

THE PLANNING PROCESS

Session Outline

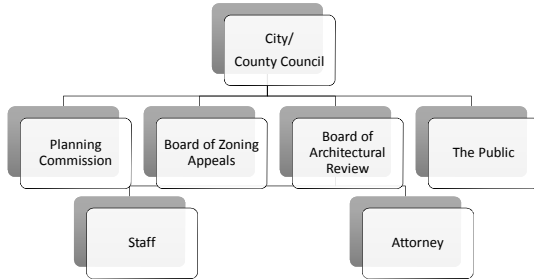


- Introduction
- Key Players & Roles
- Tools of Planning
- Effective Meetings
- Current Issues & Questions

Key Players



Who are the Players?



Planning Commission



Planning Commission



- Advisory Body to Council
- Appointed by Council
- Roles and Responsibilities
 - Develops the Comprehensive Plan, Zoning and Land Development Ordinances
 - Provides recommendations on ordinance amendments (text and map)
 - May review subdivision plats
 - Undertakes special studies at the request of Council

Planning Commission



- Commission should be advocates of the *“general public interest”*
 - Must consider Council’s Goals
 - *Don’t try to anticipate what Council wants*
 - Consider planning objectives and community needs
 - Consider precedence
 - ***Think, what is the issue? Does the solution relate to the issue?***

Planning Commission



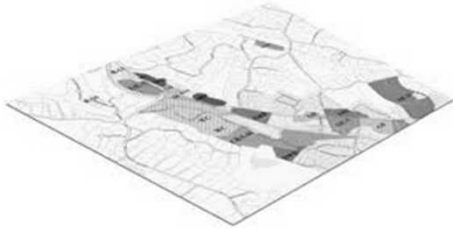
- Communication between Council and Commission needed for successful planning
 - Joint Workshops
 - Reports at Council Meetings
 - Council Member Assigned to Planning Commission

Commission Details



- Membership – 5 to 12 members
- Terms of Office – staggered, established by Council
- No dual offices - Cannot hold another public office and serve on the Planning Commission
- Simple majority of the members must be present to have a quorum
- Organized to keep records of minutes, hearings, resolutions

Board of Zoning Appeals



Board of Zoning Appeals



□ Roles and Responsibilities

- Review appeals of alleged administrative errors
- Review requests for variances for relief from an unreasonable hardship
- Review uses by Special Exceptions, as defined in local ordinances

Board of Zoning Appeals



□ Appeals

- Resolves disputes over administrative decisions or interpretations made in application of the zoning ordinance
- Decisions based on facts. The only question is...
“Is the decision of the Zoning Administrator consistent with the provisions in the Zoning Ordinance?”
- Should not judge if policies adopted are wise, good, or beneficial

Board of Zoning Appeals



□ Variances

- Relief from strict application of an Ordinance
- Based on an unreasonable hardship due to unique physical characteristics of the property
- Only grant minimum relief necessary to overcome hardship and allow a reasonable use of property
- Can not allow use not permitted by zoning ordinance or expand existing non-conforming use

Board of Zoning Appeals



□ Special Exceptions

- Discretionary uses may be allowed within a zoning category
- Board reviews requests for special exceptions to determine if they meet criteria included in the zoning ordinance
- Special Exception reviews are conducted as prescribed by ordinance through a public hearing process

Board of Zoning Appeals



- Quasi Judicial Body responsible for settling administrative appeals and requests for variances from ordinance application
- Appointed by Council but independent decision maker
- Membership – 5 to 12 members

Organization of the Board



- Procedures follow a judicial process
- Decisions must be based on facts of case
- Members cannot accept evidence outside of the input process adopted in the Zoning Ordinance.
- Board decisions may be further appealed to Circuit Court – **No review by Council**
- An accurate record of proceedings is critical because court will base its decision on the transcripts of the Board.

