



HOW TO WIN PLANNING COMMISSION APPROVAL

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If you want to develop or improve property in the state of Michigan, 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 place great weight upon the opinions of the commissioners. 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 Michigan, 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?

Michigan statutory law authorizes municipalities to create planning commissions by adopting an Ordinance creating the planning commission with specific powers and duties. The members of the planning commission are appointed by the chief elected official of the municipality subject to a majority vote of the members of the legislative body. Commissioners are elected to three-year staggered terms.

The idea behind the commissioners being appointed rather than elected is to insulate the planning commission from political pressures common to elected officials. While commissioners are not re-quired 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 monthly. They must meet at least 4 times each year by law. Members are disqualified from voting on a matter on which they “may reason-ably be considered to have a conflict of interest.”

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 MASTER PLAN?

The planning commission is also charged by state law with the responsibility for preparing and adopting the Master Plan. The Master Plan is the set of documents which provides direction for future development within a municipality. The Master Plan is also consulted by the commissioners when deciding upon a particular proposal.

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 Master 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 MASTER PLAN

Second, consult your local Master Plan or future land use document. Planning commissioners are charged with consulting the Master Plan when making recommendations on land use applications.

The Master Plan differs from the zoning ordinance in that the zoning ordinance reflects the current local land use while the Master Plan lays out the long-term planning and 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. 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 to be held. While each municipality has its own policies and procedures for public hearings, there are a number of items to keep in mind regardless of where you submit your request.

It goes without saying that the end goal of the hearing is to obtain approval for your project. With that in mind, you should be sure to do everything possible to make it easy for the commissioners to grant approval. 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 public hearing presentation is to work with your land use attorney to craft a brief 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. 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.

2. QUESTIONS AND ANSWERS

If the commissioners do have specific questions, the presenter, whether it is the applicant or the applicant’s attorney, should be able to answer questions with references to the local zoning code and/or master 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.

There are some potential down-sides of visual aids as well. Visual aids that are poorly done or different from what the commissioners are expecting can cause confusion and 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 speak in opposition to your project. Consult with your attorney to decide whether visual aids would be helpful for your presentation.

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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 other litigation, 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 a court reporter to produce a transcript of your public hearing.

A court reporter is especially recommended if you believe your re-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.

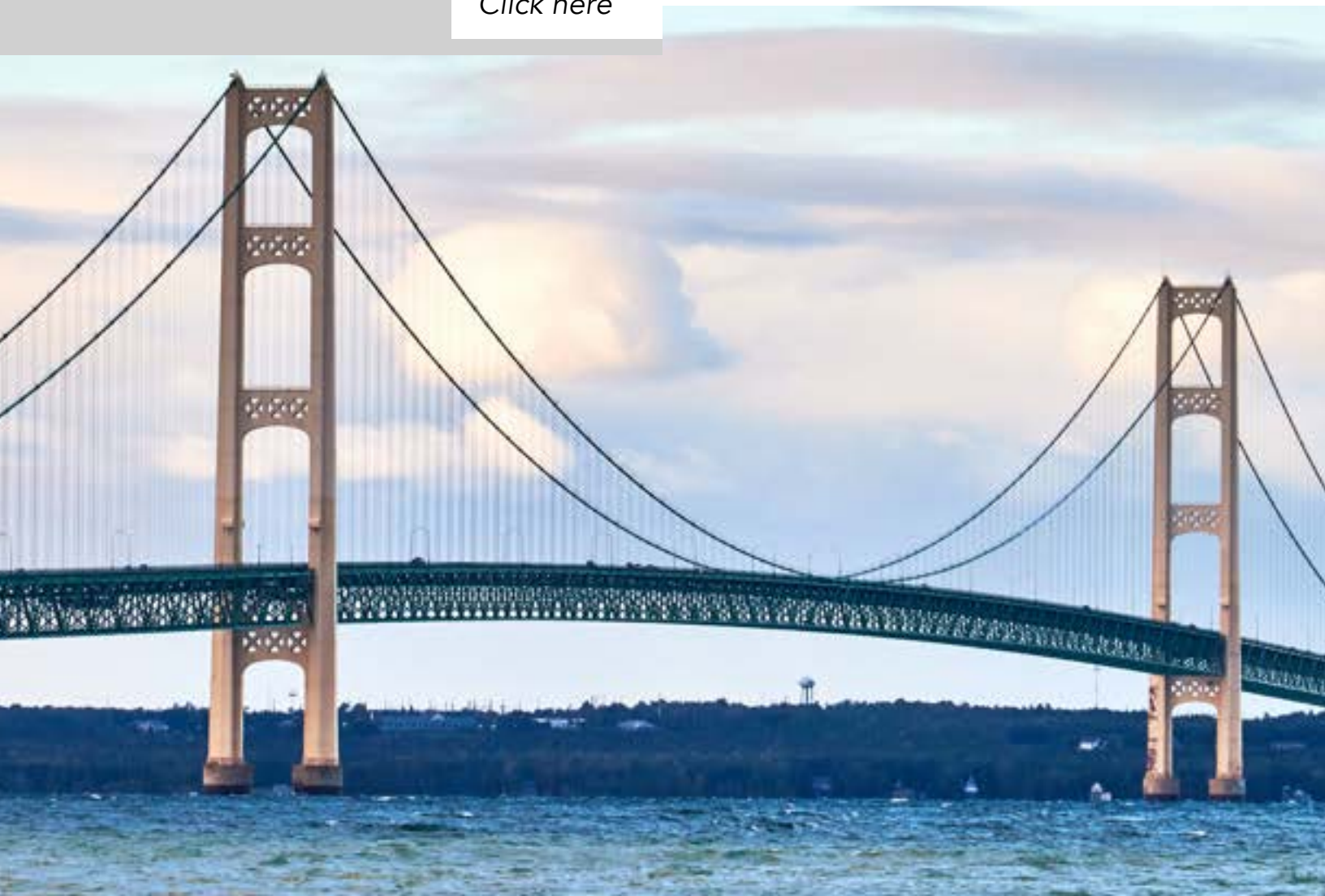
**READ MORE TIPS FOR APPEARING
BEFORE A PLANNING COMMISSION
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5. EXPECT THE UNEXPECTED

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 Authors



Daniel P. Dalton is one of a handful of attorneys in the United States who specialize in religious land use matters. He is the author of the book *Litigating Religious Land Use Cases*, the sole authority on religious land use issues. Dan litigates these types of cases for most religious organizations throughout the United States.

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