

Focus on the Basics of P&Z



ESTABLISHING A SOUND FOUNDATION
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Basics Truly Matter



- Identifying the need to get the basics right
- Tempting to be fascinated by the newest trend
- Procedure is critical – courts will examine procedures followed – not merits of decision choices
- Educate all involved – decision-makers, applicants and nearby residents
- Explore new trends to assure that they don't compromise the basics
- Right-size your procedures; if you are going to borrow - match size and state

What is a Comprehensive Plan?



- What purpose does it serve? – Set policy
- How is it adopted? By resolution
- How amended? By resolution
- What are you trying to achieve?
 - Comply with law – specific categories
 - Establish a consistent policy base
 - Look to the future of your jurisdiction
 - Identify the public interest

Required Comp Plan Provisions



- Agriculture
- Property rights
- Population
- School facilities and transportation
- Economic development
- Land use
- Natural resources
- Hazardous areas

- Public Services, facilities and utilities
- Recreation
- Transportation
- Special areas or sites
- Housing
- Community design
- Implementation
- Airports
- Electric corridors (on request)

Comp Plan and Zoning



- Zoning – “in accordance with the policies set forth in the adopted comprehensive plan.”
- How do you determine accord with policies?
 - Essay question
 - Weighing of factors – **WHY?**
- Status of other permits – governed by ordinances
 - Special use permits – how you implement a use
 - Subdivisions – compliance with ordinance requirements
 - Planned unit developments – ordinance standards

Notice of Hearings



- Legal requirements (publication in legal ads) are usually least effective.
- Also required on website or social media
- Failure of notice means no legal authority
- Go beyond legal requirements
 - Explain process – step-by-step - Foster understanding in public
 - Focus on decision criteria in your ordinance – must be clear and objective
 - Check ordinances for clarity

Hearing Procedures Resolution



- Required by I.C. §67-6534 (sample available from AIC)
- Everyone should know what to expect – from the time of first notice to conclusion
- Should reference in every notice
- Should be available at meetings – great to have it online for ready reference
- Should be a reference point for all you do

Key Components of Hearings



- Public Notice
- Rules for Testimony
- Establishment of order of hearing procedures
- Standards for written testimony
- Exhibits
- Record-keeping
- Legislative hearings

Educating the Applicant/Public



- Burden of persuasion lies with applicant
- Avoid picking favorites
- Work to explain the process in a way that makes sense
- Stay on track – remind participants about the goals to be achieved
- Maintain order through strong meeting chairman – legal support needed

Developing a Written Decision



- Beware of (Robert's) rules of order – discussion should precede motion
- Motion should include reasons
- Motion should be followed by written decision
- Get help from staff and legal
- Don't just accept a draft provided for you – discuss the pro's and con's
- Don't have staff ? – charge fees – get help

Documentation Maintained



- Ultimate responsibility rests with City Clerk – formal record-keepers – some records are forever
- Recording secretary should be designated
- Minutes deserve thoughtful scrutiny – too detailed or too sketchy?
- Not a transcript
- Possible appeal – must produce entire record – including transcribable record

Conflict of Interest Issues



- LLUPA – “shall not participate” if have economic interests (I.C. §67-6506)
- Exception allowed if you disqualify yourself
- Ethics in Government Act – Declare interests
- Criminal statutes – don’t use your public position for personal gain
- CYA – Consult your public agency attorney

Social Media and Decisions



- Must be careful not to wander into Facebook decision-making or opinion-gathering
- Rely on evidence within the record
- Same applies to letters to the editor
- What if you learn of opinions that aren't true?
- Do you correct them?
- Be cautious about *ex parte* contact by email

P-Z and Economic Development



- “Cheering” for uses that you are supposed to regulate
- How maintain objectivity when officials are pursuing new business development?
- What is proper role of comprehensive plan and zoning in economic development matters?
- Policy should be consistent with practice

What's Up in Your World?



- Challenges you are facing in P-Z?
- Controversies?
- State of the development economy in your jurisdiction
- Do you have adequate resources to do your job? Fees can be an answer.
- Intergovernmental issues – Area of City Impact