. An approval (or approval with conditions imposed) granted to a subdivision by the Commission after having determined in a public hearing that the subdivision complied with the standards prescribed in this Ordinance (per I.C. § 36-7-4-700 series: Subdivision Control).

Primary Arterial. A street intended to move through-traffic to and from such major attractors as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the county; and/or as a route for traffic between communities; a major thoroughfare.

Principal Use Building. A building in which the principal use of the lot or parcel is conducted. Standards recognized by the Indiana Administrative Building Council shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

Public Agency. An agency or government department acting under the aegis of and representing an elected or appointed council, commission, or other policy-making or advisory body of federal, state or local government to whom it is responsible.

Public Improvement. Any drainage ditch, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. (All such improvements shall be properly bonded.)

Rear Yard. A yard as defined herein, encompassing the horizontal space between the nearest foundation measured as the short-

test distance from that foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

Registered Land Surveyor. A land surveyor properly licensed and registered in the State of Indiana permitted to practice in Indiana through reciprocity.

Registered Professional Engineer. An engineer properly licensed and registered in the State of Indiana or permitted to practice in Indiana through reciprocity.

Regulatory Flood. That flood having a peak discharge which can be equaled or exceeded on the average of once in a one hundred (100) year period, as calculated by a method and procedure which is acceptable to and approved by the State Natural Resources Commission; this flood is equivalent to a flood having a probability of occurrence of one percent (1%) in any given year.

Regulatory Flood Elevation. The maximum elevation, as established by the Indiana Department of Natural Resources, reached by the Regulatory Flood at the locations in question relevant to approval of a given subdivision.

Regulatory Floodway. The channel of a river or stream and those portions of the Flood Plains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the Regulatory Flood of any river or stream shown on the Floodway-Flood Boundary Maps of the Federal Insurance Administration.

Restrictive Covenants. Limitations of various kinds on the usage of lots or parcels of land within a subdivision which are proposed by the subdivider, and, in the case of public health, safety and welfare by the Commission, that are recorded with the plat and run with the land.

Resubdivision. A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line, or setback; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Right-of-way. A strip of land occupied or intended to be occupied by a street, pedestrian-way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or par-

cels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, screening or special landscaping, or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider on whose plat such right-of-way is established.

Road(s). (See Street(s).)

Sale or Lease. Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, devise, intestate succession, or other written instrument.

Same Ownership. Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Screening. Either (a) a strip of at least ten (10) feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four (4) feet high at the time of planting, of a type that will form a year-round dense screen at least six (6) feet high; or (b) an opaque wall or barrier or uniformly painted fence at least six (6) feet high. Either (a) or (b) shall be maintained in good condition at all times and may have no signs affixed to or hung in relation to the outside thereof except as permitted or required under the Zoning Ordinance. Where required by the Zoning Ordinance a screen shall be installed along or within the lines of a plot as a protection for adjoining or nearby properties. Earth berms may be incorporated as part of such screening measures where appropriate.

Secondary Approval. The stage of application for formal Plan Commission approval of a final plat of a subdivision the construction of which has been completed or substantially completed which, if approved and signed by the designated officials may be submitted to the County Recorder for recording.

Secondary Arterial. A street intended to collect and distribute traffic in a manner similar to primary arterials, except that these streets service minor traffic generating areas such as community-commercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches, and offices, and/or designed to carry traffic from collector streets to the system of primary arterials.

Setback. A line parallel to and equidistant from the relevant lot line (front, back, side) between which no buildings or

structures may be erected as prescribed in the City Zoning Ordinance.

Shade Tree. A tree in a public place, special easement, or right-of-way adjoining a street as provided in these regulations.

Side Lot Lines. Any lines separating two lots other than front or rear lot lines.

Sketch Plan. The initially submitted graphic representation of a proposed major subdivision, drawn to approximate scale, either superimposed upon a print of a topographic survey, or presented in any other suitable graphic medium or form acceptable to the Commission; and, in the case of a minor subdivision, the drawing or drawings indicating the proposed manner of layout of the subdivision meeting the conditions of the subdivision ordinance to be submitted to the Commission for primary approval.

Special Landscaping. Areas of tree planting, shrubs, or other landscape features serving a public purpose and maintained by the County. (See also Buffer Landscaping and Screening.)

State Acts. Such legislative acts of the State of Indiana as they affect these regulations.

State Plane Coordinates System. A system of plane coordinates, based on the Transverse Mercator Projection for the Western Zone of Indiana, established by the United States Coast and Geodetic Survey for the State of Indiana.

Street, Dead-end. A street or a portion of a street with only one (1) vehicular-traffic outlet.

Street Right-of-Way Width. The distance between property lines measured at right angles to the center line of the street.

Streets, Classification. For the purpose of providing for the development of the streets, highways, and rights-of-way in the governmental unit, and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, and right-of-way, and those located on approved and recorded plats, have been designated on the Official Map of the City or Thoroughfare Plan and classified therein. The classification of each street, highway, and right-of-way is based upon its location in the respective zoning districts of the City and its present and estimated future traffic volume and its relative importance and function as specified in the City Comprehensive Plan and/or its Thoroughfare Plan component. The required improvements shall be measured as set forth for each street classification on the Official Map.

Structure. Anything constructed or erected that requires location on or in the ground or is attached to something having a location on or in the ground.

