



PLANNING COMMISSIONERS HANDBOOK



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About the Author:

Steve Langworthy is a partner in the firm of LSL Planning. His more than 25 years of planning experience includes six years as the Planning Director and Zoning Administrator for the City of Kentwood and extensive experience in a variety of communities as a consulting planner. Steve has authored numerous master plans, zoning ordinances and special studies for communities of all sizes and levels of government.

Steve has extensive experience as a lecturer. He has conducted hundreds of zoning seminars and training programs for local government clients, the Michigan Municipal League, the Michigan Townships Association, and the Michigan Society of Planning Officials. He authored the Planning Commissioners Handbook for the Michigan Municipal League and was a principal author of the Township Guide to Planning and Zoning, published by the Michigan Townships Association.

Foreword:

Along with the other appointed and elected municipal officials in your community, members of a planning commission accept responsibility to protect the personality and vitality of your community. To carry out their duties, these volunteers must digest a mountain of information and negotiate a maze of delicate situations.

This handbook was written to help new planning commissioners become effective commissioners. The topics covered include tools for planning commissioners, preparing for meetings, meeting the public, how knowledge of the zoning ordinance and applying ordinance standards will help you make decisions that will stick and what the future holds for planning commissioners.

As the state association of cities and villages, the Michigan Municipal League is committed to providing a variety of educational resources for both elected and appointed municipal officials to assist them in doing their jobs. The League is a non-partisan, nonprofit association working through cooperative effort to strengthen the quality of municipal government and administration.

This handbook is the latest step in our continuing effort to help municipalities meet the daily challenges of governing. Our thanks go to community planning consultant Steve Langworthy of LSL Planning for developing this text. His knowledge, creativity, insight and responsiveness are most appreciated. Contributing to the legal accuracy of this book was League Associate General Counsel Sue Jeffers. The Information and Publications staff of the Michigan Municipal League added a measure of common sense and smooth flavor.

Our aim is to produce publications that will help make your job easier. We welcome suggestions for additions to this publication and your comments in regard to all our publications. Let us know how we are doing and how we can be of further assistance!



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INTRODUCTION

Congratulations!

§1 As a new planning commissioner, you may find yourself a little bewildered and overwhelmed. Since experience is not one of the conditions of appointment to the planning commission, you may wonder just what it is you are supposed to be doing.

This handbook has been written to provide you with some hints about how to be an effective planning commissioner. Rather than trying to teach you about the laws and regulations governing planning and zoning, we will concentrate on what you might expect to encounter as a commissioner and some of the methods you may use to prepare, make and enforce your decisions.

During your term as a planning commissioner you will encounter a wide variety of situations, people and problems. You will need patience, tact and diplomacy. Knowing how to act in stressful circumstances is one of the most important parts of the job, and one that is best learned through experience.

This Planning Commissioners Handbook is your head start on learning how to deal with these difficult situations.

You are encouraged to seek other sources for learning about the intricacies and technical details of zoning, planning and other related topics. These, too, will be a significant part of your job as a planning commissioner. The Michigan Municipal League can suggest a number of publications and training opportunities that can help you on your way. For more information, contact them at 800-653-2483 or visit their excellent web site at www.mml.org.

Good luck! You have volunteered to provide a valuable service to your community and your time and efforts are much appreciated.

CHAPTER 1

WHAT WAS I THINKING?

§2 As you sit through your first planning commission meeting, this thought will probably go through your mind at least once. You've been thrown together with a group of others, some of whom know as little as you think you do. You have been asked to do an almost impossible job, using confusing documents, about which you know next to nothing. On top of which, the job offers little or no compensation!

For this privilege you get to listen to individuals and groups complain, plead, bargain, shout, criticize and lecture.

Yet, many commissioners wouldn't trade the job for anything.

Few voluntary non-elected appointments have the kind of authority granted a planning commissioner. Fewer still have the ability to affect the future of a community to such a great extent.

It Begins With a Philosophy

§3 The planning commissioner wears many hats from mediator, interpreter, visionary, researcher or teacher, to community builder.

Becoming an effective commissioner begins with a clear philosophy of your approach to the task.

Perhaps you had a desire to give something back to the community. Or, maybe something happened in your neighborhood that disturbed you. Most likely you did not get into the job for the money. After all, you did volunteer.

Ultimately, you will have to decide what kind of commissioner you will be.

What is a Planning Commission?

§4 Early in the history of zoning, it was recognized that when reviewing zoning and land use matters, elected officials needed input from a group of individuals who were not affected by political concerns. Having a group of interested volunteers

judge land use decisions for the community was intended to allow a wide range of views to be fairly represented.

Elected officials are representatives for the people in the community. As such, they are accountable to the voters. As a planning commissioner, on the other hand, you are a representative of the people. This means that the members of the commission represent the various interests found in the community, such as professionals, business owners and homemakers.

In theory, this allows a planning commissioner to act without the political considerations that influence elected officials.

You will also find that having a variety of personalities on the commission serves a purpose.

Some of your fellow commissioners may consider themselves to be compromisers; always looking for the win-win solution. Others may believe that they are simply there to express the will of the people and suppress their own opinions.

Regardless of whether you agree with them or not, keep in mind that the reason the commission has more than one member is to allow for this variety of opinions.

Even though every commissioner has the best interests of the community at heart, their approaches may differ from yours since each is based on their own philosophy. Over time you will come to understand some of the motivations of the other commissioners and may find yourself appreciating their views.

Developing your own philosophy and style is an important step in becoming an effective planning commissioner.

The Land Use Challenge

§5 NEW DEVELOPMENT OFTEN BRINGS OUT CONCERNS OVER LAND USE. RESIDENTS BECOME CONCERNED ABOUT LOSING THE CHARACTER OF THEIR COMMUNITY. THOSE WHO PROPOSE CHANGES ARE ACTING TO PROTECT THEIR OWN INVESTMENT, WHETHER PERSONAL OR PROFESSIONAL. DECISION MAKERS MUST, WITHIN THE CONSTRAINTS OF THE LAW, ALLOW FOR DEVELOPMENT WHICH IS CONSISTENT WITH THE EXISTING OR PLANNED CHARACTER OF THE COMMUNITY AND REJECT THAT WHICH IS NOT.

THIS CAN CREATE LAND USE CONFLICTS AND DIVIDE COMMUNITIES ALONG PHILOSOPHICAL LINES. THE MASTER PLAN AND ZONING ORDINANCES SHOULD PRIORITIZE THESE SOMETIME CONFLICTING OR COMPETING INTERESTS AS A MATTER OF POLICY. IN EACH DECISION THE COMMISSIONERS MUST APPLY THE POLICY TO THE SPECIFIC FACTS AT HAND. THE PLANNING COMMISSION, OFTEN CAUGHT IN THE MIDDLE, MAY LOOK BACK AND SAY, "HOW DID WE GET INTO THIS MESS?"

IN TRUTH, ADVOCATES FOR DEVELOPMENT AND PRESERVATION HAVE COMMON GOALS. MOST OF THE TIME, BOTH SEEK BETTER USE OF THE LAND FROM THEIR OWN PERSPECTIVES: THE DEVELOPER TO PROTECT HIS OR HER FINANCIAL INTEREST, AND THE NEIGHBORS TO MAINTAIN THEIR QUALITY OF LIFE. PLANNING COMMISSIONERS MUST WEIGH EACH OF THESE INTERESTS.

The Job

§6 As a planning commissioner you will be dealing with one of the most enduring elements of society – land. At the same time, you will be dealing with people. You will find that this can create some difficult situations.

