



GREATER NASHVILLE
REGIONAL COUNCIL

Planning Commission

Planning Training

Jessica Hill, AICP, PMP | February 12, 2024

Topics to be discussed

- ✓ Legal Basis for Planning
- ✓ Roles & Relationships of Governing Board, Planning Commission, BZA, and Staff
- ✓ Comprehensive Plans and Other Plans
- ✓ From Plans to Codes- Subdivision Regulations & Zoning Ordinances
- ✓ Considerations for Decision-Making
- ✓ Rules of Procedure & Professional Conduct
- ✓ Open Meeting Law and Public Hearings
- ✓ Conflicts of Interest



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Legal Basis for Planning

The Legal Basis for Planning

- Local planning and land use regulation rest on powers granted to cities and counties by the state constitution;
- But state legislation shapes the manner in which these powers are exercised (the Tennessee Code);
- TCA powers granted to planning commissions slightly differ depending on municipal vs. regional;

The Legal Basis for Planning

Municipalities and counties draw upon **two legal powers** in their respective planning programs:

Corporate Powers - provides local governments the authority to collect money through bonds, taxes, fees, and assessments, and to spend on public needs.

Police Powers - provides authority to regulate a citizen's behavior, including the use of private property, **to promote the health, safety, welfare, and morals of the public.**

- This is elastic—evolving to accommodate changing community values, but its use is constrained by constitutional principals of equal protection and due process, including unlawful taking or damaging of property.

The Legal Basis for Planning

Land Use planning, zoning, subdivision regulations, and building regulations are all exercises of **police power**.

- Title 13 of the Tennessee Code gives municipal and regional planning commissions power



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What is Planning?

What is Planning?

The goal of planning is to maximize the health, safety, and economic well-being of all people living in our communities.

This involves thinking about how we can move around our community, how we can attract and retain thriving businesses, where we want to live, and opportunities for recreation.

Planning helps create communities of lasting value.

What is Planning?

A planner's job is to work with residents and elected officials to guide the layout of an entire community or region. Planners take a broad view and look at how the pieces of a community — buildings, roads, and parks — fit together like pieces of a puzzle.

Planners make recommendations on how the community could proceed.

One of the greatest challenges for planners is to imagine what can and should happen to a community: how it should grow and change, and what it should offer residents 10, 15, or even 20 years into the future.



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Role & Responsibilities of the Planning Commission

Understanding Our Roles

Legislative

- Elected Officials amend and adopt zoning ordinance and amendments

Planning Commission

- Review proposal and site plans; Approve, deny, or modify/conditional subdivisions; Recommend to approve, deny, or modify rezoning and zoning amendment requests

Board of Zoning

- Impartial, formal decision-making process; Act in specific capacity with thresholds

Administrative

- Staff apply explicit criteria and standards

Powers of the Planning Commission

(§13-4-101) The legislative body may create and form a planning commission to:

- Prepare, adopt, and make reports on a general plan
- Make recommendations regarding streets and utilities
- Regulate the development of land through subdivision regulations and plat review
- Approve/deny variances to the subdivision regulations
- Make recommendations for adopting/amending a zoning ordinance/resolution or map to legislative board
- Prepare & Certify Zoning Resolution and Map to legislative board

Role of the Planning Commission

You are the advocates of the public interest in the public decision-making process

Roles:

- Advisor to legislative body
- Decision-makers for conducting studies & plans
- Decision-makers for subdivision plats and variances
- Represent the public - the community at-large not special interests

General Plan

- A function and duty of the Planning Commission to make and adopt a plan for the physical development of the jurisdiction, including any area outside of its boundaries that has relation to the planning of the jurisdiction.
- Adopt the plan and may from time to time amend the plan

Subdivision Regulations

- No plat of a subdivision shall be filed or recorded until it has been submitted to and approved by the planning commission. (TCA 13-4-302)
- The Planning Commission shall adopt regulations governing the subdivision of land within the jurisdiction.
- The Planning Commission may grant preliminary approval of the plan before infrastructure improvements
- The Planning Commission may grant final approval of the plan subject to a bond, letter of credit, or other method of assurance (in form and amount) for the construction and installation of infrastructure improvements.