Board of Architectural Review



Board of Architectural Review



- Appointed by Council – Advisory capacity as well as final authority on individual applications
- Review applications as necessary and holds public meetings to make final determination on applications

Board of Architectural Review



Architectural Design Guidelines

- Intended to recognize and preserve the unique character and integrity of special areas – gateways, historical districts
- Serve as a visual definition of the architectural building requirements

Reviews Design Plans Within Each District With Respect To Design Guidelines

- Subjective in Nature
- Consistent framework for submitting and assessing proposed development important

Organization of the BAR



- Membership – 3 to 10 members
- Appointment & Qualifications – Consideration given for Professional Expertise and Knowledge in areas of Architecture and Community Design
- Has Administrative and Quasi-Legal authority
 - Review Applications
 - Overseeing appeals related to architecture guideline administration. Decisions can be appealed to Circuit Court

Other Key Players



City/County Council



□ Roles and Responsibilities

- Elected to make decisions for community
- Final authority for all policy
 - Adopts and amends plans and ordinances
 - Hires planning staff and administrators
 - Appoint Planning Commission and Board of Zoning Appeals members

Planning Staff



- Administers zoning and land development ordinances adopted by Council
- Provides information to the Public
- Serves as staff to Council, Planning Commission, Board of Zoning Appeals, and Board of Architectural Review as assigned

The Attorney



- Advises local officials and committees on legal matters related to their official roles
- Reviews ordinances and regulations to ensure they conform with all state laws and are legally adopted
- Involving your attorney is an important part of avoiding legal mistakes in your work

THE TOOLS OF PLANNING

Planning Tools



- Comprehensive Plan
- Zoning Ordinance
- Development Regulations
 - Subdivision Regulations
 - Architectural Guidelines
 - Landscaping Ordinances

Comprehensive Plan



Why Do We Plan?



What is Planning?



- Planning is setting a course of action for how a community will grow and develop.
 - Community's Vision of the Future
 - Accounting for the Past and Present
 - Tools to Realize the Vision: Goals, Objectives, Policies, Actions



Questions To Ask Yourself?



- Does it promote the health, safety, welfare & prosperity of the community and its citizens ?
- Is the plan realistic ? Are the goals attainable ?
- Does the plan adequately protect the interests of property holders ?
- Does this plan reflect a wise use of public funds ?
- Did the public participate in developing the plan ?
- How does the plan impact adjoining jurisdictions ?
- Does it conflict with regional plans ?



Required Plan Elements



- Population
- Economic
- Natural Resources
- Cultural Resources
- Community Facilities
- Housing
- Land Use
- Transportation
- Priority Investment

Population Element



This element examines population characteristics and their affect on the community and the future of the area. It might include the following:

- Historic trends and projections
- Number, size and characteristics of households
- Educational levels and trends
- Income characteristics and trends
- Race, sex, age, etc...

Economic Element



This element explores workforce trends and projections, and answers questions such as:

- Where do people who live here work?
- Where do people who work here live?
- What is our economic base? Diversity?
- What impact does tourism have?
- What impact does manufacturing/industry have?
- What are our strategies

Natural Resources Element



This element should examine issues such as :

- Prime agricultural and forest lands
- Unique park and recreation areas
- Unique scenic views and sites
- Wetlands and flood plains
- Plant and animal habitats
- Air quality, etc...



Cultural Resources Element



This element could contain items such as:

- Historic buildings, structures and facilities
- Resources for historic information
- Unique commercial or residential areas
- Educational or religious resources
- Entertainment facilities
- Archaeological sites
- Other cultural aspects
- Arts



Community Facilities Element



This element includes activities and facilities essential to community growth, development, and redevelopment:

- Water Supply, Treatment and Distribution
- Sewage System & Waste Water Treatment
- Solid Waste Collection and Disposal
- General Government Facilities
- Educational and Recreational Facilities
- Fire Protection
- Emergency Medical Services



Housing Element



This element examines housing characteristics and their affect on the community and the future of the area. It might include the following:

- Age and Condition of Housing
- Owner/Renter Occupancy
- Location and Type of Housing
- Affordability of Housing
- Other Housing Needs and
- Issues



Transportation Element



- Considers transportation facilities such as:
 - Major road improvements
 - New road construction
 - Transit projects
 - Pedestrian/Bicycle projects
 - Other elements of transportation system
- Element must be developed in coordination with the land use element, to ensure transportation efficiency for existing and planned development;



Land Use Element



Existing and Future Land Use by Categories such as:

- Residential
- Commercial
- Industrial
- Agricultural/Forestry
- Public and Quasi-Public
- Parks/Recreation/Open Space
- Vacant or Undeveloped Land

Land Use Element



The Land Use Element addresses policy issues

- The findings, projections and conclusions from each of the previous six elements influence the amount of land needed for various uses.
- This element should be developed to serve the interests of the community by addressing needs identified in the plan through the planning and development process.
- Base land use decisions on tangible information obtained through development of the plan and plan elements

Priority Investment Element



- The priority investment element analyzes the likely federal, state, and local funds available for public infrastructure and facilities during the next ten years, and recommends the projects for expenditure of those funds during the next ten years for needed public infrastructure and facilities such as water, sewer, roads, and schools.
- Focus is placed on promoting coordination with other jurisdictions.

