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CITIZEN PLANNER'S GUIDE

PLANNING COMMISSION BASICS

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WHAT PLANNING COMMISSIONS DO

Serving on a planning commission is a difficult job and an important responsibility. Doing the job well involves showing up at meetings, learning about planning, learning about your community, listening to citizens, visiting sites involved in cases before the commission, and perhaps serving on subcommittees.

Most planning commissions devote much of their time considering petitions which require commission recommendation or decisions. However, the primary duty of the planning commission is to develop and adhere to a plan for the future of the community. This plan, known as a comprehensive plan, should form the basis for the commission's decisions and recommendations.

Some commissions confuse the zoning ordinance with the plan, but the zoning ordinance is distinct from the plan. The law requires the community to adopt a plan *before* it adopts a zoning ordinance. This provision is sensible; the community should not adopt regulations until its citizens have decided on the goals they want to accomplish with those regulations.

Under South Carolina law, planning commissions have authority to perform all of the following responsibilities:

- Prepare and periodically revise comprehensive plans and programs for the development and redevelopment of its area.
- Prepare and recommend measures for implementation of the comprehensive plan for adoption by the City Council, including the following measures:
 - Zoning ordinances, including zoning district maps and necessary revisions.
 - Regulations for the subdivision or development of land.
 - An official map and appropriate revisions showing the exact location of existing or proposed public streets, highways, utility rights-of-way and public building sites, with regulations and procedures for administering the official map ordinance.
 - A landscaping ordinance providing required planting, tree preservation and other aesthetic considerations.
 - A capital improvements program listing projects required to implement adopted plans.
 - Policies and procedures to implement adopted comprehensive plan elements.

HOW THE PLANNING COMMISSION IS ORGANIZED

Fountain Inn City Council has created a municipal planning commission of seven members. A planning commission member cannot hold an elected public office in the City. The City Council

appoints members of the planning commission for staggered four-year terms. The City Council may remove for cause any member of the planning commission prior to the expiration of that member's term.

Each planning commission must elect officers annually. South Carolina law requires the commission to elect a chairperson and vice-chairperson for one-year terms. This election must be held at the first regular meeting of each year. The commission must also appoint or elect a secretary. The secretary need not be a member of the commission, and in many cases, the secretary is an employee of the municipality or county. The secretary prepares and maintains minutes of the meetings and other records.

In order to carry out its functions, South Carolina law requires the planning commission to do the following:

- Adopt rules of procedure for the operation of the planning commission.
- Conduct its meetings in public.
- Keep a public record of its resolutions, findings, and determinations.

City staff will handle many of the administrative functions entailed with the above requirements.

Every planning commission must have rules of procedure. These rules are required by South Carolina law, and a good set of rules will make the commission's job easier. Clear rules will be enormously helpful to the commission, to applicants, and to the public. Below is a list of subjects typically covered in the commission rules of procedure:

- Election of a chairperson and vice-chairperson and duties
- Procedures for calling meetings
- Place and time for meetings
- Posting notice of meetings to comply with Freedom of Information Act
- Setting the agenda
- Quorum and attendance requirements
- Rules and procedure for conducting meetings
- Public hearing procedure
- Procedure for making and keeping records of actions
- Procedure for plan and plat review

HOW TO RUN A MEETING & CONDUCT A PUBLIC HEARING

It is important that commissions understand the difference between a public meeting and a public hearing. With very few exceptions, all planning commission meetings are public meetings—but not every item of business requires a public hearing. A public meeting is simply a meeting which is open to the public; the public may attend and observe, but the audience does not have to be allowed to participate or make comments. A public hearing is a formal proceeding to receive public comment on a particular matter, such as a rezoning petition or the adoption of a comprehensive plan.

It is essential that the chairperson, who chairs the meeting, understands how to help make meetings run smoothly. The chair needs to fully understand the commission's rules and needs to follow them carefully. The chair should have a gavel and should not be afraid to use it, not only to open and close meetings, but to keep order.