Subdivider. Any person who (1), having a proprietary interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who (2), directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel site, unit, or plat in a subdivision; or who (3) engages directly, or through an agent, in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision of any interest, lot, parcel site, unit, or plat in a subdivision; and who (4) is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

Subdivision. The division of a parcel of land into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including resubdivision. Subdivision includes the division or development of land zoned for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. The following kinds of divisions of existing parcels of land are herein called "Exempt Divisions" and are classified into two categories: Exempt I and Exempt II. These divisions are exempt from most provisions of this ordinance. Exempt I divisions must be one of the following types of division:

- (a) A division of land into two (2) or more tracts of which all tracts are least ten (10) acres in size;
- (b) A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division;
- (c) A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property;
- (d) A division of land for federal, state or local government to acquire street right-of-way;
- (e) A division of land for the transfer of a tract or tracts between adjoining lots provided that no additional principal use building sites are created by the division. The lots so created hereunder shall have only one principal use building site each. (See Principal Use Building.)

(f) A division of land into cemetery plots for the purpose of burial of corpses. Exempt I divisions are subject only to the provisions of Sections 3.5 and 6.5 of this ordinance, but shall be exempt from other provisions of this ordinance not specified or referred to in those sections. Exempt II divisions are divisions of land into not more than four (4) parcels two (2) acres or more in size but less than ten (10) acres. Such divisions shall conform to Sections 3.5 and 6.6 of this ordinance but shall be exempt from other provisions of this ordinance not specified or referred to in those Sections.

Subdivision Agent. Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing, or offering to sell or lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services, and is not involved in developing, marketing or selling real property in the subdivision.

Subdivision, Exempt. (See Subdivision.)

Subdivision, Major. (See Major Subdivision.)

Subdivision, Minor. (See Minor Subdivision.)

Temporary Improvement. Improvements built and maintained by a subdivider during construction of the subdivision and intended to be replaced by a permanent improvement prior to release of the performance bond or turnaround improvements at the ends of stub streets intended to be replaced when the adjoining area is developed and the through street connection made.

Thoroughfare Plan. (See Official Map.)

Yard. A space on the same lot with a principal building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

Zoning Ordinance. That City ordinance setting forth the regulations controlling use of land in the incorporated area of the City. The ordinance referred to as the City Zoning Ordinance.

SECTION III
Application and Approval Procedures

3.1 General Procedures

(1) Discussion of Requirements: Predesign Conference. Prior to submitting any of the materials required by this ordinance, the applicant or his representative should discuss with the Administrator the nature of the land division being proposed, so that the applicant may be instructed concerning the classification of his subdivision and what regulatory procedures apply to it and must be followed under this ordinance in order to secure primary and secondary approval. Where applicable, requirements concerning the general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services should be discussed. The Administrator shall also advise the applicant, where appropriate, to discuss the proposed land division with those other officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. The distinction between major and minor subdivisions and exempt divisions as defined in this ordinance, shall be made by the Administrator when the applicant submits an application for sketch plan approval in the case of major and minor subdivisions or, in the case of exempt divisions, provides the Administrator at a predesign conference with adequate information to enable him to determine that the proposed division is an exempt division.

(2) Classification of Land Divisions. All land to be divided shall be categorized into one of the three (3) main classes of land division indicated in this ordinance's definition of subdivision. These classes are:

- (a) major subdivisions,
- (b) minor subdivisions, and
- (c) exempt divisions.

Exempt divisions are not subject to the requirements of this ordinance beyond the determination by the Commission that they meet all the requirements for exempt divisions set forth in Section 3.5 herein. However, lots created by Exempt I divisions (except Exemption F) shall be ten (10) or more acres in size to be eligible as principal use building sites (Exemption A in the definition of subdivision), unless such lots have been created by order of a court (Exemption C). No building site for principal use created through Exemption A shall be reduced below ten (10) acres unless through subdivision or by order of a court (Exemption C). For purposes of this paragraph, a lot is "created" on the date of its recording. (See Section II for the definition of a principal use building.)

Before any permit shall be granted for a structure to be erected on land to be subdivided into a major or minor subdivision, the subdividing owner or his subdivision agent shall apply for and secure approval of the proposed subdivision in accordance with Section 3.2 and either Section 3.3 or Section 3.4 of this ordinance as appropriate. Before any permit shall be granted for a structure to be erected on a parcel of land to be created or altered by an exempt division, the land divider or his agent shall certify to the satisfaction of the Commission that all requirements for exemption have been met, as detailed in Section 3.5 of this ordinance, in order to exempt the land division from all other requirements of this ordinance.

3.2 Major and Minor Subdivisions: Sketch Plan Application Procedure for Primary Approval

(1) Application Requirements. In order to begin the subdivision process the applicant shall file an application for review of sketch plan and certificate with the Administrator and be entitled to a signed receipt for same. This application shall:

(a) be made on forms available at the Office of the Commission and signed by the owner;

(b) include indication of all contiguous holdings of the owner including land in the same ownership, with an indication of the portion which is proposed to be subdivided, accompanied by an affidavit of ownership, which shall include the dates the respective holdings of land were acquired, together with the book and page of each conveyance to the present owner as recorded in the County Recorder's office. The affidavit shall advise as to the legal owner of the property, the contract owner of the property, optionee of the property, and the date on which the contract of sale was executed. If any corporations are involved, the Administrator may request a complete list of all directors, officers, and a listing of stockholders if less than ten (10) in number;

(c) be presented to the Administrator in duplicate;

(d) be accompanied by a minimum of three (3) copies of the sketch plan;

(e) be accompanied by a fee of fifty dollars (\$50.00) plus five dollars (\$5.00, per lot in excess of four (4) lots;

(f) include an address and telephone number of an agent located within the territory of the commission who shall be authorized to receive all notices required by this ordinance; and,

(g) include a listing signed by the checkpoint agencies indicating that they have received a copy of the proposed sketch plan or a certification that it has been sent.

