



HOW TO WIN PLANNING COMMISSION APPROVAL

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If you want to develop or improve property in Illinois, you will likely have to appear before a local planning commission. While planning commissions are primarily recommending bodies without final say on most issues, the reality is that city councils and zoning boards often defer to planning commission recommendations. Therefore, it is imperative to obtain the planning commission's recommendation of approval to move your project forward.

This white paper is intended to provide some background information regarding planning commissions in Illinois, as well as helpful tips for submitting applications and appearing before a commission. While this paper is a great place to start, it is always best to hire an experienced land use attorney to increase your chances of approval.

At Dalton & Tomich, we have represented clients before various planning commissions and would love to discuss how we can help you win the recommendations and approvals you need.



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WHAT IS A PLANNING COMMISSION?

A state statute authorizes municipalities to create planning commissions or a planning department or both. The statute also lays out the specific powers and duties of planning commissions. Planning commission members are appointed by a mayor of a city or president of a village board. Their appointments are subject to confirmation by the corporate authorities and their terms can vary from municipality to municipality.

The idea behind having commissioners appointed rather than elected is to insulate the planning commission from political pressures elected officials often face. While commissioners are not required to have any specific training or experience, municipalities often seek candidates with a planning and zoning background.

WHAT DOES A PLANNING COMMISSION DO?

Planning commissions usually meet monthly, and some meet twice a month.

Commissioners are disqualified from voting on a matter in which they have a conflict of interest, and a commissioner's failure to disclose a conflict of interest can result in the removal of that commissioner. Depending on the municipality, a planning commission can have any number of responsibilities. Typically, planning commissions provide recommendations on items such as site plan approvals, special land use applications, and applications for zoning text amendments.

HOW TO SUCCEED IN FRONT OF A PLANNING COMMISSION

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WHAT IS A COMPREHENSIVE PLAN?

The planning commission can also propose a comprehensive plan for the municipality. A comprehensive plan provides direction for future land use and development within a municipality. Once adopted, commissioners and other zoning officials will look to the comprehensive plan when deciding particular issues.

With the right preparation and guidance, you can win the approval you need for your use of development.

Tips for a Successful Planning Commission Application

Submitting a well-prepared application or request to your local planning department is essential to obtaining approval from the planning commission. Planning commissioners typically receive a planning department report about each project. If your application or request is compliant and easy to understand, you will increase your chances of success.

When preparing your application or request to the planning commission, it is important to keep three things in mind – the Zoning Ordinance, the Comprehensive Plan, and the surrounding Community.

1. THE ZONING ORDINANCE

First, you must tailor your application or request to the local zoning ordinance. No matter what kind of application you are submitting, the zoning ordinance should list the factors considered by the planning commission when making its decision. Highlight the facts of your proposal that satisfy each criterion. Do not make the commissioners hunt through your application to find them. Similarly, resist the temptation to simply repeat back the language of the ordinance. Instead, incorporate the underlying concepts into your application. It is usually best to consult an experienced land use attorney to assist you.

2. THE COMPREHENSIVE PLAN

Second, consult your local comprehensive plan. Planning commissioners are charged with consulting the comprehensive plan when making recommendations on land use applications.

The comprehensive plan differs from the zoning ordinance in that it lays out the long-term planning and development goals of the community. It is important to show how your application fits into the municipality's long-term goals.



3. THE SURROUNDING COMMUNITY

Third, show the commissioners how your proposal will affect the immediate neighbors and the community as a whole. For example, you may need to highlight the fact that your proposal will not increase traffic, diminish property values, or increase water runoff for your neighbors. These are questions you may receive from the commissioners anyway. It is to your advantage to answer them up front in your application. Also, if you are opening a new business, highlight the jobs you will create and the services you will bring into the community. Give the commissioners every reason to approve your application.

Tips for Appearing at the Public Hearing

Many applications to the planning commission require a public hearing. While each municipality has its own policies and procedures for public hearings, there are five things to keep in mind as you prepare for a successful public hearing.