The agenda should be followed, and discussion should not be focused on extraneous issues. Comments on each agenda item should be limited to relevant issues. For example, if the planning commission has no authority over the color of a building, the chair should not entertain questions from commissioners or the public about the color of the building, and any comments about the color should be ruled out of order. Members of the audience frequently want to discuss issues that are not applicable to the planning commission's role. If the chair allows this discussion, the audience is misled into believing the commission does have authority in those matters.

Common courtesy is the key to a successful meeting. The commission should display and demand good manners. Below are some basic principles:

- All comments and questions should be addressed to the chair
- Everyone should be addressed with title of respect (Mr. Ms. etc.)
- Use a polite, courteous, businesslike tone and manner (no yelling, no smirking, rolling of eyes, no giggling, etc.)
- No side conversations or whispering (commissioners, staff, or audience)
- No personal attacks
- No threats
- No applause (it's distracting and intimidating)

KNOW YOUR ROLE

Everyone has a role to play at the meeting or hearing. Do you know what your role is?

The role of the commission member at the meeting:

- Be familiar with the material—don't open your packet for the first time at the meeting
- Have a public discussion—don't pass notes or whisper
- Don't use planning slang or buzz words
- Explain yourself—state your findings of fact so the public and the staff understand you correctly
- Make sure your input is meaningful
- Be willing to make or second a motion

The Chairperson's role at the meeting:

- Welcome and introduce the commission
- Explain the purpose of the meeting and ground rules for conduct
- Explain what is on the agenda and how the meeting will work (time limits, etc.)
- Deliver a “play by play” or translation for the audience, when necessary (e.g., “that ends the applicant’s presentation, now he can only respond to questions”) and repeat/rephrase all questions.
- Keep control of the meeting—be firm when necessary and make sure all remarks go through you (not between opponents and proponents)
- At the end of an agenda item say “thank you” and indicate what’s next on the agenda

MAKING DECISIONS

After a public hearing is concluded, the planning commission should arrive at a decision or recommendation. The issues often are complicated, and decision-making is likewise difficult. These decisions will be much easier if the community has a well-crafted comprehensive plan and consistently uses the plan to guide its decisions.

Proposed land use changes frequently generate emotional rather than rational responses from people. Additionally, people can tend to focus on issues outside the scope of the commission’s review, such as the proposed cost of new homes. It is the planning commission’s job to sort through evidence and testimony and make reasoned decisions. Planning commissioners should consider all sides of each issue and make a decision. All members, including the chairperson, should vote on each issue.

It may be difficult to make a decision that is unpopular with a room full of people, especially in small towns where the commission members often know the audience members personally. Commission members should remember that the audience isn’t always right and it doesn’t necessarily represent the whole of the community. Many times, the audience doesn’t even represent its own interests accurately; people sometimes fear consequences that will not occur (e.g., “If you approve this, my property value will drop.”) After a project is complete, those who opposed it will sometimes agree that the project benefited, rather than harmed, their neighborhood.

Members of the public frequently circulate petitions throughout the neighborhood and bring them to the commission, overflowing with signatures of people supporting their position. These petitions usually are not useful evidence. The commission has no control over the manner in which the petition is circulated, no way to know what people were told, and no way to verify the signatures. In addition, many people will sign anything their neighbors ask them in an effort to avoid confrontation. The commission may accept such petitions when they are offered, but the members should not necessarily give them a lot of weight.

Developers and business people also often represent a particular view, one partially aimed at reducing their costs and increasing their profits. Sometimes development which offers the highest profit is not in the best interest of the community. All statements must be carefully evaluated. Comments such as, “We must have this many lots in order to make a profit,” may not necessarily be true. Additionally, even if the statement is true, the community does not have to accept inappropriate development in order to provide profits for a developer. The commission needs to review proposals on their merits.

Planning commissioners have a natural desire for compromise. They want to find a middle position between developers and opponents. While such compromise might seem desirable, it can often have a negative effect. When neither side gets what it wants, everyone may be left unhappy. Additionally, developers quickly learn that the commission seeks compromise, so they ask for more than they want or expect, in order to end up with the project they initially desired. Compromise is not always bad, and sometimes the commission can broker a win-win solution, but regular and predictable compromise does not lead to good development.

