



# Planning Commission Training



Greater Salt Lake MSD

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## Introduction

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. 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.

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 landowners, neighbors or applicants personally.

## Powers and Duties and Duties of the Planning Commission

Planning commissions derive their powers from the State of Utah Chapter 9a, Municipal Land Use, Development, and Management Act. The state legislature confers the authority to plan and zone to localities. Local authorized legislation then establishes a planning commission and outlines its responsibilities.

Publicly defining the powers and duties of a planning commission helps members better understand their roles and provides the community with insight into both the commission's range of responsibilities and the procedures it follows in fulfilling those responsibilities.

A formally adopted mission statement, by laws, and rules of procedure enhance focus, keep discussion relevant, and are a valuable reference when situations become complicated.

A mission statement is a clear, concise summary describing what the commission is, what it does, or who and where. A good mission statement is short, motivational, and clearly states the commission's values and its purpose. By-laws define a planning commission's operations. Bylaws typically address matters required by state law, and include leadership structure, powers, duties, and terms of officers and may address meetings, attendance requirements, voting, conflicts of interest and the process for amending bylaws.

### **The Planning Commissioner's Toolbox**

In the introduction, we noted that being an effective commissioner begins with a clear understanding of your role. 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 services will be at a minimum. This may include rehabilitating existing structures and reclaiming unused or abandoned properties as well as developing new areas.

Building a community is a little like constructing a jigsaw puzzle, with each new development project providing a piece of the puzzle. The General 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.

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

Typically, a General 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



*Figure 1 Density with and without guidelines*

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 is controlled by separating land into various 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 General 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**

The primary difference between future land use and zoning is a matter of timing. The future land use map (Character Areas) shows the intended use of land which could be 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 General Plan may indicate that industrial uses should not be established without public water and sewer services.

To ensure that a conflict in land uses is not established, the zoning map may designate the area for low intensity development. The General 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 comprehensive 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.

Failure to consistently follow the General Plan plan may discredit its use as a defense for actions that may be challenged by property owners or developers. Consistent and vigorous use of the plan will lend credibility to the community's attempts to implement controversial decisions on rezoning's or other zoning actions.

By far the greatest responsibility of th commission is to provide guidance for land use and development in the community. A properly developed, well thought-out General 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 General 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.

## Preparing for Meetings

Being a planning commissioner can mean either just showing up for the meeting or putting in the time needed to make informed decisions.

Planning commissioners cannot reach a fair and impartial decision without a firm base of knowledge about the matters placed before them.

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.

## Information

To prepare for the meeting, you must make sure that you have all 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.

## Site Visits

Visiting the site is often a critical step in the decision-making process. Even if you have lived in the community all 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 most of the membership of a decision-making body must be advertised under the Open Meetings Act and steps must be taken to ensure 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.

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 decide 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 ensure that everyone has the same information on which to base a decision. This is not possible if individual commissioner's contact or is contacted by interested parties outside of the meeting. If you are contacted by the applicant or others, be prepared to tell them that you are required to conduct all your discussions only when the other commissioners are present.

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.

- **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.

## **During Your Site Visit**

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.

## **Using the Site Plan**

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.

## **Preservation of Natural Features or Landscape**

Site plans should show significant natural features in enough detail to see how they are affected by the project.

## **Compatibility with Surrounding Uses**

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.

## **Safety of Vehicular and Pedestrian Circulation**

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. 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.

### **Ensuring Adequate Emergency Access**

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.

### **Control of Exterior Lighting**

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.

### **Proper Drainage and Removal/Storage of Surface Waters**

Most commissioners are not engineer’s thus engineering staff 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.

### **Architectural Controls**

Designs of buildings may be appropriate in designated areas rich with historical buildings and character and usually an architectural review board or historic commission with the authority to review are appointed for exterior finishes and improvements to ensure that the historical or unique character of the district is not jeopardized.

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

*Site plans should not be reviewed as part of a re-zoning.  
Once zoned, the property can be used for any permitted use in the new district,  
regardless of any promises made or plans shown by the applicant.  
The exception is as part of a planned unit development (PUD).*

## Meeting the Public

Land use issues can bring out strong emotions. Faced with a room full of angry and concerned people, one 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 aspects that are also important to consider.

