

I recommend that the Batavia Village Council adopt the following revised text.

— Dennis Nichols, village administrator

#### **84.04 Public Hearing.**

- A. Schedule. The Board of Zoning Appeals shall establish a date for a public hearing within 10 days after receiving an application for a variance and conduct the hearing within 35 days after receiving the application.
- B. Notice of public hearing in newspaper. Before holding the required public hearing, the board shall publish notice of the hearing in a newspaper of general circulation in the village. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance.
- C. Notice to parties of interest. Before holding the required public hearing, the board shall send written notice of such hearing by first class mail or hand delivery before the day of the hearing to the property owner, the petitioner, and all property owners within 250 feet in any direction of the property upon which an application for a variance has been filed. The failure to mail or deliver the notification as provided in this code shall not invalidate any such notice.

#### **90.01 Amendments of Zone Districts and Zoning Regulations**

- A. Council from time to time may amend, supplement, change, or repeal the boundaries, restrictions, classifications or regulations herein or subsequently established. Council may act on its own motion or on petition, after public notice and hearing as provided by law and after recommendation by the Planning Commission.
- B. If the Planning Commission disapproves a proposed amendment of a zone district map or zone district regulation, such amendment shall not be passed except by the favorable vote of three-fourths of all the members elected to Council.
- C. The Ordinance text or map may be amended utilizing the procedures specified in this Section.

#### **90.02 Initiation of Zoning Code Text Amendments**

Amendments to the Zoning Code text may be initiated in one of the following ways:

- A. By adoption of a motion by the Planning Commission;
- B. By adoption of a motion by Council of a Planning Commission recommendation;
- C. By application by a property owner of record, which shall include:
  - 1. Name, address and phone number of the applicant;
  - 2. The proposed amendment to the text;
  - 3. A fee as established by Village Council.

#### **90.03 Initiation of Zoning Map Amendments**

An application for a Zoning Map Amendment may be initiated in one of the following ways:

- A. By adoption of a motion by the Planning Commission;
- B. By adoption of a motion by Council of a Planning Commission recommendation;
- C. By application by a property owner of record.

#### **90.04 Contents of Applications for Zoning Map Amendments.**

At a minimum the application shall contain the following information:

- A. Name, address and phone number of applicant;
- B. A survey of the property proposed to be rezoned;
- C. Present use;
- D. Present zoning district;
- E. Proposed use including any plans that the applicant has developed;
- F. Proposed zoning district;

- G. A vicinity map at a scale of not less than 1" = 100' showing property lines, streets, existing and proposed zoning, existing use of all buildings and the principal use of all properties within two hundred and fifty (250) feet of such land and such other items as the Village Administrator may require;
- H. The signature of the applicant, or the applicant's agent, attesting to the truth and exactness of all information supplied by the application, provided that an individual signing as the applicant's agent shall furnish proof of his or her authority to act for the applicant, and
- I. A fee as established by Village Council.

#### **90.05 Process for Planning Commission Review.**

- A. Transmittal to Planning Commission. Following the request for consideration of a zoning text or map amendment by Council or following the filing of a zoning map amendment application by at least one owner of property, such motion or application shall be transmitted to the Planning Commission.
- B. Public Meeting by Planning Commission. The Planning Commission shall, after its adoption of a motion with respect to a text or map change, hold a public meeting to consider the zoning text or map amendment.
- C. Notice of Public Meeting in Newspaper.
  - 1. Before holding the public meeting, notice of such meeting shall be given by the Planning Commission, by publication at a minimum of a notice in a newspaper of general circulation in the Village at least fifteen (15) days prior to the meeting. This notice shall set forth the time and place of the public meeting and the nature of the proposed amendment.
  - 2. When the proposed action has been initiated by the Village, the Village shall provide at its cost the said notice. When a party other than the Village has initiated the proposed action, the initiating party shall reimburse the Village for the cost for the publication of the notice.
- D. Notice of Map Amendments to Property Owners by Planning Commission.
  - 1. Written notice of the public meetings involving a map amendment shall be provided to the owner or owners of real property within the area to be rezoned or otherwise changed by the map amendment and to the owner or owners within two hundred and fifty (250) feet in any direction of the boundaries of the property to be changed by the map amendment, and to all property owners who, in the opinion of the Commission, may be affected by such amendment or change. For the purposes of this Section, the words "owner" and "owners" shall mean those persons appearing on the County's current tax duplicate as the owner or owners of fee simple title to the properties.
  - 2. Such written notice shall be provided at least fifteen (15) days prior to the date of the hearing by hand delivery, or by posting same by prepaid standard U.S. Mail, at the address listed upon the said tax duplicate for each owner.
  - 3. The written notice shall contain the time and place of the public meeting and the nature of the proposed amendment.
  - 4. When the proposed map amendment has been initiated by the Village, the Village shall provide, at its cost, the hand or postal delivery provided hereinabove.
  - 5. When the proposed map amendment has been initiated by a party other than the Village, the initiating party shall provide, at its cost, the hand or postal delivery provided hereinabove and shall file with the Planning Commission on or before the date of the hearing an affidavit confirming compliance with the provisions of this Section.