(2) Checkpoint Submission. In order to fulfill this last application requirement, a copy of the proposed plan shall be submitted to each of the checkpoint agencies so that their comment may be made to the Administrator. The checkpoint agencies are listed in Figure 3-1. The Administrator shall request that all officials and agencies to whom a request for review has been made submit a written report to him within fifteen (15) days after receipt of the request. No response from an agency shall be interpreted as meaning "no objection".

(3) Classification of Subdivision. After an application for sketch plan approval has been submitted, and at the time of sketch plan review the Administrator shall classify the proposed subdivision as either major or minor as defined in this ordinance. The required procedures and approvals for major subdivisions are described in Section 3.3; corresponding information concerning the minor subdivision approval process is provided in Section 3.4.

3.3 Major Subdivisions

(1) General Procedures for Primary and Secondary Approval. If the Administrator, during sketch plan review, classifies the proposed land division as a major subdivision, the subdivider shall follow the procedures and be subject to the processes outlined in Figure 3-2, and detailed in this Section. In addition to a sketch plan submitted by applicant which is reviewed by the Administrator and Checkpoint Agencies, the applicant seeking approval of a major subdivision shall submit a preliminary subdivision plat to be approved, conditional approved, or rejected by the Commission at a public hearing. Subsequently the applicant shall submit for secondary approval a final subdivision plat which must be found in compliance with the preliminary plat as approved by the Commission at a public hearing in order to be signed and recorded.

(2) Official Submission Dates. The deadline for submittal of a sketch plan and application for certificate of approval shall be sixty-one (61) calendar days prior to the date of the public hearing at which the subdivider intends to have his preliminary plat submission heard, and thirty-one (31) calendar days prior to the deadline for the submission of the preliminary plat. Thus, as a minimum, sketch plan submission shall precede preliminary plat submission by no less than thirty-one (31) calendar days, which in turn shall precede the public hearing at which it is intended to be heard by no less than thirty (30) calendar days.

(3) Sketch Plan Review Process. Within twenty (20) calendar days of the subdivider's sketch plan application submittal, the Administrator shall have studied the proposal, reviewed checkpoint reports received, and met with the subdivider to discuss pertinent aspects of the possible modifications and/or changes that may be suggested or required by this ordinance. The Administrator shall request that a representative of each Checkpoint Agency wishing to be involved in a sketch plan review be present to participate in the sketch plan review meeting. In taking into consideration the requirements of this ordinance, particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, sewage disposal drainage, lot size and arrangement, the further development of adjoining lands as yet unsubdivided, and the requirements of the Official Map or Thoroughfare Plan, and Comprehensive Plan as adopted by the City. Subsequent to this meeting the Administrator shall provide the participants with a written record of the proceedings of that meeting.

(4) Preliminary Plat Procedures for Primary Approval

(a) Submission Requirements. Following the submission, review and report on the sketch plan application, the subdivider may file for primary approval of a preliminary plat. This submission shall:

(i) Be made on forms available at the office of the Commission and be submitted with fee of five dollars (\$5.00) per lot for each lot which was not included in the sketch plan.

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- (1) City Engineer
 - (2) County Board of Health
 - (3) City Board of Works
 - (4) City Fire Chief
 - (5) City Police Chief
 - (6) Mississinewa Community School Corporation
 - (7) City Review Board

Figure 3.1 Checkpoint Agencies

- (ii) Include indication of all land which the applicant proposes to subdivide and all land immediately adjacent and across any street or railroad right-of-way, extending six hundred (600) feet there from, but not more than two property owners deep from the proposed subdivision, with the names and addresses of the title owners as shown in the County Auditor's files. This information may be shown on a separate current Plat Map reproduction from the County Auditor's Office showing the boundaries of the subdivision superimposed thereon.
 - (iii) Be presented in duplicate to the Administrator no later than thirty (30) calendar days prior to the regular meeting of the Commission at which it is intended to be heard.
 - (iv) Be accompanied by ten (10) copies of the preliminary plat as described in this ordinance.
 - (v) Generally comply with the sketch plan as reviewed.
- (b) Placement on the Commission Agenda. Subsequent to the submission for primary approval, the Commission shall place the matter on its next regular meeting agenda for formal action.
 - (c) Administrative Review. Subsequent to placement on the agenda, and prior to the date of the public hearing, the Administrator and other appropriate members of the Commission shall review the proposal and prepare a written report to the Commission and applicant indicating a recommendation with regard to the subdivision being proposed.
 - (d) Public Hearing Notification and Sign Posting Requirements. The Commission shall hold a public hearing on the preliminary plat and notice of such hearing shall be in one (1) local newspaper of general circulation ten (10) days prior to the hearing (per I.C. § 5-3-1) at the applicant's expense. At the time of the public hearing, the applicant shall submit an affidavit stating that the applicant has placed posters provided by the Administrator (advising interested parties of the hearing) at the locations designated by the Administrator on the proposed subdivision property at least ten (10) days prior to the public hearing

and show proof of publication that the notice of public hearing was published at least ten (10) days prior to the public hearing. Interested parties shall also be notified by the applicant of the date, time, place and purpose of the public hearing on the subdivision at least ten (10) days in advance of the hearing by certified mail with return receipt requested. The applicant shall file with the Commission at the time of the public hearing an affidavit so testifying along with the proof of mailing by certified mail, with return receipt requested as date mailed by the post office as to the time of mailing and with any return receipts actually received by applicant prior to the public hearing.