Utility of Comprehensive Plan



- The Plan should be developed to serve the community.
- Make it useful and easy to understand by keeping the following in mind:
 - The Plan should accurately reflect existing conditions.
 - The Plan should identify strengths, weaknesses, opportunities and threats.
 - The Plan should outline attainable goals and list recommendations that can be implemented.
 - The Plan can assign responsibilities and time-frames to promote implementation of recommendations.

Adopting or Amending Plan



- The Planning Commission adopts a resolution recommending the plan or element to the governing body for adoption.
- Planning Commission sends recommendation to the local governing body being requested to adopt the plan.
- The governing body must hold a public hearing with at least 30 days notice in a general circulation newspaper.
- The local governing body must adopt the plan or element by ordinance through 2 readings by ordinance.

Zoning Ordinance



What is zoning?



- A zoning ordinance is adopted for the general purposes of guiding development in accordance with existing and future needs of the community.
- Traditionally segregated land uses in order to separate incompatible land uses and to protect property values.
- Current ordinances will often allow some mixing of uses through overlay districts, mixed use zoning, and planned unit developments.
- Guided by the Comprehensive Plan

Zoning Ordinance



- Developed by Planning Commission
- Adopted by Council
- Enforced by Zoning Administrator
- Appeals and Variances and uses by Special Exceptions addressed by Board of Zoning Appeals

Reasons for Zoning



- Prevent or reduce overcrowding
- Promoting quality of life issues
- Protect resources
- Regulate density and land use
- Ensure adequate public services and utilities are provided
- Further the public welfare

Elements of Zoning Ordinance



Two Major Components

- Map – designates areas for types of land use activities
- Text – addresses regulations and development specifications

Zoning Ordinance Regulations



Regulations can address:

- Uses by Districts
- Setbacks
- Buffers
- Parking
- Signs
- Landscape Requirements
- Others

Adoption/Amendment Process



Adoption Process for Ordinance Text

- Public Hearing held by Planning Commission or Council
- Notice Published at least 15 days prior to Public Hearing in the Newspaper of General Circulation
- Adoption by Ordinance: Municipalities 2 and Counties 3 Readings Respectively

In addition Zoning Map Amendments Require:

- Posting Notices on property in question that is visible from each street and notification of adjacent property owners.

EFFECTIVE MEETINGS

Effective Meetings



- Set meeting dates and times
- Agenda – have one, publish it
- Room Setup – comfortable, good acoustics, open arrangement
- Clarify voting procedures
- Make clear motions
- Require members to vote clearly

Rules of Order



- Parliamentary Procedures are good basis for establishing rules for:
 - Roll call / establish quorum
 - Approve agenda
 - Approve minutes of previous meeting
 - Citizens/public comment period (optional)
 - Public hearings
 - Old/New Business
 - Adjourn

Public Hearings



- Public Notice – in writing
 - 15 days for Zoning / Development Regs. / Variances and Appeals
 - 30 days for Comprehensive Plan or element
- Keep Good Minutes / Records
- Freedom of Information Act – agenda/minutes/open meetings
- Sign up Sheet

Effective Public Input



- Traditionally advertised through local newspapers for one or two public hearings
- Today many use a variety of forums
 - Online and Social Media Outlets
 - Community meetings –presentations to neighborhood, civic, and business groups
 - Informal Roundtables
 - Newsletters, bill inserts, local access cable, press releases
 - Comment Forms / Questionnaires

Effective Public Input



- Providing opportunity for public comment during regular meetings
 - Allow only 1 person to speak at a time
 - Give time limits – for speaking and total hearing
 - Keep discussion on track
 - Limit number of times a person may speak
 - Have speaker come to front and provide name and address

PLANNING AND THE LAW

SC Freedom of Information Act



Freedom of Information Act Requirements

- Public Bodies Must:
 - Conduct Meetings in Public
 - Publicize Annual Meeting Schedule and Post Meeting Agenda 24 Hours in Advance of Meeting
 - Notify Those Requesting Meeting Notice
 - Keep Records Available
- No need for executive session