Your decisions can have a serious effect on the use and value of land in your community. Decisions based on the land can have lasting implications. Consequently, your decisions must be based on the long term interests of the community.

These decisions are not always easy. In some instances, you will know the land owners, neighbors or applicants personally.

As you develop and refine your philosophy and style, keep in mind that the planning commissioner's job is to help create and carry out policies regarding the physical development of their community.

That's the easy part. If being a planning commissioner was simply a matter of following policies and obeying the dictates of a law, then only one member would be needed. Instead, planning commissions must constantly ensure that they treat each person and property in a fair and consistent manner.

This book discusses several practical aspects of being a new commissioner, including dealing with those who jealously guard their view of the community and those who may seem as though they are intent on destroying it.

Sounds like a tough job. No wonder so many people want it. Welcome aboard!

CHAPTER 2

THE PLANNING COMMISSIONER'S TOOLBOX

§7 In the first chapter, we noted that being an effective commissioner begins with a clear understanding of your job and your approach to it. In much the same way, a community must also have a clear picture of why it exists and how it intends to grow.

Every community needs to plan locations for development where natural features and the environment are protected, where community character will not be diminished and where expenses for new roads and services will be at a minimum. This may include rehabilitating existing structures and reclaiming unused or abandoned properties as well as developing new areas.

The planning commission was originally given the responsibility of writing and adopting the master plan for the community. In 2002, this requirement was changed to require more involvement by the legislative body in the planning and adoption process. The planning commission remains the authors of the first draft of the zoning ordinance. This ensures a direct connection between the master plan and zoning ordinance.

While the 2002 change allowed the city or village council to be the adopting authority of the master plan, it is required to adopt the zoning ordinance because it is the law.

The Jigsaw Puzzle

§8 Building a community is a little like constructing a jigsaw puzzle, with each new development project providing a piece of the puzzle. The master plan might be considered the top of the jigsaw puzzle box. It shows us the final form of the puzzle – our vision for the future.

Corner Pieces

§9 Policies concerning growth may be thought of as corner pieces of the puzzle. They anchor the rest of the community and allow for orderly development.

These policies may range from:

1. actively encouraging growth.
2. allowing growth to take its own course with as little government interference as possible.
3. allowing development provided that adequate utilities, roads, schools, fire, police and other public services are available.
4. trying to slow down the rate of growth.

Typically a master plan describes the community, outlines goals and objectives and maps areas of different land uses ranging from agricultural to industrial.

Plans for new development are then reviewed to ensure consistency with what was planned.

The Zoning Ordinance

§10 Communities continually wrestle with complex issues brought on by new development. The need to provide design flexibility, coupled with the desire to maintain some degree of control, has created the need to find innovative regulations.

Local control of the use of land (with some exceptions, such as state and federal land uses) is an accepted legal principle. Land use use areas, called zoning districts.

The rules governing these districts are listed in a zoning ordinance that contains provisions controlling the type and intensity of development allowed.

The zoning ordinance should be based generally on the master plan. The future land use classifications of the plan are reflected in the ordinance's zoning districts. The density and intensity planned for the land use districts are translated to the uses permitted, lot sizes and other regulations.

Future Land Use and Zoning are NOT the Same

§11 The primary difference between future land use and zoning is a matter of timing. The future land use map shows the intended use of land at the end of the planning period, which could be many years in the future. The zoning map shows land as it is intended to be used today. Accordingly, the two maps will not be identical in every respect.

For example, one area of the community may have a future land use designation for industrial use. However, the goals and objectives of the master plan may indicate that industrial uses should not be established without public water and sewer services.

In order to ensure that a conflict in land uses is not established, the zoning map may designate the area for low intensity development. The master plan may then include a statement that the area is intended as a future location for industrial uses, pending provisions for public utilities. One justification for this action, which should be noted in the master plan, may be that the area has poor soils that will not accommodate private septic and water systems on the scale necessary for residential or high density development without public utilities.

Now What?

§12 Once the master plan and zoning ordinance are in place, it is important that they be kept current. A master plan that is not kept up-to-date and actively followed and implemented may lead to problems for the community in the future. The 2002 amendment to the Municipal Planning Act requires a community to review its plan at least every five years.

As noted earlier, changes to the Municipal Planning Act now require the legislative body to “approve the plan for distribution,” or if it elects to do so, become the adopting authority for the plan. After preparing a proposed plan, the planning commission must submit the proposed plan to the legislative body for review and comment. Before the adoption process can proceed, the legislative body must approve the distribution of the proposed plan. If it does not, it must return the plan to the Commission with its objections. The Commission must then revise the plan until it is accepted by the legislative body.

The long-term effect of this change to the adoption process will have to be determined. But even if the Planning Commission maintains the responsibility of completing and adopting the master plan, the legislative body should be involved in all of the critical steps of the process in order for the plan to be assured of adoption and effectively implemented.

Failure to consistently follow the plan may discredit its use as a defense for actions that may be challenged by property owners or developers.

Likewise, consistent and vigorous use of the plan will lend credibility to the community's attempts to implement controversial decisions on rezonings or other zoning actions.

While the courts of the State of Michigan do not recognize the absolute authority of the master plan, they do lend much more credibility to actions supported by careful planning than those that appear to be taken arbitrarily against an individual property owner.

Conclusion

§13 As a new commissioner, the plans and ordinances for your community probably appear somewhat bewildering. In fact, we have only covered two of the documents that you will likely see. Others, such as the land division ordinance, capital improvement plan and recreation plan, are also valuable resources.

By far the greatest responsibility of the commission is to provide guidance for land use and development in the community. A properly developed, well thought-out master plan and an effective zoning ordinance can be of great value to a community. They provide an improved quality of life, more efficient use of financial and other resources, a cleaner environment and an economically healthy community.

Both the master plan and the zoning ordinance should be consistently and accurately followed to make sure they are applied fairly and consistently to those they affect. Together they are valuable tools in building the kind of community you want.

Keeping them current and relevant to today's conditions is hard work, but the rewards make the effort worthwhile.

CHAPTER 3

PREPARING FOR MEETINGS

§14 Being a planning commissioner can mean either just showing up for the meeting, or putting in the time needed to make informed decisions. It is difficult to ask a volunteer to put forth an extra effort to be ready for a meeting, but those who occupy a seat as a commissioner have taken on the responsibility to do the best possible job for their community.

Planning commissioners cannot reach a fair and impartial decision without a firm base of knowledge about the matters placed before them. Gaining this knowledge will take the efforts of the community's staff, the applicant and each commissioner.

As a planning commissioner, there are some positive "fact finding" steps you can take to make sure you are ready to make the best possible decision – based not on perception, but on facts.

Before Attending the Meeting

§15 MAKE SURE YOU HAVE EVERYTHING. FOLLOW THIS CHECKLIST:

- 1. DO YOU HAVE YOUR ZONING ORDINANCE OR OTHER APPLICABLE ORDINANCES?**
- 2. HAVE YOU EXAMINED THE AGENDA AND RELATED MATERIALS?**
- 3. DO YOU HAVE YOUR QUESTIONS WRITTEN DOWN?**
- 4. HAVE YOU COMPLETED THE SITE VISIT? (IF NOT, AT LEAST DRIVE BY THE SITES ON THE WAY TO THE MEETING.)**
- 5. HAVE YOU REVIEWED THE STANDARDS THAT WILL BE USED FOR EACH DECISION?**
- 6. REMIND YOURSELF THAT THE PURPOSE OF PREPARING FOR THE MEETING IS NOT TO MAKE A DECISION, IT IS ONLY TO GATHER THE INFORMATION NEEDED TO PREPARE YOU FOR THE DECISION THAT IS TO COME.**

Information

§16 In order to prepare for the meeting, you must make sure that you have all of the relevant information needed to make a decision. At a minimum, you will need to have copies of applications, site plans and other supporting material in sufficient time to allow you to study and prepare. You should expect to have at least a week to review the materials.