- (e) Primary Approval of the Preliminary Plat. After the Commission has held a hearing upon the preliminary plat, the Administrator's report, checkpoint recommendations, testimony, and exhibits submitted at the public hearing, the applicant shall be advised on any required changes and/or additions. The Commission shall at a public hearing, grant primary approval, or disapprove the preliminary plat. One (1) copy of the preliminary plat shall be returned to the applicant with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat within five (5) days of the public hearing. Primary approval by the Commission is subject to review by certiorari. Secondary approval of a subdivision cannot occur until a minimum of thirty (30) days has elapsed since the granting of primary approval.
- (f) Field Trip. The Commission, at its discretion, upon hearing the request for primary approval, may elect to continue the matter until its next regularly scheduled public meeting, and may schedule a field trip to the site of the proposed subdivision, accompanied by the applicant or his representative or any other person or persons at the discretion of the Commission.
- (g) Effective Period of Primary Approval. Unless extended, the primary approval of a preliminary plat shall be effective for a period of five (5) years after the date of primary approval, at the end of which time secondary approval of the subdivision must have been obtained and certified by the President and Secretary of the Commission. Any plats not receiving secondary approval within the period of time set forth herein shall be null and

void, and the developer shall be required to resubmit a new application for sketch plan review and certificate subject to all the zoning restrictions and subdivision regulations in effect at the time of resubmission. Upon request of the applicant the Commission may extend the primary approval of a preliminary plat in increments of two (2) years beyond an expiration date without further notice and public hearing.

(5) Approval of Construction Plans

- (a) Submission Procedure and Requirements. Following the review of the sketch plan and prior to submission of the final plat for secondary approval, the applicant, if he wishes to proceed with the subdivision, shall file with the Administrator before starting work on any improvements three (3) sets of the detailed plans and specifications thereof for approval.
- (b) Review Process. The Administrator shall immediately refer these plans to the Checkpoint Agencies for review. Once these Agencies indicate their approval of the construction plans or fourteen (14) working days have elapsed since their distribution without a written response, the Administrator shall stamp the plans approved and return one (1) set to the applicant. In no event shall secondary approval (of the final plat) be given prior to approval of the construction plans.
- (c) Installation of Improvements. The installation of improvements shall be inspected by the Administrator. Such inspections are required in all instances regardless of whether the work is performed before or after secondary approval. Failure to request or to procure inspection of work performed after the date of this ordinance and before secondary approval may be cause for denial of secondary approval.

(6) Final Plat Procedure (Secondary Approval)

- (a) Submission Requirements. Following primary approval or conditional primary approval of the preliminary plat and approval of the construction plans, the applicant, if he wishes to proceed with the subdivision, shall file with the Administrator a request for secondary approval of a final plat.

The applicant shall:

- (i) be submitted on forms available at the Office of the Commission;
 - (ii) include the entire subdivision, or section thereof;
 - (iii) be accompanied by ten (10) copies of the final subdivision plat as described in this ordinance;
 - (iv) totally comply with the ordinance and the terms and conditions of primary approval;
 - (v) be accompanied by the performance bond, if required, in a form satisfactory to the Commission Attorney and in an amount established by the Commission and shall guarantee the completion of all required subdivision and off-site public improvements;
 - (vi) be accompanied by any restrictive covenants in a form approved by the Commission, where proposed by the subdivider or required by the Commission.
- (b) Determination of Conformance (Secondary Approval). In order to be recorded, a final subdivision plat shall be found to be in conformance with the primary approval by the Commission at a public meeting. The subdivider shall request Commission review in writing no less than thirty (30) calendar days prior to the date of the public meeting at which he intends to have his final plat reviewed. The Commission shall place the matter on its next regular meeting agenda. The Administrator shall review the proposal and submit a written report and recommendations to the Commission and the applicant; and, at the public meeting, the Commission shall give secondary approval or disapproval of the final plat. If granted secondary approval, the final plat shall be signed by the Designated Officials of the Commission. If not granted secondary approval, the subdivider shall be informed as to the insufficiency of his submittal. In the event the final subdivision plat deviates from the preliminary plat that received primary approval, the subdivision shall be resubmitted to the Commission at a public hearing for a new primary approval.

(c) Sectionalizing Plats. Prior to granting secondary approval of a major subdivision plat, the Commission may permit the plat to be divided into two (2) or more sections and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plat. The Commission may require that the performance bond be in such amount as will be commensurate with the section or sections of the plat to be filed and may defer the remaining required performance bond principal amount until the remaining sections of the plat are offered for filing. Such sections must contain at least twenty (20) lots or ten percent (10%) of the total number of lots contained in the approved plat, whichever is less. The approval of all remaining sections not filed with the Administrator shall automatically expire after five (5) years from the date of primary approval of the preliminary plat, unless the expiration date has been extended.

(7) Signing and Recording a Plat

(a) Signing of Plat

(i) When the filing of a performance bond is required, the Designated Officials of the Commission shall endorse approval on the plat by signing the certificate only after the bond and the construction plans have been approved, and all the conditions of the primary approval have been satisfied.

(ii) When installation of improvements is required, the Designated Officials of the Commission shall endorse secondary approval of the plat by signing the certificate after all conditions of the primary approval have been satisfied, all improvements satisfactorily completed and accepted for public maintenance (when required), "as built" construction plans submitted (as required by section 5.1(2)(e)) and a maintenance bond provided (as required by section 5.3(2)). Written evidence shall be furnished that the required public facilities have been installed in a manner satisfactory to the Gas City Board of Works as shown by a certificate signed by the Gas City Board of Works.