SC Ethics Reform Act of 1991



Establishes rules and procedures for membership on board or commission and behavior during service including:

- Conflict of Interest:
 - Determined by individual, not board or chair person
 - Must disclose conflict and remove yourself from discussion
- Holding more than one public office
 - Can only hold one office publicly appointed office at a time
 - i.e. Can't serve on County School Board and local planning commission at the same time

SC Ethics Reform Act of 1991



- Ex Parte Communication contact between individuals and members of commissions regarding a pending matter not included in the public record
- Strongly discouraged for Planning Commission
 - Members should attempt to avoid
 - If communication does occur the member who made the contact should disclose to the Commission
- BAR and BZA members should not have ex parte communications
 - Refrain from discussing the substance or merits of a case;
 - Inform person such discussion could disqualify the member
 - Refer the person to staff and report the conversation to the board and the public at a public hearing.

QUESTIONS???

What are the local issues of the moment?

Local Issues



- Signage
- Parking Standards
- Mobile Homes Trends
- Downtown Redevelopment
- Amending Agendas

THANK YOU FOR YOUR SERVICE

Planning and The Law



- State Laws That Impact Planning
 - SC Comprehensive Planning Enabling Act of 1994
 - SC Freedom of Information Act (FOIA)
 - SC Ethics Reform Act of 1991
 - SC Land Use Dispute Resolution Act of 2003

- Federal Laws That Impact Planning
 - Americans with Disabilities Act of 1990
 - US Civil Rights Act of 1968
 - Title VIII Fair Housing Law
 - US Fair Housing Amendments Act of 1988

Planning Enabling Act of 1994



- Consolidated Existing Planning Legislation

- Updated Law With New Methods, Tools, Procedures

- Requirement effective since May 3, 1999

Planning Enabling Act of 1994



What Does The Law Do?

It Defines...

- Comprehensive Planning Process
- Zoning Ordinance
- Outlines rules for Boards and Commissions
- Establishes Land Development Regulation Guidelines
- Sets out the Pre-Litigation Mediation Process
- Creates the Educational Requirements

Planning Stakeholders



STAKEHOLDER	APPOINTED BY
Council	Elected by Public
Zoning Administrator	Staff hired by Manager or Department Head
Professional Planners	Staff or consultants hired by Council, Manager, Department Heads
City Clerk	Appointed by Council
City Attorney	Appointed by Council
Planning Commission	Citizens appointed by Council
Board of Zoning Appeals	Citizens appointed by Council
Board of Architectural Review	Citizens (with qualifications) appointed by council

Zoning Ordinance Districts



When developing or amending Zoning Districts consider the following information regarding use, buildings, other structures, and land:

- | | |
|--|--|
| <input type="checkbox"/> size | <input type="checkbox"/> area |
| <input type="checkbox"/> location | <input type="checkbox"/> parking |
| <input type="checkbox"/> height | <input type="checkbox"/> tree preservation |
| <input type="checkbox"/> bulk | <input type="checkbox"/> landscaping |
| <input type="checkbox"/> orientation | <input type="checkbox"/> lighting |
| <input type="checkbox"/> # of stories | <input type="checkbox"/> curb cuts |
| <input type="checkbox"/> construction | <input type="checkbox"/> traffic level |
| <input type="checkbox"/> demolition | <input type="checkbox"/> open space |
| <input type="checkbox"/> signage | <input type="checkbox"/> natural features |
| <input type="checkbox"/> density | <input type="checkbox"/> precedent |
| <input type="checkbox"/> community character | <input type="checkbox"/> adjacent use |

Planning Enabling Act of 1994



Comprehensive Planning Process

- Adoption of Plan
 - Resolution by Planning Commission
 - Ordinance by Local Government Council
 - Public Hearing and
- Five Year Review
- Ten Year Update
 - 30 Day Notice Required

Planning Enabling Act of 1994



- Defines Proceedings for Enactment or Amendment of Zoning Ordinance
 - Planning Commission Review and Recommend Changes to Council
 - Public Hearings
 - Written Notifications
 - 15 Days Prior to Hearing
 - Council Votes on Amendment
- Two Sections of Ordinance
 - Ordinance Text and Map