Site Visits

§17 Visiting the site is often a critical step in the decision making process. Even if you have lived in the community all of your life, individual sites take on a new personality when a specific project is to be built.

Some precautions should be used. **Site visits should always be made individually rather than as a group.** Meeting on site (even with less than a quorum) raises several concerns.

- A site visit by a majority of the membership of a decision making body must be advertised under the Michigan Open Meetings Act and steps must be taken to insure that the requirements of the Americans With Disabilities Act (ADA) are met.
- Practically, it is hard for the visiting members to avoid talking among themselves about the proposal. These side discussions, however, can violate the spirit as well as the letter of the Open Meetings Act.

There are two cautions to keep in mind when visiting a site.

1. Do not go onto the site unless specific written permission has been granted by the property owner or the site is otherwise available to the public (such as an existing shopping center). This can help avoid misunderstandings and problems with trespassing.

RESIST THE TEMPTATION TO DESIGN THE SITE. YOUR JOB IS TO REVIEW THE APPLICANT'S PLANS AND TO IDENTIFY YOUR CONCERNS. IT IS THE APPLICANT'S JOB TO DESIGN THE SITE TO MEET THOSE CONCERNS.

If permission has not been granted and you feel as though your decision cannot be made without viewing the site, look for other ways to get the same information. This might include aerial photos or surveys. Or, you may request that the applicant submit photographs, slides or video tape, particularly for larger, inaccessible sites.

Do not allow your decision to be influenced by the applicant's reluctance to allow you on the site. Many people are concerned about liability or they simply are determined to protect their privacy. There are other ways to gather the information and you should not make a decision until the information is obtained.

2. Do not discuss the proposal with the property owner, neighbors or applicant outside of the meeting. The intent of information gathering is to insure that everyone has the same information on which to base a decision. This is not possible if individual commissioners contact or are contacted by interested parties outside of the meeting.

TIP: CONSIDER ADDING A LINE TO YOUR APPLICATION FORM THAT ALLOWS THE APPLICANT THE OPTION TO GRANT PERMISSION FOR THE PLANNING COMMISSION MEMBERS TO CONDUCT A SITE VISIT.

If you are contacted by the applicant or others, be prepared to tell them that you are required to conduct all of your discussions only when the other commissioners are present.

Resist the temptation to design the site. Your job is to review the applicant's plans and to identify your concerns. It is the applicant's job to design the site to meet those concerns.

Encourage them to come to the meeting (tell them when and where) or ask them to submit their comments in writing (tell them to whom and by what date).

If a contact cannot be avoided, it should be reported to the rest of the members during the meeting, along with the general content of the conversation.

You may feel free to request information from the community's staff. But whatever information you receive should also be made available to each of the other members.

REMEMBER – YOU ARE ONLY ONE PERSON ON THE PLANNING COMMISSION. THE ONLY TIME YOU SHOULD TAKE ACTION AS A COMMISSIONER IS IN THE PRESENCE OF THE OTHER MEMBERS AT A SCHEDULED MEETING.

During Your Site Visit

§18 Look closely at traffic conditions, natural features, surrounding land uses and general neighborhood characteristics. Visits at different times and on different days of the week would also be useful. For example, visiting a site during a peaceful Sunday afternoon may not be representative of traffic conditions during rush hours.

Describe your site visit findings to the rest of the planning commission so that they may have the benefit of your observations.

The Michigan Open Meetings Act

§19 (1976 PA 276, MCL 15.2621 ET SEQ.) WAS INTENDED TO MAKE SURE THAT THE DECISION MAKING PROCESS FOLLOWED BY GOVERNMENT BODIES ALWAYS TAKES PLACE UNDER THE WATCHFUL EYE OF THE PUBLIC. EVEN THOUGH YOU CAN SIMPLY MEET THE LETTER OF THE ACT, IT IS JUST AS IMPORTANT THAT THE SPIRIT OF OPEN MEETINGS BE OBSERVED. DON'T LOOK FOR WAYS AROUND THE ACT. LOOK FOR WAYS YOU CAN MAKE IT WORK BETTER FOR YOU.

"I DIDN'T REALIZE IT WOULD LOOK LIKE THIS. . ." VETERAN COMMISSIONERS WILL TELL YOU THAT WHEN A PROJECT IS BUILT, EVERYTHING IS BIGGER AND CLOSER THAN IT LOOKED ON THE SITE PLAN.

Using the Site Plan

§20 For many proposals you will be asked to review a site plan. A site plan is merely a depiction of the property showing proposed buildings, parking areas, streets and other details. Your objective when looking at a site plan is to ensure that at least the minimum dimensional standards of the zoning ordinance are met with respect to yards, signs, parking, etc., and that the proposed use is designed in harmony with its existing and future surroundings.

To do this you need to be familiar with some basic site planning principles as they relate to the standards of the zoning ordinance. Some common standards, in abbreviated form, are described below to show their general intent.

1. Preservation of natural features or landscape.

§21 Site plans should show significant natural features in enough detail to see how they are affected by the project. The two general approaches to natural features are preservation and integration.

Preservation measures should be used when features are so sensitive or so valued that any change to them would have a negative effect on the community in terms of aesthetics, environmental quality or safety. In these areas, development should be either prohibited or restricted to projects which have little negative effect. Regulated wetlands and identified flood prone areas are examples of lands requiring preservation techniques.

Natural features may also be integrated into a site allowing them to remain as natural as possible. This could include the use of small wetlands as aesthetic features or maintaining vegetated areas as screening or visual interest. In this way, natural features often help market projects.

These techniques can be implemented through conditions placed on project approvals, using this standard as support.

The potential of environmental contamination, particularly where underground storage tanks are or have been present, should also be considered. Many lending institutions now require an environmental audit to determine the likelihood of contamination prior to funding projects.

2. Compatibility with surrounding uses.

§22 This standard can be used to require landscaping, fences or walls to make sure that proposed uses will be adequately screened or separated from surrounding property. It can also relate to locating buildings and parking areas to make sure one site does not unduly affect another.

3. Safety of vehicular and pedestrian circulation.

§23 The purpose of reviewing circulation is to ensure proper driveway spacing, adequate setbacks for clear visibility and proper placement of parking areas. Requiring parking lot setbacks, particularly along the roadway, can foster driveway safety, control glare and headlight spray and improve aesthetics.

Special consideration should be given to uses with large parking areas to ensure that circulation is safe and does not conflict with pedestrians, other vehicles and adjacent uses. Shared driveways may also be required to reduce the number of access points.

Service drives (front and/or rear) may be needed to allow access between properties so that vehicles do not have to enter the public street.

SITE PLANS SHOULD NOT BE REVIEWED AS PART OF A REZONING.

§24 INEXPERIENCED COMMISSIONERS CAN EASILY BE SIDETRACKED BY DISCUSSIONS OF LANDSCAPING, SETBACKS AND OTHER ISSUES. SITE PLANS ARE ESSENTIALLY MEANINGLESS DURING A REZONING (EXCEPT AS PART OF A PLANNED UNIT DEVELOPMENT (PUD)) SINCE THE APPROVAL CANNOT BE CONDITIONED ON COMPLIANCE WITH THE PLAN.

ONCE ZONED, THE PROPERTY CAN BE USED FOR ANY USE PERMITTED IN THE NEW DISTRICT, REGARDLESS OF ANY PROMISES MADE OR PLANS SHOWN BY THE APPLICANT.