Subdivision Plats

- The Planning Commission must **Approve or Disapprove within 60 days** after the initial consideration of the plat in a regularly scheduled session.
 - If no action taken by Commission within 60 days, the plat will be deemed approved
- Within 30 days of receipt of a plat it shall be placed on the planning commission's meeting.
- Grounds for disapproval of a plat must be stated for the record

Variances to the Subdivision Regulations

- Variances from the Subdivision Regulations are reviewed and acted on by the Planning Commission.
- These variances can be reviewed and acted on during a meeting without public notice given for the variance review.
- State law is silent on variances from the Subdivision Regulations, thus giving the Planning Commission this power during plat review.

Zoning Ordinance

- May recommend amendments to the zoning ordinance to the legislative body
- Site plan review for proposed development related to infrastructure and internal development improvements such as: roads, water & sewer utilities, landscaping, design features and other improvements as required in the Subdivision Regulations and Zoning Ordinance.

Subdivision Plat & Site Plan Review Considerations

- Consider existing street and utility capacities;
- Avoid problematic natural features such as soils, steep slopes, geological features, sensitive habitats and environment;
- Fit the development to the site, not vice versa;
- Conserve trees, nature habitat, and wetlands as open space;
- Adequately design for storm water;
- Design issues involve short-term and long-term costs

Rezoning Review Considerations

- What is the **current land use**?
- Do adopted plans identify **future land uses**?
- **Availability of utilities** and infrastructure (both current and proposed)?
- Impacts relative to traffic? Does the **thoroughfare plan** identify upcoming improvements? Is a Traffic Impact Study required?
- If adjacent to a neighboring jurisdiction, what Plans/Zoning/ Service provision and other impacts should be considered?
- Are there **Citizen Concerns**? Is there “clarity and correctness?”
- What **additional information** do you need, from whom, to make an informed decision?

Responsibilities of the Planning Commission

- You have an obligation to contribute
- You should ask questions
- You must put aside your own biases
- You must make the right decision, not the popular one
- You must have patience & show respect
- And you must understand the Metro's codes, ordinances, & plans!



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Roles and Responsibilities of Legislative Body and Staff

Legislative – Elected Body

- **May** adopt and amend the Comprehensive Plan
- **Always** adopts and amends the Zoning Ordinance/Resolution and Map
- **Always** appoints members to the Planning Board and Board of Zoning Appeals
- **Never** issues variances
- **Never** decides appeals to Administrators decision

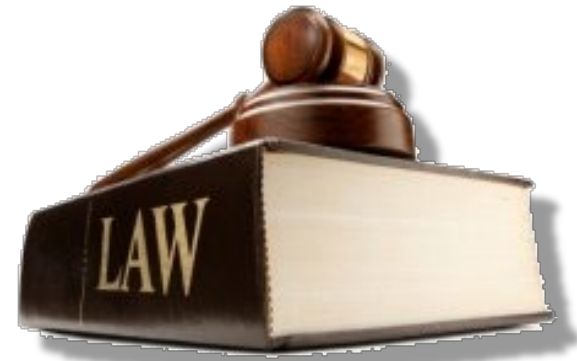
Role of Planning Staff

- **Administer** ordinances and regulations
- **Inform** general public, developers, and answer questions
- **Review and write staff reports and provide recommendations...if asked.**

Administrative - Legal Counsel

Role of the Staff Attorney or Legal Counsel:

- Attendance depends on the wishes of the board and commission
- Always good to have one present
- When present, they can advise on the legality of matters and on procedural issues





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Role & Responsibilities of the Board of Zoning Appeals

Role of the Board of Zoning Appeals

The BZA is required by statute and performs a quasi-judicial functions (§13-7-205 through 207)

- Provides flexibility to the zoning regulations.
 - Interpret and perfect the zoning ordinance
 - Safeguard the constitutionality of the zoning ordinance
 - Provides a safety valve
- Ability to provide flexibility is limited- *“A municipality may not confer powers upon the board not granted by the enabling statute and such a grant is ultra vires (beyond the legal power) and void.”*
- It is administrative remedy which must be exhausted before most courts will hear appeals of zoning decisions

Powers of the Board of Zoning Appeals

- **Administrative review** of Building Inspector or other administrative officer's interpretation of the zoning ordinance/resolution
- Decisions on **special exceptions** defined in the ordinance, interpretation of the zoning map, or other "special questions."
- Granting of **variances** to the zoning ordinance/resolution



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Thank you!