Planning Enabling Act of 1994



- Zoning Board of Appeals
 - Responsible for Hearing Zoning Appeals and Variances
 - Board Hears Case and Makes a Ruling
 - Case Can be Appealed to Circuit Court if Ruling is not favorable
 - Pre-Litigation Mediation (New)
 - Petitioner May Request Mediation Before Appealing Decision of Board to Circuit Court
 - Both Sides Must Agree to Mediation
 - Council Must Publicly Approve
 - Circuit Court Must Approve
 - If Both Sides Do Not Agree, Case Can be Appealed to Circuit Court

Land Use Dispute Resolution Act



- Established Educational Requirements for Local Government Planning/Zoning Officials
- Includes:
 - Planning Commissioner, Board of Zoning Appeals Member, or Board of Architectural Review Member (Appointed Personnel)
 - Planning Professional, Zoning Administrator, Zoning Official, or a Deputy or Assistant of a Planning Professional, Zoning Administrator, or Zoning Official (Public Employees)
- Materials for Orientation and Continuing Education are approved by State Advisory Committee

Land Use Dispute Resolution Act



- Educational Requirements
 - First Year
 - 6 Hour orientation session
 - Completed between 180 – 365 days after appointment/employment
 - Annual Continuing Education
 - 3 hours of approved continuing education each year
 - No Later Than 365 Days After Appointment or Employment Anniversary
- Exemptions
 - Certification by American Institute of Certified Planners
 - A Masters or Doctorate Degree in Planning
 - A License to Practice Law in South Carolina

Americans with Disabilities Act



- Landmark Legislation
 - Impacts Many Aspects of Society
- Impacts Planning How?
 - Location of Meetings
 - Accessibility of Meeting Space
 - Can I Get a Wheelchair Up a Flight of Stairs?
 - Back Up Plan/Location
 - Technology of Meetings
 - Hearing Impaired and Blind Citizens
 - Can They Participate?

Effective Public Input



- Make draft documents available on-line; provide a comment form on-line
- Plan ahead –prepare / provide necessary background information to generate thoughtful input.

SC Freedom of Information Act



Penalties For Violations

- First Offense: Fined \$100 or 30 Days in Jail
- Second Offense: Fined \$200 or 60 Days in Jail
- Third or Subsequent Offense: Fined \$300 or 90 Days in Jail

Establishing Vision for Future



Comprehensive Plan answers three questions

- Where are we starting from? *(Existing Conditions)*
- Where are we going? *(Needs and Goals)*
- How do we get there? *(Strategies/Timeframes)*



Land Development Regulations



Land Development Regulations



Purpose

- Encourage the development of economically sound and stable municipalities and counties
- Assure the timely provision of required streets, utilities and other infrastructure
- Assure safe and convenient traffic access and circulation
- Assure the provision of needed public open spaces
- Assure the wise and timely development of new areas and areas for redevelopment in accordance with the adopted Comprehensive Plan

Land Development Regulations



Regulates the change in land characteristics through the following:

- Redevelopment
- Construction
- Subdivision
- Apartment and condominium complexes
- Commercial and industrial parks
- Shopping centers or similar developments

Land Development Regulations



Ensures proper installation of infrastructure addressing the following:

- Street Improvements/Names
- Water Systems
- Sewer Systems
- Erosion/Sedimentation
- Bonding Requirements
- Public Dedications
- Drainage

Organization of Commission



- Officers: Chairperson, Vice Chairperson, Secretary
 - Secretary may be staff from the local government
- Simple majority of the members must be present to have a quorum
- Organized to keep records of minutes, hearings, resolutions

Development Review Process



- Ordinance includes a specific procedure for submission and approval or disapproval
- Approval Authority (*Planning Commission or Designated Staff*)
- Time Limits (*not to exceed 60 days*)
- Appeal Procedure (*to Planning Commission from Staff Action*)
- Notice to Developer of action (*approve or disapprove*)
- Surety for Construction of Required Improvements (*Bond*)
- Appeal from Planning Commission Action to Circuit Court

A circular logo with a mountain range and the word "Appalachian" written below it.

You and Your Citizens



- ❑ Make planning a public process, plans and ordinances belong to the community
- ❑ Public interests include varied groups (developers, homeowner, churches, etc.) who all have legitimate interest
- ❑ For a regulation to succeed, you must meet challenge of balancing interests so it is accepted by the community
- ❑ Utilize community meetings, media, civic organizations to make the public feel wanted and informed
- ❑ Make administrative processes user friendly