### Fairness

- 1. Everyone must have the opportunity to speak and present evidence at public hearings.** While some limitations may be placed, 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 public speaking.** Try 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.

#### *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

Having an effective set of meeting rules helps provide a sense of professionalism as well as ensuring that meetings are orderly.

Public 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

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 chairperson.** 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, except for 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 chairperson, people may be allowed to speak a second time to respond to earlier comments. However, the chairperson 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 chairperson recognizing only those who have signed up.
- 4. The chairperson 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

chairperson 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

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 chairperson, so too should the commissioners. Not only does this show respect for the role of the chairperson, 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.

- 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 your comments aloud during the deliberations. If you have a question, ask the applicant or the chairperson, rather than your neighbor. Don't allow yourself to be caught up in a private discussion with another commissioner. Make all 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 audiences 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.

### **Keeping Faith with the Public**

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.

### **Making Tough Decisions**

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 using 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**

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**

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

- a. the application and supporting materials;
- b. the General 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**

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.

## Balancing Competing Interests

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. 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.

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.

- 1. The General Plan and zoning ordinance are current and accurately reflect the community.**

Keeping your General 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 General Plan should be reviewed each year to make sure it stays relevant to current conditions. The zoning ordinance must be constantly reviewed to ensure that binding court rulings are included, new legislation recognized, and General Plan changes noted (e.g., new land use classifications).

- 2. 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 act unless the applicant or a representative is present (unless legal time limits dictate otherwise).
- 3. 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 it easier to focus your comments if you discuss each of the applicable standards in turn.

The standards that you use should be written into the ordinance (except re-zonings) 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 decide – 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.

- 4. 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**

If there are doubts about an applicant’s performance, make proper use of conditional approvals (except for re-zonings), 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.**

## **Making Decisions Stick**

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 tend 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.

## **Staff Reports**

A staff report is a document that conveys specific information about an application. Staff reports are written to communicate recommendations based on facts and application of the ordinance standards. The following purposes are common to most development reports:

- To describe the project and the applicant's request
- To describe why the application is before the planning commission
- To inform officials and stakeholders on the issues of compliance, consistency, and compatibility with adopted plans and applicable regulations
- To provide a professional recommendation
- To build a public record and a legally defensible foundation (should litigation arise).

The parts of the report which include the analysis of computability and key findings along with the description of the site and features analysis must be supported by and rooted in legal and local precedent as well as professional judgement.

At minimum, a staff report should include sufficient data and analysis to put the case in context for the commissioner and to support the staff recommendation. The reason for the application and what is expected of the commissioner should be clear. A description of the proposal, the property as well as maps and exhibits are considered basic in any report.

The analysis should seek to answer whether the project is consistent with adopted plans and in compliance with zoning, engineering, utility, and other regulations.

Commissioners depend on a good staff report that is fair, balances and accurate.

## **The Importance of the Three C's**

What are the key findings on which the approving authority is supposed to gauge its decision? Findings are typically related to the concepts of compliance, consistency, and compatibility and are often the factors considered should the case be litigated.

### **Compliance**

The report should identify which codes the application is subject to and, generally, how it complies. The report should specify section of the code the project *does not* comply and note whether there are any waivers, alternatives, or condition to be considered. The report should also relay how the application complies with environmental, utility, traffic, and other regulations in addition to zoning.

### **Consistency**

The staff report should describe the land-use map classification and whether the proposed project is consistent with the goals and policies of the adopted plan. Consistency in applying codes is also important to assure equal protection.

### **Compatibility**

The staff report should evaluate the project's compatibility with adjacent properties. Is the use compatible with those around it? Is the height and scale of the building compatible with those adjacent? Are the site improvements (i.e., parking) and operational features (i.e., hours of operation) in character with the surrounding uses?

## **Meeting Minutes**

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**

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 re-zonings, 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, if the motions are not completed prior to the meeting.

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

*Hints for Making Motions:*

1. Although the chairperson 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.
2. 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.
3. Conditions may be imposed on any zoning decision, except re-zonings (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.

4. 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**

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**

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**

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).