A common misconception is that local communities have no input on driveway locations. Although local regulations cannot conflict with the road authority, it can control driveway locations through the site plan review process.

4. Ensuring adequate emergency access.

§25 Involve the fire and police authorities in the site plan review process and have them submit a recommendation to you. Your community may have regulations that address fire lane standards and building access.

5. Control of exterior lighting.

§26 Lighting should be adequate to illuminate the area, yet not shine on adjacent properties, particularly in residential areas. Requiring “cut-off” fixtures or reducing the height of light poles can be effective ways to meet this standard.

6. Proper drainage and removal/storage of surface waters.

§27 Most commissioners are not trained engineers. Normally, local engineering staff, drain commissioners or other sources need to be consulted to ensure that a site is properly engineered to avoid excessive stormwater runoff. The same is true of the adequacy of public and private sanitary sewer and water services.

7. Architectural controls.

§28 Generally, site plans will not deal with the actual design of a building. Rigid architectural controls tend to stifle creativity and can encourage monotony.

However, they may be appropriate in designated areas rich with historical buildings and character. There will usually be an architectural review board or historic commission with the authority to review exterior finishes and improvements to ensure that the historical or unique character of the district is not jeopardized.

Site plans that meet all of the standards of the zoning ordinance must be approved.

CHAPTER 4

MEETING THE PUBLIC

§29 Land use issues, as you will no doubt discover, can bring out strong emotions. Faced with a room full of angry and concerned people, you may find it difficult to maintain the decorum and professionalism needed. Although many planning commissions attempt to follow Robert's Rules of Order in their meetings, there are other more subtle aspects that are important to consider.

Being Fair

§30 The foremost concern of any planning commission should be to ensure fairness for all concerned. To ensure fairness, keep some simple things in mind:

- 1. Everyone must have the opportunity to speak and present evidence at public hearings.** While some limitations may be placed on this right, as described later, no action should be taken that would unreasonably deprive a person of their right to be heard.
- 2. Recognize emotional responses and treat them with concern and understanding.** Strong responses, within limits, should be expected and understood. Controlling your own emotions is essential, even if the comments get personal.
- 3. One of mankind's greatest fears is not death – it's public speaking.** Make an effort to look beyond the mannerisms and nervousness to find the speaker's message.
- 4. Regardless of how many people show up** to oppose or support a project, you must represent the long-term interests of entire community, not just those at the public hearing.
- 5. Listen.** Public meetings are your chance to take the pulse of the community and to learn more about the neighborhood in which a project is planned. Take advantage of the effort those attending the meeting have made and learn as much as you can.

§31 Dealing with Emotional Responses

- 1. REPEAT THE CONCERNS YOU HEAR. "WHAT I HEAR YOU SAYING IS..."**
- 2. STATE YOUR CONCERN. RESTATE THE CONCERN BY NOTING YOUR UNDERSTANDING AND AGREEMENT.**
- 3. NARROW THE ISSUE TO THE ITEMS THAT ARE AT THE ROOT OF THE CONCERN. DO THIS BY A SERIES OF QUESTIONS THAT WILL NOT EMBARRASS THE SPEAKER, BUT WILL FORCE THEM TO CONFRONT THE TRUE ISSUES.**
- 4. FIND OUT WHAT YOU CAN DO ABOUT THE ISSUES THAT SURFACE, BUT BE CAREFUL NOT TO PROMISE MORE THAN CAN BE DELIVERED.**
- 5. DO NOT TRY TO ANSWER ALL QUESTIONS WHEN NO ANSWER WILL BE ACCEPTABLE.**

Follow the Rules

§32 Playing fair means playing by the rules. Having an effective set of meeting rules helps provide a sense of professionalism as well as ensuring that meetings are orderly.

Rules do not need to be rigid. They occasionally need to be altered to take certain events into account.

Nor should they be too confining. Keeping a subtle balance between the degree of formality required, and the informality that is sometimes needed is a learned art.

Hearing rules should be made a part of the bylaws of the commission and printed on the back of the meeting agenda so that everyone is aware of them.

Rules for Speakers

§33 You will soon learn that people do not often come to a meeting in support of a particular project. Most people have concerns that they wish to address, while others are simply opposed to what is being proposed.

Having written meeting rules and procedures is especially valuable when there are many people who wish to speak. Without a few basic rules it would be easy for one or two people to dominate the meeting, thus depriving others of the chance to speak their mind.

- 1. Direct all comments to the chairman.** This rule can help avoid debates between members of the audience, between the presenter and the audience, and between the commission and the audience or presenter. Since zoning hearings can become emotional, following this policy is important to ensure that the chair controls the meeting.
- 2. Limit speaking time, when necessary.** If there are many people who wish to speak, it is appropriate to limit the time of each speaker to 3–5 minutes, with the exception of the applicant. The applicant should be given as much time as needed, within reason, to present his or her case.
- 3. Limit the number of times one person may speak.** Generally, each person needs to be given only a single opportunity to speak. At the discretion of the chairman, people may be allowed to speak a second time to respond to earlier comments. However, the chairman should emphasize that comments should not be repeated. Your rules may also require a sign-up sheet for those people wishing to speak, with the chairman recognizing only those who have signed up.

4. The chairman may also ask if there is a spokesperson for the audience, and ask that the spokesperson speak for the others present who agree with his/her point of view. The chairman should allow those for whom the spokesperson is speaking to be recognized, either through a show of hands or by standing. The spokesperson may be given additional time in recognition of his/her role.

5. After the public hearing is closed, it should remain closed. Further comments should not be accepted unless specifically requested by a commissioner.

Rules for Commissioners

§34 As commissioners you should also agree to follow your own set of rules for how you present yourselves to the public.

- 1. All comments should be directed to the chairman.** Just as the audience must be recognized by the chairman, so too should the commissioners. Not only does this show respect for the role of the chairman, it sets an example for the audience to follow.
- 2. All deliberations should be in the open.** This goes beyond strict legal requirements. It is important that the audience view the commission as an open, fair and deliberative body.

Remember, people are generally suspicious of government. Don't add substance to that perception.
 - Do not hold private conferences prior to the meeting.
 - Don't meet in a group in a small room or other place outside the chamber in which your meeting is held.
 - When arriving at the meeting, stay in the chamber.
 - While socializing is acceptable, make sure that the audience doesn't get the wrong impression.

- Make all of your comments aloud during the deliberations. If you have a question, ask the applicant or the chairman, rather than your neighbor. Don't allow yourself to be caught up in a private discussion with another commissioner. Make all of your comments loud enough so that everyone can hear.

3. Express your opinions. Don't just vote without letting everyone know why you are voting, whether for or against the issue. Your comments may help others to decide (or change their vote). It also lets the applicant and the audience know the strengths or weaknesses of the proposal.

4. Do not attempt to always answer every question. Some comments cannot be answered and may be asked just to express frustration.

When a question such as, "What will I do when the cars start running off the road and into my house?" is asked, calmly try to narrow the question down to specifics. Once you get a handle on the real problem, you may be able to suggest a solution.

5. If things get out of hand, take a recess. Long evenings and emotional topics can make for short tempers. A breather may be helpful.

6. Do not feel compelled to make a hasty decision on the night of the hearing. Everyone should feel comfortable with their vote – if not, obtain whatever additional information is needed before proceeding with the decision.

Keeper of the Gavel

§35 The chairman of the commission is entrusted with enforcing meeting rules. Having a strong chairman is important both to the operation of the commission and to public perception.

The role of the chairman is to maintain order throughout the meeting. The chairman should announce each agenda item and note the rules that apply to the hearing. During the meeting, the chairman should ensure that courtesy is maintained and that speakers are not interrupted.