Commission members usually are active in the community. They interact with developers, business people, and neighborhood residents regularly. These interactions occasionally result in efforts to influence the commission member's opinion or vote on a specific proposal. It is good practice for planning commissioners to refrain from such discussions. They interfere with due process and they are inconsistent with the goals of the open meeting law. In many communities, these communications are difficult or impossible to avoid. The best way to deal with these situations is for the commission member to explain that any information given will be shared with the entire commission at the public meeting. The commission member must then share the information as promised. When commissioners fail to report these conversations, various commission members may cast their votes based upon different information. Perhaps the outcome of a vote would be different, if every member had the same information.

SOME OTHER DO'S AND DON'TS

Avoid conflicts of interest or their perception. Planning commission members should not accept gifts, food, or travel costs from applicants, interested parties or their representatives. Even if it is innocent, it looks bad to others. The commission can use their rules of procedures to restrict these things. In any case, laws prohibit direct financial gain.

Make decisions promptly. If information is missing or in conflict, it is appropriate to continue the case until a specified future meeting, so that the commission can be adequately informed when making a decision. The commission's rules of procedure should limit how often and/or how long a continuance may be granted. If necessary information is still not submitted after a couple of continuances, consider denying the case without prejudice, and let the applicant refile when he or she has all the necessary information.

Prepare findings. Decisions themselves are central to the practice of due process. Specific factual findings in support of a final decision made by the planning commission are essential. Findings should always be done for these cases, and are particularly important if the case is controversial, because it is more likely to end up in court. It is fine to direct staff to prepare the findings, but don't make them guess what the commission members were thinking. State for the public record at the hearing the reasoning regarding the applicable criteria.

Act in the public interest. While the public good is a somewhat elusive concept, and we may all have slightly varying interpretations of this, it generally means that you must do what will generally benefit the community and its citizens in the long run. This should not be confused with a "majority rules" attitude.

Be fair to everyone involved in the process. Especially if you don't like an applicant, it is important to provide the opportunity for a fair hearing. It is totally inappropriate for a planning body to demonstrate its prejudice against even the sleaziest developer. It is okay to apply strong conditions and use extreme diligence in enforcing them, but don't call a sleazy developer "out" before he ever gets to the plate. Due process is all about being fair to everyone involved in the planning process—developer, citizen, etc.

Be reasonable and keep it in context. Planning commissions are not judges hearing a murder trial. Don't allow attorneys for either side to bully, interrupt or threaten you or people who are speaking. Remember that the planning commission's job is to receive information about a proposal and make the best judgment they can. Not only use the evidence you have received, but also the plans and policies that have already been put in place to help you.

Be consistent. If you have consistently made the same decision on the same type of request, don't suddenly change that decision unless you have an excellent reason for doing so, and point out what is so markedly different about this request. Rely on the applicable criteria and you will make the appropriate decision. Don't get lazy though—review the criteria anew for each case.

Base your decision on legal considerations. Your decision must be based on applicable criteria from state law and local ordinances. There is no room for sentiment when it comes to planning decisions.

Make a good, clear motion. Your motion should reference applicable criteria. The chairperson should take a strong leadership role in bringing the group to a vote. Upon conclusion of the public hearing and any discussion between planning commission members, the chairperson should call for a motion on the matter. Even if you do not feel strongly, someone should make a motion simply for the purpose of bringing the issue to a vote. If the motion is unsuccessful, any member may then propose another motion to the contrary, again for the purpose of bringing the issue to a vote. For matters that require a recommendation to the City Council, the planning commission may consider a final motion to forward the petition to the City Council with no recommendation. Where the planning commission makes the final decision (i.e., a subdivision plat), if all motions have failed to carry, the matter should be continued to the next meeting (either through motion or through provisions contained in the rules of procedure).