6. The failure to hand deliver or mail the notice provided by this Section shall not invalidate any action of Planning Commission and/or Village Council on the map amendment.
- E. Review and Recommendation by Planning Commission.
1. Prior to making a recommendation on a proposed rezoning, the Planning Commission shall make findings of fact identifying that the rezoning is in compliance with rationale and criteria provided in Section 90.06.
  2. The Planning Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and not solely for the interest of the applicant.
  3. After the close of the public meeting, the Planning Commission shall recommend to Council, in a time period no longer than forty (40) days, that the amendment be granted, as requested, or it may recommend a modification of the amendment requested, or it may recommend the amendment not be granted. The Planning Commission shall transmit its recommendation to Council.

### **90.06 Standards for Zoning Map Amendments**

- A. Rationale. Prior to making a recommendation on a proposed rezoning, the Planning Commission shall make a finding to determine if the following conditions exist. No rezoning of land shall be approved prior to specific documentation finding at least one (1) of the following:
1. There has been a change in demand for land that alters the information upon which the Zoning Map is based.
  2. A study indicates that there has been an increase in the demand for land in the requested zoning district, and as a result, the supply of land within the Village mapped as such on the Zoning Map, is inadequate to meet the demands for such development.
  3. Proposed uses cannot be accommodated by sites already zoned in the Village due to lack of transportation or utilities or other development constraints, or the market to be served by the proposed use cannot be effectively served by the location of the existing zoning district.
  4. There is an error in the text or Zoning Map as enacted.
- B. Criteria. In addition to the finding required by subsection B, the Planning Commission shall make findings of fact on each of the following matters based on the evidence presented.
1. Relationship to Existing Plans. The extent to which the proposed amendment and proposed use are in compliance with and deviate from Village adopted plans, goals and policies.
  2. Relationship to Existing Zoning. The extent to which any residentially zoned district proposed to be rezoned to a non-residential district is contiguous to land in the proposed zoning district classification.
  3. Suitability. The suitability of the property in question for the uses permitted under the proposed zoning.
  4. Public Facilities. The adequacy of public facilities such as transportation, utilities, and other required public services to serve the proposed use.
  5. Compatibility. The effect of the proposed rezoning on surrounding uses and on the economic viability of existing developed and vacant land within the Village.
  6. Public Interest. The rezoning is in the public interest and not solely for the interest of the applicant.

### **90.07 Process for Village Council Review**

- A. Public Hearing by Council. Upon receipt of the recommendation from the Planning Commission, Council shall schedule a public hearing.
- B. Notice of Public Hearing in Newspaper and Access to Petition.
  - 1. Published Notice. The Village Council or its designee shall publish notice of the public hearing in a newspaper of general circulation in the Village at least 21 days before the date of the hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.
  - 2. Access to Petition. During the 21-day period, the text or copy of the ordinance, measure, or regulation, together with the maps or plans, and report submitted by the Planning Commission, shall be on file for public examination in the office of the Village Administrator.
- C. Notice to Property Owners by Council.
  - 1. Mailed, Written Notice. In addition to public notice required in Division B, if the ordinance, measure, or regulation intends to re-zone or re-district 10 or fewer parcels of land, written notice of the hearing shall be mailed by first class mail at least 20 days before the date of the hearing to the owners of property within and contiguous to and directly across the street from such parcel or parcels.
  - 2. For the purposes of this section, the word "owner" shall mean the person or entity appearing on the Clermont County Auditor's Office current tax duplicate or online database as the holder of fee simple title to the property.
  - 3. When a party other than the Village has initiated a proposed map amendment, the initiating party shall either reimburse the Village for the cost of delivery of notice or provide at its cost the required hand or postal delivery and file with the Clerk of Council by the date of the hearing an affidavit confirming compliance with the provisions of this Section.
  - 4. The failure to hand deliver or mail the notice provided by this section shall not invalidate any action of Council on the map amendment.
- D. Action by Council.
  - 1. Council may enact, modify, or deny the Planning Commission's recommendation by a majority of the members elected.
  - 2. Council must take final action on the amendment within 75 days of the close of Council's public hearing.