Keeping Faith with the Public

§36 People tend to be naturally suspicious of governmental proceedings that may affect them. How many of your neighbors know a planning commission even exists? Be patient and understanding when addressing this suspicion. You will not always be able to satisfy their wishes. But, you can make sure that the public knows they have been heard and that you are acting responsibly.

Following rules of fairness, preparing for meetings, and making effective decisions can affirm the confidence placed in you by those who appointed you and those you serve.

CHAPTER 5

MAKING TOUGH DECISIONS

§37 In these days of increasing litigation and public participation, it is not enough to deny an application because of a vague notion that the use is not a good idea, or that it will hurt the neighborhood. Even applications that are approved need to be well supported.

Following an effective decision making process is one of the most important ways to avoid challenges to decisions. Careful consideration and support of decisions through the use of the standards of the zoning ordinance is important. These standards must be written into the ordinance (except rezonings) and if all standards are met, the application must be approved.

If the decision is challenged, the importance of using the ordinance's standards becomes self-evident. A well supported decision provides the background needed to build a solid legal foundation for the decision. The use of standards will help avoid the "arbitrary and capricious" label often given to zoning decisions that are not well supported.

Proper decision making starts with the basics:

1. Knowledge of the zoning ordinance;
2. Knowledge of relevant case facts; and
3. Using ordinance standards to reach a decision.

1. Knowledge of the zoning ordinance

§38 Too often, members are not well versed in the language, meaning and application of their zoning ordinance. Each planning commissioner must be familiar with the relevant parts of the ordinance when reviewing an application for a zoning decision. Not only should the commissioner know the meaning of the regulation, but it is particularly important that he or she understand its purpose.

2. Knowledge of relevant case facts

§39 Facts are critical to good decision making. Sources of facts include:

- a. the application and supporting materials;
- b. the master plan or other relevant plans;
- c. staff and agency reports regarding impacts on public services, natural resources, character of the area, traffic, parking and other criteria;
- d. a visit to the site to see the physical characteristics of the property and adjacent parcels (see Chapter 3) and;
- e. public hearing comments.

3. Use of ordinance standards

§40 Following an effective decision making process is one of the most important ways to support your decisions. Proper and consistent use of the standards of the zoning ordinance or other ordinances is essential.

Making Everyone Happy

§41 In most cases, it is impossible to please everyone, and you probably shouldn't try. One of the most difficult aspects of planning and zoning is the need to balance the various, often competing, interests of property owners and residents.

Property right laws tell us that zoning has a public interest that will allow residents to have the right to peace and quiet of their neighborhood and to have the value of their property protected.

“My home is my castle” is not an idle remark. Those who follow the NIMBY and BANANA principles sometimes represent this view. The NIMBYs believe that the project is well designed, and needed, but located in the wrong place. “Not In My Back Yard” is their battle cry.

Others believe that the project should not be built anywhere in their community, or perhaps anywhere at all. Their motto is “Build Absolutely Nothing Anywhere Near Anything” – BANANA.

On the other hand, the law holds that owners of property have a right to a reasonable return on their investment and that zoning cannot unreasonably deprive the owner of that return.

In the midst of these many competing interests and views are the local authorities for zoning – the zoning administrator, the planning commission, the board of appeals and the legislative body, the city/village council.

Satisfying these competing interests is simply not always possible. The intent of zoning is to help commissions avoid the necessity of trying to judge between them. Instead, zoning decisions should treat each person, property and point of view in a fair and consistent manner.

The following guidelines may help you deal with these competing interests and concerns.

- **The master plan and zoning ordinance are current and accurately reflect the community.**

Keeping your master plan and zoning ordinance up-to-date, continually reflecting the needs and desires of the community, can help focus the discussion on individual projects to judge their consistency with the character of the community.

The master plan should be reviewed each year to make sure it stays relevant to current conditions. A comprehensive review should be considered about every five years.

Remember, you are a part of a planning commission. Set aside time to do some planning each year.

The zoning ordinance must be constantly reviewed to ensure that binding court rulings are included, new legislation recognized and master plan changes noted (e.g., new land use classifications).

- **There are written rules of procedure (bylaws, notices, hearing procedures, etc.) and they are consistently followed.**

The entire zoning process, starting from the time that a person first approaches the community, to the issuance of the occupancy permit, should be clearly understood by all parties involved.

- » If applications are incomplete (inadequate site plan, fee unpaid, etc.), do not accept them.
- » If you learn that notices were not sent or published properly, stop the process and start over.
- » Do not take action unless the applicant or a representative is present (unless legal time limits dictate otherwise).

- **All zoning decisions should be based upon the standards set forth in the zoning ordinance.**

Following an effective and consistent process is one of the most important methods of making supportable decisions.

The consistent and proper use of standards will help avoid the “arbitrary and capricious” labels often given to zoning decisions that are not well supported. As you debate each application, you may find discuss each of the applicable standards in turn.

The standards that you use should be written into the ordinance (except rezonings) and if all standards are met, the application must be approved.

If you are unclear about whether a standard is met and are not ready to make a decision – don’t. Zoning decisions are permanent. Take care that the decision you make is well supported. On the other hand, don’t drag out the review unnecessarily.

- **Decisions are always based on the standards of the ordinance and facts, not on emotion or opinion of the applicant.**

A roomful of people who show up to oppose a project should not be the only reason for denial.

Nor should the past actions (or lack of action) of the applicant be used as a basis for a decision.

The Role of the Public

§42 If there are doubts about an applicant's performance, make proper use of conditional approvals (except for rezonings), performance bonds and proper documentation for possible enforcement later.

Approvals and denials must be thoroughly supported, clearly stating how the ordinance standards were or were not met.

Zoning cannot be a popularity contest decided by a show of hands by the audience or names on a petition. If it were, only one commissioner would be needed to count the votes or read the applause meter.

Many zoning approvals require public input, usually in the form of a hearing. The dilemma for most decision makers is trying to determine what weight to give the comments (and complaints) of the public.

As noted earlier, it will quickly become obvious to you that most people do not generally come to a meeting in support of a particular project. Most have concerns they wish to have addressed or they may simply oppose any development.

Similarly, petitions, letters and other written expressions of concern are useful, but only to the point where they provide new information.

While public input is a valuable part of decision making, you cannot simply mirror the wishes of those who send letters or come to the meeting. Your job is to follow the standards and requirements of the zoning ordinance. You are obligated to protect the interests of the applicant, the neighbors and the entire community.

Neighbors can provide a unique perspective on the neighborhood which may create the need for further study or information to be provided by the applicant or gathered by the community.

Ultimately, the role of the public is to provide information to the decision makers, not dictate their actions.

The Experts Say

§43 You may also wonder how much influence staff reports and opinions should have on your decision. In most cases, your municipal staff members are trained in their various fields and are providing you with their professional opinion. Their recommendations should be supported by the facts and application of the ordinance standards just as your decisions are expected to be.

Their view of how the facts relate to the standards may differ from yours. Ultimately, it is the decision of the commission that will stand.

Conclusion

§44 Zoning decisions are rarely easy. And they are not usually a matter of right and wrong. Balancing the needs of the community and the private property owner has been entrusted to you, and it is essential that you honor that trust.

CHAPTER 6

MAKING YOUR DECISIONS STICK

§45 It won't matter how well you have followed the principles in the previous chapters if you fail to properly document what you did. As a new commissioner you may have a tendency to rely on the members who have the most experience to remember past actions. There is no doubt that their memories are valuable, but their recall may not be complete. The only reliable methods of documenting actions are the written word and exhibits.