(b) Assurance to Subdivider. If the subdivider elects to install all improvements before he applies for

secondary approval and it is shown that the conditions of the ordinance have been met, and if the final plat completely conforms to the primary approval, the Commission shall have no other recourse than to grant secondary approval.

(c) Recording of Final Plat

(i) The Designated Officials shall sign the certificate which shall be part of the tracing cloth or reproducible mylar of the subdivision plat, plus two (2) mylar prints of the subdivision plat. The mylar prints shall be returned to the subdivider and his engineer or surveyor.

(ii) The subdivider in the presence of the Administrator or his designee shall record the plat with the County Recorder within thirty (30) days of the date of signature. Failure of the Subdivider to file the plat as herein provided within thirty (30) days shall constitute a violation of this ordinance.

3.4 Minor Subdivisions

(1) General Procedures for Primary Approval and Secondary Approval. If the Administrator, upon examination of the sketch plan application, classifies the proposed land division as a minor subdivision, the subdivider shall follow the procedures and be subject to the process outlined in Figure 3-3, and detailed in this Section. In addition to a sketch plan for a minor subdivision submitted by applicant which is reviewed by the Administrator and Checkpoint Agencies, the Commission shall approve, conditionally approve, or reject the sketch plan at a public hearing. Subsequently, the applicant shall submit for secondary approval a final subdivision plat which must be found in compliance with the sketch plan as approved by the Commission at public hearing in order to be signed and recorded.

(2) Official Submission Date and Placement on the Agenda. An application for sketch plan approval shall be submitted no less than thirty (30) calendar days prior to a regularly scheduled public meeting of the Commission at which the proposal is intended to be acted upon. The Administrator shall place such application on the agenda of the first regularly scheduled meeting of the Commission to occur thirty (30) days after the date on which a complete application is submitted.

(3) Sketch Plan Review Process. Within twenty (20) calendar days of the subdivider's sketch plan application submittal, the Administrator shall have studied the proposal, reviewed check-

point reports received, and met with the subdivider to discuss pertinent aspects of the proposed subdivision and possible modifications and/or changes that may be suggested or required by this ordinance. The Administrator shall request that a representative of each checkpoint agency that wishes to be involved in a sketch plan review be present to participate in the sketch plan review meeting. In taking into consideration the requirements of this ordinance, particular attention shall be given to sewage disposal, drainage, lot size and arrangement, the further development of adjoining lands as yet unsubdivided, and the requirements of the Official Map or Thoroughfare Plan and Comprehensive Plan as adopted by the City. Subsequent to the meeting the Administrator shall provide the participants with a written record of the proceedings of that meeting.

(4) Administrative Review. Subsequent to placement of the agenda, and prior to the date of public hearing, the Administrator and other appropriate members of the Commission shall review the proposal and prepare a written report to the Commission and applicant indicating a recommendation with regard to the subdivision being proposed.

(5) Public Hearing Notification and Sign Posting Requirements. The Commission shall hold a public hearing on the sketch plan and notice of such hearing shall be in one (1) local newspaper of general circulation ten (10) days prior to the hearing (per I.C. § 5-3-1) at the applicant's expense. At the time of the public hearing, the applicant shall submit an affidavit stating that the applicant has placed posters provided by the Administrator (advising interested parties of the hearing) at the locations designated by him on the proposed subdivision property at least ten (10) days prior to the public hearing and show proof of publication that the notice of public hearing was published at least ten (10) days prior to the public hearing. Interested parties shall be notified by the applicant of the date, time, place and purpose of the public hearing on the subdivision at least ten (10) days in advance of the hearing by certified mail with return receipt requested. The applicant shall file with the Commission at the time of the public hearing an affidavit so testifying, along with the proof of mailing by certified mail with return receipt requested as date mailed by the post office as to the time of mailing and with any return receipts actually received by applicant prior to the public hearing.

(6) Primary Approval of the Sketch Plan. After the Commission has, at a regularly scheduled hearing, examined the sketch plan, Administrator's report, checkpoint recommendations, testimony, and exhibits submitted, the Commission shall, at a regularly scheduled hearing, approve, conditionally approve or disapprove the sketch plan. One (1) copy of the sketch plan shall be returned to the applicant with the date of approval, conditional approval, or disapproval and the reasons therefore

accompanying the sketch plan within five (5) days after the public hearing. Primary approval by the Commission is subject to review by certiorari. Secondary approval of a subdivision cannot occur until the minimum of thirty (30) days has elapsed since the granting of primary approval or conditional approval or conditional primary approval.

(7) Effective Period of Primary Approval. Unless extended, the primary approval of a minor subdivision sketch plan shall be effective for a period of two (2) years after the date of primary approval, at the end of which time secondary approval of the subdivision must have been obtained and certified by the President and Secretary of the Commission. Any plats not receiving secondary approval within the period of time set forth herein shall be null and void, and the developer shall be required to resubmit a new application for sketch plan review and certificate, subject to all the zoning restrictions and subdivision regulations in effect at the time of resubmission. Upon written application of the applicant, the Commission may extend the primary approval of a minor sketch plan in increments of two (2) years beyond an expiration date without further notice and public hearing.