Avoid emotions. The topic of land use planning can be highly charged in many communities. Emotions can run high from the perspective of the petitioner, remonstrators, and decision-makers. Typically, the investment an individual, family or business makes in real estate represents the largest single investment they will ever make. This is especially true of individual homeowners and their families. Once things become emotionally charged for either or both sides of a planning issue, involved parties, including the planning commission, can get caught up in the emotion of the situation. These represent some of the most dangerous times for planning commission members in which they may be swayed by the emotions of the issue rather than the facts presented. Decisions made on the basis of emotional reactions are most likely to be flawed decisions, which may be challenged in court.

CONFLICT OF INTEREST

Planning commissioners may not participate in a zoning matter in which they have a direct or indirect financial interest. Planning commission rules should include a definition of a conflict of interest and a means for determining conflict in cases of uncertainty. Each commission member needs to be responsible for declaring any potential conflicts. It is recommended that in cases of uncertainty, the commission should make the determination. The potential conflict is publicly announced, and the commission members deliberate among themselves. The public should not be permitted to participate in this determination.

The rules should also specify the conduct expected from a member with a declared conflict of interest. Typically, the member with a conflict cannot take part in the discussion or vote on the item. The member may also consider leaving the commission table and joining the audience or leaving the hearing room altogether until the matter is concluded.

Planning commissioners may not represent another person in a hearing on a zoning matter before the commission. Commission members may represent themselves, but they cannot appear on behalf of another applicant.

EDUCATIONAL REQUIREMENTS FOR PLANNING COMMISSION

South Carolina law requires members of the planning commission to complete a mandatory orientation and continuing education. Specifically, these educational requirements consist of a six-hour orientation to be completed six months to one year after the initial date of appointment and a three-hour annual training every year after the first year of service. Failure of a commission member to complete the requisite education requirements may result in removal from office for cause.

The training program must be approved by the State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees. Staff will help organize your training.

ABOUT THE COMPREHENSIVE PLAN

From the earliest settlements, communities in the United States have been laid out according to plans. Towns and villages were located on uplands, where there was safety from floodwaters. The buildings were arranged for efficiency in commerce and in the affairs of the government.

All development is planned to some degree, but there are differences as to who does the planning and as to the goals of the plans. Costs and profits often are motives for the layout and location of new development. Early factories were built adjacent to water bodies which served as sources of electricity as well as disposal areas for industrial waste. County seats were nearly always located in the center of the county, to minimize travel costs for those conducting business there, and city halls and county courthouses were located in the center of town for the same reason. Developers convert flat farmland to building sites, because the cost of grading and site preparation is low. To avoid the cost of building new streets, property owners subdivide the frontages along existing roads for building sites. For the same reason, some landowners subdivide outlying parcels into house lots with gravel roads or driveways instead of streets for access.

Sometimes choices which lower costs and increase benefits for one person increase the costs for others. The factory on the river pollutes the water and kills the fish, costing the fisherman his livelihood. Houses on farm land remove land from production and create problems for the neighboring farmer when new residents complain of dust and odors. Buildings strung along the existing road frontages increase traffic and accidents as new driveways create points of traffic conflict. There are demands to increase public expenditures for more roads and improvements to existing ones. The ambulance driver has difficulty finding the house on the private gravel road, and the poorly maintained drive damages the ambulance.

One of the reasons communities engage in a planning process is to ensure that the needs of the whole community are considered, not just the benefits to individuals. Community planning is based upon a concept of the public interest. Some flexibility in the use of individual land is given up in exchange for creating a community in which the interests of all are considered. Planning commissioners are trustees of the future, and they have a responsibility to help prevent growth patterns which result in wasteful and inefficient use of public resources.

When communities plan, they establish and implement a public policy for the community; they create a guideline for decisions on development. Plans help a community achieve a character of its own, one that residents of the community recognize and support. If all our communities were the same, one plan would suffice for all. But each community is different, and a plan should enhance the unique characteristics of each place. One town may wish to emphasize its historical importance while another may pride itself on being a community of the future. Through the planning process, citizens decide what their community character should be. Attitudes and values also differ from one place to another, and a good plan will reflect the local culture.

Comprehensive planning offers many benefits for the community and its residents.

It lowers taxes...