Meeting Minutes

§46 In smaller communities, keeping minutes may be one of the least glamorous parts of building a written record. As a new commissioner, the task may be dumped on you, much to the relief of the previous victim. Regardless of who has the job, it should be taken seriously. There are no firm rules or formats for minutes, but there is a basic principle.

Minutes should contain enough detail so that a person not present can understand:

- What matters were discussed (nature of the request, applicant, location);
- Who spoke at the meeting and the general content of their comments (including name and address);
- What action was taken by the commission (including the vote and any conditions attached);
- Why that action was taken and on what standards of the ordinance it was based.

Motions

§47 A motion must have: a maker and second; a description of the nature of the request; the action taken (approval, approval with conditions, denial, tabling); any conditions attached to affirmative decisions (except rezonings, to which conditions cannot be attached); and the reasons for the action taken (applicability of standards).

Some commissions have found it useful to have a blank motion format to help them form a proper motion. This can be an effective practice, as long as the motions are not completed prior to the meeting.

Because having staff or legal counsel prepare a motion or several motions in advance can create the perception that decisions have already been made, this practice is discouraged.

Some hints for making motions:

- Although the chairman can make sure everyone understands the motion by restating it, it may be preferable to have the person who is recording the motion do the restatement. Do not ask the person writing the minutes to "clean it up later," or say, "you know what we want to say." Take the time when the motion is made to get the wording right. To ensure accurate recording of the minutes, it is often useful to have the commissioner making the motion submit a written copy of the motion to the member taking minutes.
- Reference relevant sections of the ordinance and staff reports. If discussion on the issue is thoroughly documented in the minutes, the minutes may be adequate to represent information related to compliance with the standards of the ordinance. Otherwise, a summary of the discussion is appropriate.

- Conditions may be imposed on any zoning decision, except rezonings (unless part of a planned unit development (PUD) rezoning).

Conditions attached to a decision have one purpose: to make sure that the standards used to make the decision are met. In other words, if the condition was not in place, the project would fail to meet the standards of the ordinance and must be denied.

Accordingly, a condition placed on an approval must have a reasonably direct relationship to one or more of the standards used to reach the decision.

- If the motion includes the need for further action, it should state who will be responsible to see that action completed. For example, “a revised site plan shall be submitted for the zoning administrator to certify that all conditions have been met.”

Finding of Fact

§48 One of the most effective means of documenting decisions is through a “finding of fact.”

A finding of fact is a concise statement of the action taken by the commission members. Normally it includes the same information contained in the motion, as noted above, but in greater detail.

The finding may be drafted during the meeting and completed as part of the approval of the minutes at the following meeting. Or it may be drafted prior to the following meeting. However, if drafted after the meeting, the author is not permitted to add points that should have been made during the meeting but were not. The purpose of the finding is not to create additional support, but to more thoroughly document the support which was provided by the members during the meeting.

Neither the findings nor the minutes are official until reviewed and adopted by the commission.

Post-Decision Documentation

§49 Once the decision is made, there are some administrative steps that should be taken to help complete the record.

The applicant and secretary of the approving body should each sign and date two or three copies of the approved site plan. The applicant should keep one copy and the community should keep at least one other. This provides a record of what site plan was approved and when.

A copy of the minutes should be sent to the applicant following review by the approving body along with a letter specifically noting the action taken by the approving body, including any conditions placed on the approval.

This letter may include further instructions regarding the proposal. For example, if the approval granted was for a preliminary site plan, the letter may state that final site plan approval is necessary prior to issuance of a building permit. If other approvals are necessary, such as a variance, this should be noted as well.

Record Keeping

§50 The records of all applications should be complete, from the first contact to the final approval.

Try this test of your record keeping: can you pick up the office file of any application that has been approved and constructed and follow each step – from the first contact of the applicant to the last permit?

Generally, all records regarding zoning applications are considered permanent and are kept in perpetuity.

Project files should include, at a minimum:

- Relevant pages of minutes at which the proposal was discussed;
- Staff notes, meeting notes, correspondence, telephone conversation notes, etc.;
- A copy of the application and supporting material;
- An approved/signed copy of the site plan; and
- Follow-up correspondence (as noted above).

If You Build It, We Will Come . . .

§51. . . to make sure it complies with the site plan that was approved. Someone should be given direct responsibility to make sure that any conditions or changes required by the commission are fully completed. Sending the building official a copy of the approved site plan could help this process.

TIP: IF YOU ARE SUED, CHECK WITH YOUR MUNICIPAL ATTORNEY AND MAKE SURE THAT HE OR SHE IS EXPERIENCED IN LAND USE LITIGATION. NOT ALL MUNICIPAL ATTORNEYS ARE SKILLED IN LAND USE LAW AND THEY WILL NOT MIND IF YOU ASK THEM ABOUT THEIR QUALIFICATIONS. IF THEY ARE NOT AS EXPERIENCED AS YOU WOULD LIKE, YOU SHOULD FIND ANOTHER ATTORNEY TO REPRESENT YOUR CITY OR VILLAGE IN THE SUIT.

Technical factors may include complying with the numerical requirements of the zoning ordinance such as setbacks, height and parking.

The administrative requirements include ensuring that notices are mailed and published, meeting procedures followed and other similar actions.

Finally, and probably most important, make sure that you properly use the judgmental factors to make effective zoning decisions. The standards provided in the zoning ordinance are the clearest guide you have to reaching a decision. All decisions must be based on these standards and the facts that are used to apply them.

How to Avoid Litigation

§52 The short answer to avoiding litigation is simple – you can't! Governments are always open to lawsuits, regardless of the quality of their decisions. Far too often, disappointed applicants or neighbors look to the courts to solve their problems. As a result, you should not be overly influenced or concerned about whether or not your decision will result in a lawsuit – provided you have followed the ordinance and acted within your authority.

However, there are some actions you may take to strengthen your legal position should your decision be challenged.

Following an effective decision making process, as we have outlined here, is a start. As you have seen, the zoning process involves a wide variety of technical, administrative and judgmental factors.

CHAPTER 7

THE FUTURE FOR PLANNING COMMISSIONS

The New Age of Access

§53 We live in a time when the world is shrinking and our horizons are expanding. Communication technology is changing almost daily. Planning commissions will be faced with new challenges and opportunities that come with these changes.

Internet

§54 The Internet created exciting new opportunities for planning commissions to communicate with the public.

Contrary to popular belief, most commissioners want the public to be involved in their decisions, whether it concerns a new master plan, zoning change or a simple site plan review.

Many communities now have web sites that have details about tourist stops, census data, meeting agendas, schedules, boards and commissions and a wealth of other information.

Planning commissions may take advantage of this resource to summarize their past actions, provide information about future applications and hearings and to educate the public about planning issues.

The Web can also be a resource for information for the commission. The University of Michigan (<http://www.umich.edu>), Michigan State University (<http://www.msu.edu>) and the Michigan Department of Management and Budget (<http://mic/dmb.state.mi.us/dmbhome>) each maintain an extensive collection of data and maps at the state, county and local levels.

Another resource available through the Internet is electronic mail, or e-mail. This may allow the public to simply e-mail their comments regarding a particular application if they cannot be present at a meeting.

In the future the Internet will be able to provide “real time” (or live) communication between participants through their computers or home television sets.

In other words, the possibilities are nearly endless. If properly used, they can make the zoning and planning process more open to input from a better informed public.

Visual Tools

§55 The variety of visual tools available today, from digital cameras to video recording, provides an opportunity for commissioners and the public to participate together in the planning and zoning process.