(8) Final Subdivision Plat Procedure for Secondary Approval

- (a) Application Requirements. Following approval or conditional approval of the sketch plan, the applicant, if he wishes to proceed with the subdivision, shall file with the administrator an application for secondary approval of a subdivision plat. The application shall:
- (i) be submitted on forms available at the Office of the Commission;
 - (ii) include the entire subdivision or section thereof;
 - (iii) be accompanied by ten (10) copies of the final subdivision plat as described in this ordinance;
 - (iv) totally comply with the ordinance and the terms and conditions of primary approval;
 - (v) be accompanied by the performance bond, if required, in a form satisfactory to the Commission Attorney and in an amount established by the Commission and shall guarantee the completion of all required subdivision and off-site public improvements; and,

(vi) be accompanied by any restrictive covenants in a form approved by the Commission, where proposed by the subdivider or required by the Commission.

(b) Determination of Conformance (Secondary Approval). In order to be recorded, a final subdivision plat shall be found to be in conformance with the approved sketch plan by the Commission at a public meeting. The subdivider shall request in writing Commission review no less than thirty (30) calendar days prior to the date of the public meeting at which he intends to have his final plat reviewed. The Commission shall place the matter on its next regular meeting agenda. The Administrator shall review the proposal and submit a written report and recommendations to the Commission and the applicant; and, at public meeting, the Commission shall give secondary approval or disapproval of the final plat. If granted secondary approval, the final plat shall be signed by the Designated Officials of the Commission. If not granted secondary approval, the subdivider shall be informed as to the insufficiency of his submittal. In the event the final subdivision plat deviates from the sketch plan that received primary approval, the subdivision shall be resubmitted to the Commission at a public hearing for a new primary approval.

(c) Sectionalizing Plats. Prior to granting secondary approval of a minor subdivision plat, the Commission may permit the plat to be divided into two (2) or more sections and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plat. The Commission may require that the performance bond be in such amount as will be commensurate with the section or sections of the plat to be filed and may defer the remaining required performance bond principal amount until the remaining sections of the plat are offered for filing.

(9) Signing and Recording a Plat

(a) Signing of Plat

(i) When the filing of a performance bond is required, the Designated Officials of the Commission shall endorse approval on the plat by signing the certificate after the bond and the construction plans have been approved, and all the conditions of the primary approval have been satisfied.

- (ii) When installation of improvements is required, the Designated Officials of the Commission shall endorse secondary approval on the plat by signing the certificate after all conditions of the primary approval have been satisfied, all improvements satisfactorily completed and accepted for public maintenance (when required), "as built" construction plans submitted (as required by section 5.1(2)(e), and a maintenance bond provided (as required by section 5.3(2)). Written evidence shall be furnished that the required public facilities have been installed in a manner satisfactory to the Gas City Board of Works as shown by a certificate signed the Gas City Board of Works.
- (b) Assurance to Subdivider. If the subdivider elects to install all improvements before he applies for secondary approval and it is shown that the conditions of the ordinance have been met, and if the final plat completely conforms to the primary approval, the Commission shall have no other recourse than to grant secondary approval.
- (c) Recording of Plat
 - (i) The Designated Officials shall sign the certificate granting secondary approval which shall be part of the tracing cloth or reproducible mylar of the subdivision plat, plus two (2) mylar prints of the subdivision plat. The mylar prints shall be returned to the applicant and his engineer or surveyor.
 - (ii) The subdivider in the presence of the Administrator or his designee shall record the plat with the County Recorder within thirty (30) days of the date of signature. Failure of the subdivider to file the plat as herein provided within thirty (30) days shall constitute a violation of this Ordinance.

3.5 Exempt Divisions

(1) General Procedure for Exempt I Divisions. In order for a land division to be considered an Exempt I Division, the information prescribed for the applicable type of subdivision under Section 6.5 as exhibits to a Petition for a Certificate of Exclusion for Exempt I Division shall be submitted to the Administrator. The Administrator shall place the matter on the

Commission's next regular meeting agenda. At such public meeting, the Commission shall determine whether the proposed land division meets the provisions of the definitions under Section 2.2 and Section 3.1 for this classification. If the Commission determines that the proposed land divisions is an Exempt I Division, the Commission shall issue a Certificate of Exclusion for an Exempt I Division signed by the Designated Officials of the Commission. Both the subdivider and the Commission shall hold copies of the Certificate of Exclusion for an Exempt I Division. When the parcel so exempted by this Certificate of Exclusion is conveyed to another party, the original Certificate of Exclusion shall be filed and recorded with the County Auditor and County Recorder, respectively, along with the conveyance of the parcel.

(2) General Procedure for Exempt II Divisions. In order for a land division to be considered an Exempt II Division, the information required under Section 6.6 in compliance with the conditions under Section 3.5(3) as exhibits to a Petition for a Certificate of Exclusion for Exempt II Division shall be submitted to the Administrator. The Administrator shall place the matter on the Commission's next regular meeting agenda. At such public meeting, the Commissioner shall determine whether the proposed land division meets the provisions of the definitions under Section 2.2 and Section 3.1 for this classification and complies with the conditions under Section 3.5(3). If the Commission determines that the proposed land division is an Exempt II Division, the Commission shall issue a Certificate of Exclusion for an Exempt II Division signed by the Designated Officials of the Commission. Both the subdivider and the Commission shall hold copies of the Certificate of Exclusion for an Exempt II Division. When the parcel so exempted by this Certificate of Exclusion is conveyed to another party the original Certificate of Exclusion shall be filed and recorded with the County Auditor and County Recorder, respectively, along with the conveyance(s) of the parcel(s).

(3) Necessary Conditions for Exempt II Divisions. In addition to definitional requirements of Section 2.2 and Section 3.1, a land division qualifying as an Exempt II Division shall be shown as meeting the following conditions.