- Helps local government provide services efficiently
- Ensures that developers pay their fair share of improvements such as streets, utilities and parks
- Directs development to areas with sufficient capacity to support it (i.e., new subdivisions in locations where there are available classrooms, industries where utilities are available)
- Coordinates development and future capital expenditures such as streets, sewage treatment plants, civic buildings, and schools
- Saves paying for remedies for poorly planned development, such as purchasing right-of-way or easements to widen streets or extend utilities

It protects property values...

- Preserves and enhances community character
- Improves quality of life
- Keeps adjacent uses compatible

It makes communities healthier...

- Provides for safe streets and sidewalks
- Prevents unwise development, such as residences in flood hazard areas or subdivisions without proper sewage disposal
- Protects environmental quality

ABOUT THE ZONING ORDINANCE

A zoning ordinance divides a jurisdiction of a local government into districts or zones and regulates land-use activities, the intensity or density of such uses, the bulk of buildings on the land, parking, and other aspects of land use. The ordinance consists of a text and zoning map, both of which may be amended by the City Council.

The zoning ordinance is the most commonly used and oldest tool for implementing land use policy in the United States. New York City adopted the nation's first zoning ordinance in 1906. This ordinance was largely designed to decrease fire hazards by limiting building heights and providing more space between buildings. Since that time, the right of communities to adopt zoning ordinances regulating the use of land has become well established in U.S. law.

A zoning ordinance is one of several tools used to implement comprehensive plans. It is common to confuse the zoning ordinance with the comprehensive plan, but they are not the same, and the distinction should be clear. The comprehensive plan is the guide for future development; it sets forth the community's vision and its statement of land use policy. The zoning ordinance is a regulation designed to make the plan a reality.

South Carolina law lists the following purposes for local zoning ordinances:

- Provide for adequate light, air and open space
- Prevent the overcrowding of land, avoid undue concentration of population, and lessen congestion in the streets
- Facilitate the creation of a convenient, attractive and harmonious community
- Protect and preserve scenic, historic or ecologically sensitive areas
- Regulate the density and distribution of populations and the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports, and approaches thereto, water supply, sanitation, protection against floods, public activities and other purposes
- Facilitate the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks, and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements
- Secure safety from fire, flood and other dangers
- Further the public welfare in any other regard specified by a local governing body

ABOUT SUBDIVISION REGULATIONS

The term “subdivision” is most commonly used to refer to a residential development. For instance, “Billy lives in the new subdivision off of Main Street.” While this is a correct use of the term “subdivision,” a “subdivision” does not have to be residential, nor does it always include roads, sidewalks, and other infrastructure that is associated with a new housing development.

A subdivision is a division of a lot, tract, or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale, development, or lease. Subdivisions can include splitting one 80-acre tract of land into two 40-acre parcels without any infrastructure. It includes splitting one 80-acre tract into ten 8-acre lots for a business development with a street and drainage infrastructure; or it can mean splitting one 80-acre tract into 180 residential lots complete with roads, sidewalks, street lighting, and utilities.

The review of a subdivision of land is an additional process—aside from zoning—that allows a local government to influence the character of land development. Governments began requiring review of subdivisions of land to ensure that proper land records were maintained. Eventually, the requirement for recording and platting of land records and title evolved into development controls. The initial development issues were lot width and area, block length, and access. This grew into reviewing actual construction standards for streets, alleys, sewers, and other infrastructure that ends up being accepted by the local government.

Today, while review of subdivisions of land still help create adequate land records and simpler legal descriptions, subdivision regulations also ensure that there are adequate public facilities and infrastructure to handle the development of the lots created by the subdivision.

ABOUT SITE PLAN REVIEW

A site plan is a scaled drawing that shows the layout and arrangement of buildings and open space, including parking and yard areas, the provision for access to and from the public street system, and, often, the location of facilities such as water and sewer lines and storm drainage systems.

Through site plan review, the planning commission reviews a proposal for a development balancing a property owner’s rights with those of neighboring properties and the community at large. This is accomplished through the comparison of the development proposal with adopted plans and standards.