Recording images of a proposed site, with a picture of future buildings and parking areas superimposed on it provides an accurate depiction of the design, circulation and environmental issues that might arise.

Another useful tool that is becoming available is geographic information systems, or GIS. A GIS ties a graphical map to information available about that map. For example, a map may depict property lines, but a GIS would provide additional information about the zoning, land value, ownership or any other data available about that property.

Other opportunities include:

- Videoconferencing for educational seminars, joint community meetings or other purposes are also being made more available and affordable.
- Computer CDs with thousands of pages of information on a wide variety of topics are easily obtainable.

Future Implications

§56 Changes in technology are rapidly improving the availability of information. As people become more aware of their environment and the level of concern about how their community develops increases, it is likely that at least some of those who come to meetings or participate from their homes will be more knowledgeable and their views more sophisticated.

The implications for planning commissions in the future are widespread.

- As a planning commissioner, you will have to become more knowledgeable about projects and their potential effects on the community.
- You will be expected to absorb increasingly more technical information about the environment and technology. As a result, you will probably become more dependent on experts to guide your decisions.
- As your decisions become more technical, zoning ordinances will likely become more complicated and sophisticated. Ensuring compliance with ordinance standards will become even more important.
- The information you receive is likely to be more accurate and presented in ways that are more easily understood. The use of surveys, focus groups and informational meetings will become much more valuable as methods of securing opinions improve.

Training

§57 Planning commissioners should actively seek out training opportunities that are available through several statewide organizations, including the Michigan Municipal League, the Michigan Society of Planning Officials, the Michigan Townships Association and others. Some communities have adopted policies that require attendance at training sessions as a condition of appointment or reappointment to the planning commission.

The New, Improved Commissioner

§58 In short, planning commissioners of the future will need to be better trained to deal with the public, understand technical issues and be aware of development alternatives that may be available.

To accomplish this, commissioners will need a clear vision of the future of their community, more sophisticated regulations and a degree of sensitivity in dealing with the public.

You Can Do It!

§59 As you go through your term as a planning commissioner, you will learn much about building a better community. You should also have a sense of accomplishment and satisfaction in knowing that you are helping the community through its many changes.

GLOSSARY

Accessory Building, Structure or Use – A building, structure or land use that is supplemental to the main structure or use.

Americans With Disabilities Act (ADA) – A comprehensive federal civil rights statute, Public Law 101-336, enacted in 1990, that provides disabled individuals with legal protection from discrimination in a broad range of public and private sector activities and services.

Americans With Disabilities Act Accessibility Guidelines (ADAAG) – Issued in conjunction with Titles II and III of the Americans With Disabilities Act on July 26, 1991, the guidelines contain general design standards for building and site elements, such as accessible entrances, routes, ramps, parking spaces, stairs, elevators, restrooms, signage, etc.

Barrier Free – Accessible to and usable by all citizens, including persons with permanent or temporary conditions which reduce coordination or mobility or make walking difficult or insecure, and persons with visual or hearing impairments, elderly persons and wheelchair users.

Barrier Free Environment – Containing no obstacles to accessibility and usability by people with disabilities.

Blight – Social and/or physical decay of the community. It is usually seen as decay of the central business district and a certain segment of the housing stock.

BOCA – Building Officials and Code Administrators International.

Brick or Stone Sand-Set Paver – Brick or stone set in sand and placed around a tree to allow water infiltration and give protection from pedestrians.

Builders Risk Insurance – Coverage which protects against physical damage to a building or structure during the course of construction. The coverage extends to equipment to be installed or incorporated in the structure. Coverage can be on either a named peril form or an all-risk form. Occupancy of the building or structure generally terminates coverage under the policy.

Building – Any structure, either temporary or permanent, having a roof and used or built for the

shelter or enclosure of persons, animals, chattels or property of any kind. This definition usually includes tents, awnings or vehicles situated on private property and used for purposes of a building.

Building Code – A set of regulations governing the construction of buildings.

Building Inspector – A state registered individual, usually employed by a municipality, responsible for the inspection of a structure for which a building permit has been issued by the municipality.

Building Official – A state registered individual responsible for the administration and adoption of construction codes. May include inspection responsibilities.

Building Permit – An official document issued by a city, village, township or county which grants permission to a contractor or private individual to erect a building or make improvement to an existing structure.

Clear Floor Space – The minimum unobstructed floor or ground space required to accommodate a single, stationary wheelchair and occupant.

Cluster Development – A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive areas.

Community Development – A plan or program for improving or revitalizing a designated area or areas of a community, often including historical preservation.

Community Development Block Grant Program – The principal federal program providing grants to states, cities, towns and counties to devise innovative and constructive neighborhood approaches to improve the physical, economic and social conditions in their communities. The program has two components: Entitlement and Small Cities. The Entitlement portion of the program provides funds on a formula basis to cities and urban counties of over 50,000 population. The Small Cities portion of the program is available to small cities, townships and villages of less than 50,000 population and non-urban counties on a competitive basis. The program began as part of the Housing and Federal Community Development Act of 1974, amended, Public Law 93-383.

Composting – Decomposition of leaves, grass clippings and other biodegradable wastes.

Comprehensive Plan – See master plan.

Conditional Use – A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in a zoning ordinance. Special land uses have characteristics that make them potentially incompatible with adjacent uses of land unless special care is taken during the review process.

Condominium Act – 1978 PA 59, as amended. An act relative to condominiums and condominium projects. Major purposes of the act are to provide consumer protection and improve administrative procedures.

Condominium Project – A plan or project consisting of not less than two condominium units established in accordance with the Condominium Act, 1978 PA 59.

Condominium Structure – A building or structure constructed within a condominium project and intended for uses permitted in the zoning district in which it is located.

Condominium Subdivision Plan – The drawings and information prepared in accordance with Section 66 of the Condominium Act, 1978 PA 59.

Condominium Unit – The portion of a condominium project designed and intended for separate ownership use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational use as a time-share unit or any other type of use.

Cul-de-sac – A street, one end of which is closed and consists of a circular turn around.

Dedication of Land – A means of extending to developers the cost of certain public services needed to serve new development. For example, in lieu of requiring a cash payment for such improvements, governments may use their regulatory powers to require that developers dedicate land to parks needed for a new subdivision.

Density – The number of dwelling units or useable area per acre allowed on a parcel of land. **Accessory Building, Structure or Use** – A building, structure or land use that is supplemental to the main structure or use.

Discretionary Standards – General standards in an ordinance which are used to review site plans, special land uses, etc., to determine if a land use proposal is compatible with adjacent uses of land, natural resources and public services as regulated and defined in the zoning ordinance.

Easement – A right to use property owned by someone else, usually for a specific purpose. Most easements are used by utility companies.

Egress – Traffic outlets from private property to public roadways or exits from buildings or other facilities.

Eminent Domain – One of three major powers of local government (police power, taxation and eminent domain) which allows it to take private property for public use “with just compensation.”

Environmental Assessment – A multiphase analysis of a parcel of property to determine the likelihood of discovering hazardous contamination on the parcel. Environmental assessments commonly include visual inspections of property, document searches to determine proper use of a parcel and detailed soil and groundwater sampling to ascertain the presence of hazardous or toxic constituents.

Excepted Parcel – Land excluded from a development project that may border it on up to three sides.

Façade – The exterior of a wall of a building or all walls of adjacent buildings facing in one direction.

Fair Market Value – The cash value of a property sold by a willing seller to a willing buyer.

Fence – A structure erected upon a property line or front yard setback line for the purpose of separating properties, or for screening, enclosing and/or protecting the property within its perimeter.

Fence, Decorative – A permanent barrier not used for enclosure. Any such fence may be a part of the overall landscape plan and may be composed of natural materials.