1. THE OPENING STATEMENT

The best way to begin a presentation at a public hearing is to work with your land use attorney to craft a brief summary statement regarding your project. Sometimes it makes sense to have the applicant give this “opening statement” if he or she is comfortable doing so. The passion and vision of the applicant can be helpful in leading the commissioners to approval. Regardless of whether the applicant will speak, it is crucial to have your land use attorney present at the hearing to provide the legal and planning justification for approval. The opening statement should usually be limited to a “big picture” overview of the project.

If the planning department has already recommended approval of your project, it is usually wise to keep your opening statement brief and to highlight the department’s recommendation. You should thank the commissioners and the planner and state your agreement with the planner’s recommendation of approval. Avoid getting into specific details unless the commissioners ask or unless there is an outstanding issue you know needs to be addressed. The last thing you want in a public hearing is to snatch defeat from the jaws of victory by raising unnecessary details and issues with your project.

2. QUESTIONS AND ANSWERS

If the commissioners do have specific questions, the presenter, whether it is either the applicant or the applicant’s attorney, should be able to answer questions with references to the local zoning code and/or comprehensive plan. Each answer should point the commissioners toward approval. An experienced land use attorney will be able to accomplish this.

3. VISUAL AIDS

Visual aids should be selected and prepared carefully. A professional rendering of your final project is often helpful. Samples of building materials and/or colors can also enhance your application. You typically want to help the commissioner visualize your project.

There are some potential downsides of visual aids as well. Visual aids that are poorly done or different from what the commissioners are expecting can cause confusion and raise questions about your project. Similarly, if a neighbor happens to be in attendance and is unpleasantly surprised by your visual aids, it may spur the neighbor to oppose your project. Consult with your attorney to decide whether visual aids would be helpful for your presentation.

“...the end goal of the hearing is to obtain approval for your project.”

4. ON THE RECORD

You should also keep in mind that a public hearing is part of the “record” of your project. The reality is that certain projects will be denied. While not every denial is grounds for appeal or a lawsuit, you need to have a complete record in order to fully review your options after a denial. To that end, it is sometimes wise to hire your own court reporter to produce a transcript of the public hearing. Some municipalities prepare an official record of their planning commission meetings.

A court reporter is especially recommended if you believe your request may be denied. If you elect to appeal a denial, it will be immensely helpful to have a complete record and transcript to reference.

5. EXPECT THE UNEXPECTED

Finally, it is important to remember that public hearings can be unpredictable. Some hearings can even become hostile if the project is controversial. It is important as the applicant to maintain patience and focus. An applicant and the applicant’s attorney must always appear to be the “adult in the room.”

While many public comments may be irrelevant or even untrue, the applicant and attorney should take notes during the hearing and respond graciously to concerns regarding the project. Further, while comments from the public should be addressed, the applicant and attorney should always direct their comments to the chair of the commission. It is vital to refrain from arguing with members of the public.



After the Planning Commission Hearing

Following the hearing, confirm the date and time of the next appearance, if any. In many municipalities, your application will be heard by a village board or city council which will make the final determination in conjunction with the planning commission's recommendation. Be sure to secure any information requested by the planning commission at the previous meeting.

To the best of your ability, it is also wise to address concerns raised by neighbors or other members of the public at the planning commission. You may want to schedule a follow-up meeting with the planner or zoning staff to confirm that all areas of concern have been sufficiently addressed.

In sum, your experience with your local planning commission can be a success if you are [properly prepared and knowledgeable](#) throughout the process. In particular, hiring an experienced land use attorney is invaluable. With a good application and presentation, you can turn the commissioners into partners on your project.



About the Author

Noel W. Sterett devotes his practice to litigation and transactional work on behalf of religious groups. His trial and appellate work has led him to courtrooms across the country, advocating for the civil liberties of churches and ministries in the land use context.

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