- (a) If a parcel created by such an exempt division does not have sanitary sewer service available to it, the tract shall contain within its boundaries sufficient soil of a kind defined by Indiana State Board of Health Bulletin HSE 25-R or its successor to allow for the proper installation of an on-site septic sewage disposal system.
- (b) If a parcel created by such an exempt division has frontage on a public road, the land divider shall

dedicate to the public real property of a width sufficient to meet one-half (1/2) of the required right-of-way for that specific public road as indicated on the City Thoroughfare Plan or the Official Map and a length along that public road equal to the length of that parcel along that roadway.

- (c) If a parcel created by such an exempt division has frontage on a public road, the depth of that parcel shall not be greater than twice the length of that frontage, such depth being measured from the front lot line to the rear line of the parcel.
- (d) If a parcel created by such an exempt division requires a private roadway because such parcel lacks frontage on a public road, such roadway shall either be fully constructed in accordance with the following minimum standards prior to the issuance of a building permit or be adequately assured to the permit issuer's satisfaction that it will be constructed to the following minimum standards.
 - (i) minimum width of sixteen (16) feet, and
 - (ii) minimum depth of eight (8) inches of Type P or O made stone or gravel. Such private roadway need only provide access as far as the parcel's property line and is not intended to include any individual drive within the parcel.
- (e) Certification of Exempt II Divisions. As the conditions in section 3.5(2) apply, the land divider shall provide to the Administrator:
 - (i) written evidence that the County Board of Health has been satisfied by a duly authorized representative of a qualified soil testing service as to the presence within the parcel of sufficient soil of a kind defined by Indiana State Board of Health Bulletin HSE 25-R or its successor to allow for the proper installation of an on-site septic sewage disposal system;
 - (ii) official documentation indicating the dedication of right-of-way to the City;
 - (iii) a metes and bounds description of the parcel being created indicating that its depth is no more than twice the frontage; and,

(iv) a notarized affidavit assuring construction of a private roadway to the standards previously indicated, prior to the issuance of a building permit for that parcel.

(f) Dissolution

- (i) A recorded Exempt II Division or portion thereof may be dissolved by the property owner or owners if, in doing so, no provision of this or any other ordinance, rule, regulation, statute or provision of law is violated. To do so, ten copies of a statement dissolving the Exempt II Division (or any part of it) shall be submitted to the Administrator for review of compliance with the above-stated ordinances, rules, etc. This statement, signed by all legal owners, contract buyers, and optionees of the property and notarized, shall contain the Exempt II Division number assigned by the Administrator and legal descriptions of the parcels involved. The Administrator shall place the matter on the Commission's next regular meeting agenda.
- (ii) Upon a finding of compliance at such public meeting, the Commission, by the Designated Officials of the Commission, shall sign all ten statements. Once signed, the approved dissolution is eligible to be recorded.
- (iii) The land divider in the presence of the Administrator or his designee shall file and record the approved dissolution with the County Auditor and County Recorder, respectively, within thirty (30) days of the date of signature. Failure of the land divider to so file and record shall automatically invalidate the approval, rendering the approval null and void and requiring a complete resubmittal for approval.
- (iv) Upon recording the dissolution statement, the landowner is once more eligible to pursue the full Exempt II Division process as per subsection 3.5 of this ordinance. The land involved, for purposes of land division, is restored to its Pre-Exempt Division status.