Finding of Fact – In an administrative proceeding setting, a concise statement of the action taken by the members of a planning commission which has the responsibility of determining the facts relevant to decide the issue or controversy being considered.

Floodplain – Nearly level, lowland areas that are subject to overflow flooding from bodies of surface water.

Geographic Information System (GIS) – A system that combines computer aided drafting and design and relational database managers to enable the collection and analysis of data with location and element attributes.

GIS – See Geographic Information System.

Grandfathering/Grandfather Clause – Legally, the exemption from regulatory or legislative enactments due to an entity's existence or operation prior to activation of a rule, act or law.

Greenway – A linear open space that stretches into or around municipalities, usually containing trees, shrubs and grassy areas.

Home Occupation – An occupation that is a secondary use, which is clearly subservient or incidental to the use of a one-family dwelling unit for residential purposes, usually subject to special conditions.

Hydrography – When used in the context of mapping, hydrography refers to the display of the locations of streams, lakes and other bodies of water. In the context of a geographic information system, hydrographic refers to a layer of the graphic database containing this information.

Hypsography – Topographic relief or the mapping of varying elevations on the earth's surface. Commonly seen displayed as contour lines on various map products.

Infrastructure – The network of services and facilities which are necessary for the development, operation and growth of a city or village, including streets, water supply, sewerage, storm drains, etc.

Impact Fee – A charge to developers for the cost of off-site improvements needed to serve a new development. Impact fees provide up-front financing for the expansion of public facilities, such as the expansion of water and sewer treatment facilities or arterial roads, needed to serve a new development.

Industrial Park – A coordinated environment for a variety of industrial and related activities. The project is developed or controlled by one proprietary interest. It has an enforceable master plan and/or covenants, conditions and restrictions. The development may be on one parcel, may be subsidized, may have condominium ownerships or a combination of these types.

Infrastructure – Those services and facilities which are necessary for the development, operation and growth of an organization, municipality or nation. Such services and facilities would include transportation, communication, utilities, productive enterprises, retail centers, residential developments, recreation sites, etc.

Land Development Transfer Act – A potential alternative to annexation. 1984 PA 425 allows the conditional transfer of land from one local unit of government to another, based on local consent, for a period of not more than 50 years for the purpose of economic development. An intergovernmental contract stipulates conditions. For example, the manner and extent to which taxes and revenues are shared.

Land Use – Refers to the determinations made as to how various areas of land may be used.

Lien – A claim on assets, especially property, for the payment of taxes or utility service charges.

Lot – A piece of land divided from a larger parcel.

Lot Lines – The boundaries of a land parcel.

Manufactured Housing – A factory-built, single-family structure manufactured under the authority of 42 U.S.C. Sec. 5401, the National Manufactured Home Construction and Safety Standards Act, is transportable in one or more sections, is built on a permanent chassis and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site and which does not have wheels or axles permanently attached to its body or frame.

Master Plan – An officially adopted municipal government document which serves as a policy guide to decisions about the physical, social, economic and environmental development of the community.

Non-Conforming Use – A use which lawfully occupied a building or land at the effective date of an ordinance, or amendments thereto and that does not conform to the use regulations of the district in which it is located.

Nondiscretionary Standards – Measurable criteria such as a setback, height or bulk regulation that must be met or complied with in order to get a zoning approval.

Older/Urbanized Communities – Those communities in a region that are more than 100 years old and/or were largely developed by the mid-twentieth century. Because the population total is, and will remain, fairly static, most “growth” in this metropolitan area will mean a shifting of population, rather than new in-migration population. The older/urbanized communities are generally the ones drained by inter-regional shifting.

Open Space – That ground area and the space above such ground area, which is unimpeded from the ground to the sky by any structure, except that the area may be used for environmental, landscaping or recreational purposes. Parking lots, storage areas for vehicles and material and roads shall not be considered as open space.

Ordinance – A law or an order enacted by a municipal government, usually pertaining to a specific subject, as in an Animal Control Ordinance.

Ordinance Code – A systematic integration of all municipal ordinances into a single book, organized by subject matter, tied together by a common numbering system and thoroughly indexed.

Other Permitted Use – A land use permitted in a zoning district only under special conditions. The term does not include principal uses permitted in the ordinance.

Performance Bond – A financial security collected by a community from an applicant to insure that required improvements are actually constructed.

Performance Standard – A regulation that admits or denies a particular use in a zoning district on the basis of the proposed use’s capability to meet noise air pollution vibration, heat, visual impact or other standards.

Planned Unit Development (PUD) – A zoning development management approach to physical growth which combines housing, commercial, light manufacturing and open space uses all in the same zone, while maintaining an overall density comparable to conventional development.

Plat – The map of a subdivision, showing the number and dimensions of lots, public rights-of-way and easements.

Principal Use – The primary, major, main, leading, outstanding or chief use which land serves or is intended to serve.

Reasonable Accommodation – The principle by which employment and public accommodations are made accessible to people with disabilities. Under the Americans with Disabilities Act, employers are required to make certain adjustments to the known physical and mental limitations of otherwise qualified disabled applicants and employees, unless it can be demonstrated that a particular adjustment would be unreasonable or impose an undue hardship on the employer.

Required Parking – The minimum number of square feet or spaces required by the zoning ordinance to be reserved for parking automobiles.

Rezoning – The process for changing a zoning from one classification to another.

Riparian Corridor – The green area along a waterway such as a river, stream or lake.

Riparian Right – The legal right to use or distribute both above and below ground water sources of riparian land. **Setback** – The required minimum horizontal distance between the building line and the related front, side or rear property line.

Sidewalk Pit – The small patches of soil found amid the sidewalks of the most urbanized sections of a city. The pits are designed as “street planters” for trees and other greenery.

Sign – The use of any words, numerals, figures, devices, designs or trademarks that are used to show an individual firm, profession or business and are visible by the general public.

Site Condominium – A condominium project in which each co-owner owns exclusive rights to a parcel of land known as a condominium unit. According to the master deed, the owner has a right to construct a residence or other authorized building within the condominium unit.

Site Plan – A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land.

Special Land Uses – Those uses of land which may be appropriate and compatible with existing or permitted land uses in a particular zoning district if individualized care is taken to assure that the characteristics of the use under consideration are compatible with adjacent land uses, the natural aspects of the site and the general character of the area, including availability of public services and facilities.

Subdivision – The legal separation of a parcel of land into lots for future sale and/or development.

Topology – A display of information that produces one uniform data set that is derived from two or more data sets. For example, when we query the geographic information system (GIS) for all of the vacant parcels that are five acres or greater and are within two miles of an expressway node, the resulting display of the data that meet the conditions would be topology.

Unnecessary Hardship – A standard an applicant must prove has been met in order to gain approval for a variance.

Urban – A geographic area having the characteristics of a city, especially in terms of population. Opposed to rural, which usually describes an area of small population and agricultural activity.

Urban Sprawl – A generic term to describe what is really a two-part process – sprawling low density growth at the suburban fringe and the concurrent disinvestment and abandonment of older urbanized communities.

Use – The purpose to which a land parcel is being or is proposed to be put.

Variance – The decision to alter the provisions of a land use ordinance, usually on a single piece of land.

Zoning – Designating certain geographical areas of a community for specific purposes, as residential zone, commercial zone or agricultural zone.

Zoning Board of Appeals – The body that considers appeals from administrative zoning decisions.

Zoning Classification – The name given to types of zones such as single family residential, rural residential, agricultural, regional shopping, neighborhood shopping, office, industrial, etc.

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Planning Commissioners Handbook



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