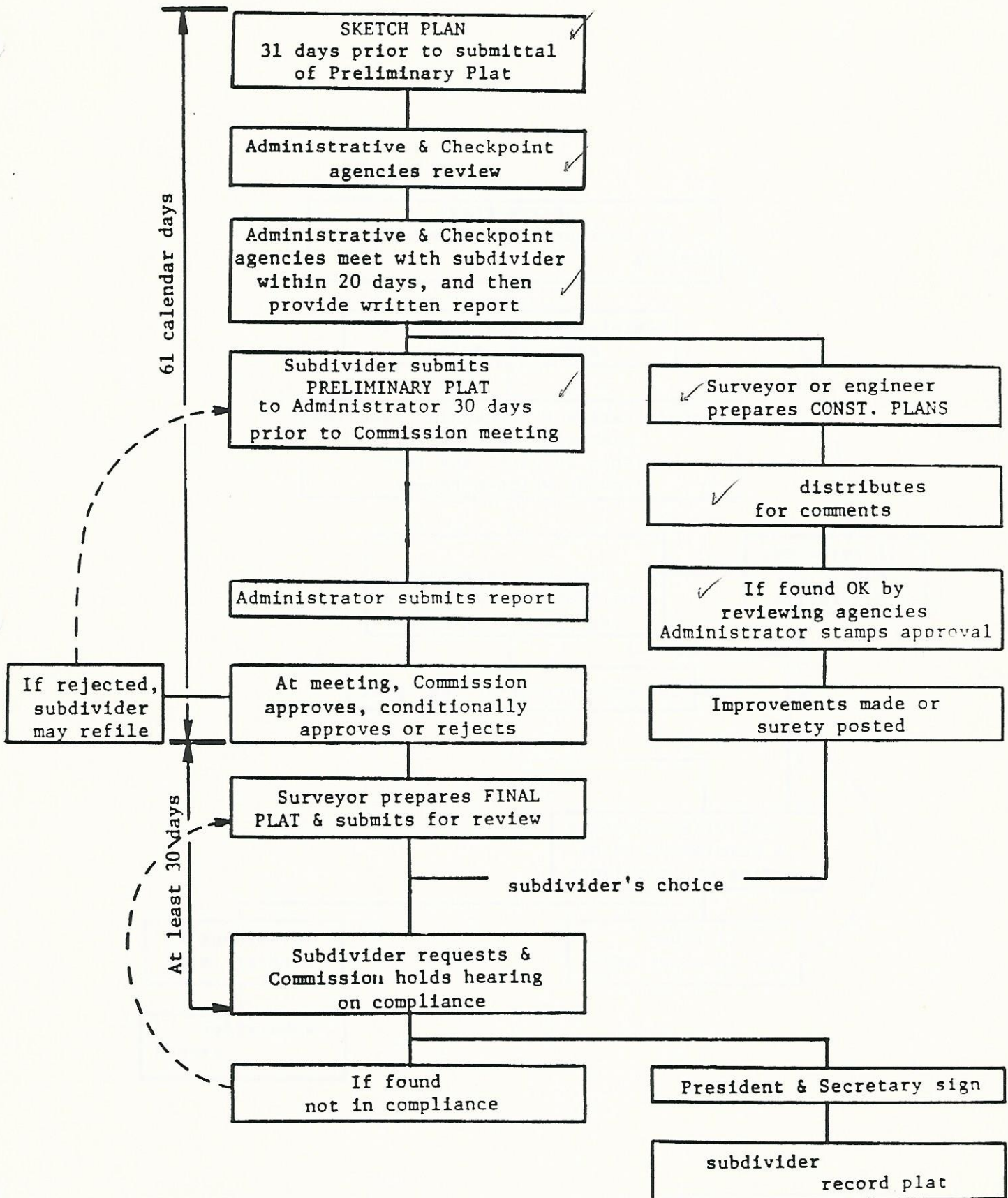


FIGURE 3-2. APPROVAL PROCESS FOR MAJOR SUBDIVISIONS

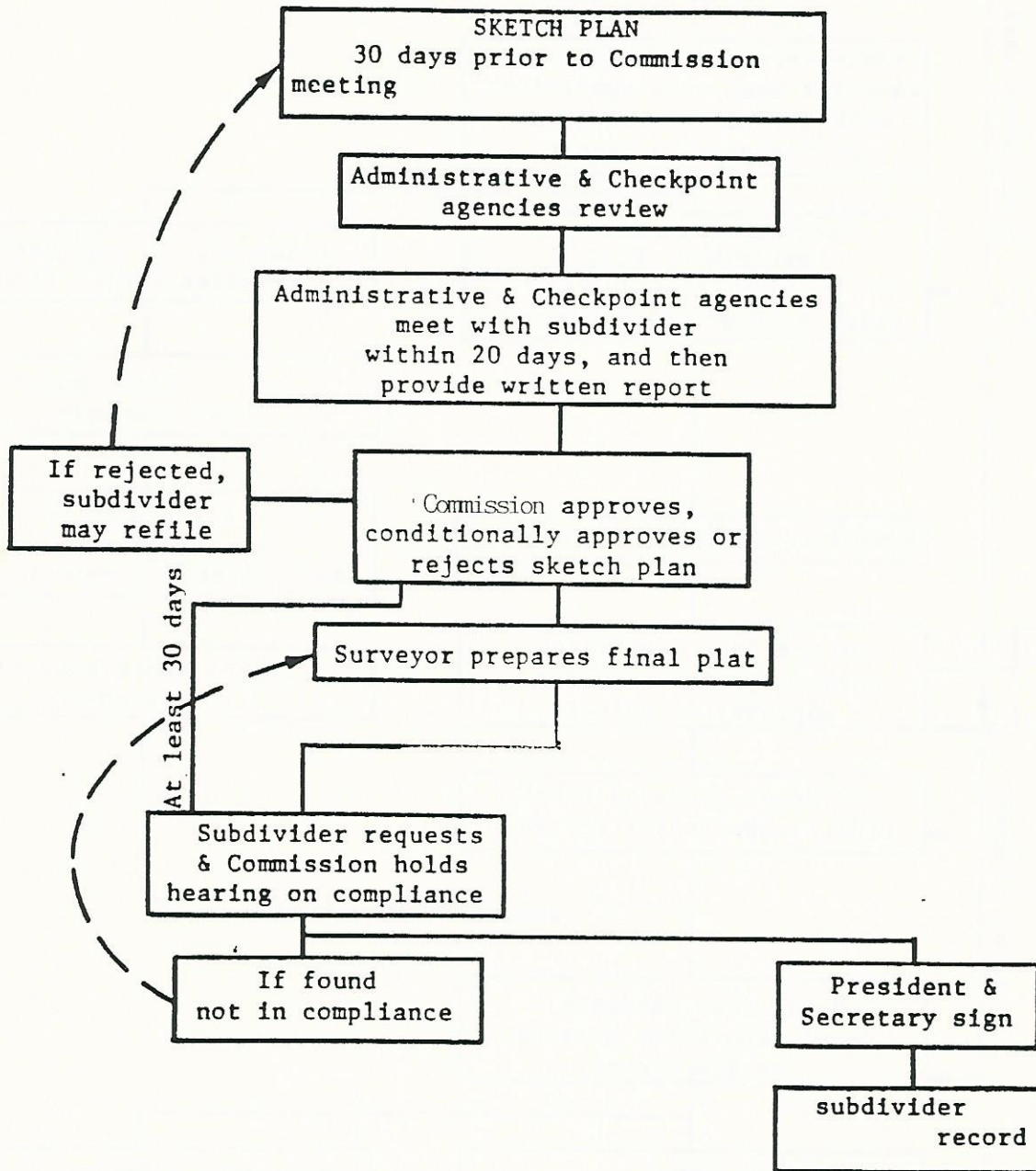


FIGURE 3-3. APPROVAL PROCESS FOR MINOR SUBDIVISIONS