

CHAPTER 1

PLAN COMMISSION BASICS

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WHAT PLAN COMMISSIONS DO

In Indiana most plan commissions devote much of their time to considering petitions which require commission recommendation or decision. This guide offers advice on how to make those recommendations and decisions without losing sight of the commission's broader purpose and how to function effectively within the law. Serving on a plan commission is a difficult job and an important responsibility. Doing the job well involves more than showing up at meetings. It means learning about planning, about your community, listening to citizens, visiting sites involved in cases before the commission, and perhaps serving on subcommittees.

The primary duty of the plan commission is to develop and recommend to the legislative body a plan for the future of the community. This plan should form the basis for the commission's decisions and recommendations (see Chapter 7, Comprehensive Plans). Unfortunately, few plan commissions succeed in making the overall plan their top priority. Constant pressures from property owners and developers command the commission's attention, and most meeting time is spent making recommendations on rezoning requests and decisions on subdivision proposals. Many commissions also find it difficult to adhere to the plan when they are confronted with a hearing room full of people advocating a position inconsistent with the plan.

Some commissions confuse the zoning ordinance with the plan, but the zoning ordinance is distinct from the plan. In Indiana, as in most other states, the law requires the community to adopt a plan *before* it adopts a zoning ordinance. This provision is sensible; the community should not adopt regulations until its citizens have decided on the goals they want to accomplish with those regulations.

Under Indiana law, plan commissions are responsible for the following:

- Preparing a comprehensive plan;
- Preparing a zoning ordinance and a subdivision control ordinance;
- Making recommendations to the legislative body on proposals to amend the text of the zoning ordinance or subdivision control ordinance;
- Making recommendations to the legislative body on proposals to amend the zoning map (rezonings);
- Approving or denying proposals to subdivide land, based upon compliance with the subdivision control ordinance;
- Approving development plans; and
- Assigning street addresses.

IC 36-7-4-508 et. seq.

In the absence of clearly defined goals, we are forced to concentrate on activity and ultimately become enslaved by it.
- Chuck Coonradt

IC 36-7-4-405 et. seq.



City, town, and county councils, county commissioners, utility boards, solid waste boards, emergency preparedness boards, drainage boards, school boards and others often ask plan commissions for advice or recommendations on other matters. The list below includes typical subjects for plan commission consideration:

- Annexations;
- Utility hook-ons and extensions;
- Economic revitalization areas and tax abatement;
- Tax policy;
- School districting;
- Extension, improvement, and abandonment (vacation) of public rights-of-way;
- Neighborhood revitalization;
- Locations for new public facilities; and
- Environmental protection.

HOW PLAN COMMISSIONS ARE ORGANIZED

Types of Plan Commissions

There are two types of plan commissions available to most communities throughout Indiana: area and advisory.

There are two other types of plan commissions in Indiana. Metropolitan plan commissions are available to only three counties in Indiana (Marion, Delaware, and Vanderburgh), and a joint district plan commission is available to only one county (Bartholomew). Basics on these plan commissions are not covered here.

Laws governing area and advisory plan commissions are different. Those using the Indiana Code should check the applicability of a particular statute to the local plan commission.

Area Plan Commissions are cooperative efforts between a county and at least one municipality within the county. In jurisdictions using the area planning law, one commission serves the county and all municipalities that choose to participate. The area plan commission is a unit of county government, staffed by an executive director and any other employees included in the annual budget. Area jurisdictions are permitted and encouraged to adopt unified plans and ordinances: a single comprehensive plan, a single zoning ordinance, and a single subdivision control ordinance can apply to the county and to all participating municipalities. In a county having an area plan commission, a city or town that does not participate in the area commission may not exercise planning authority outside the corporate limits of the municipality. Nonparticipating municipalities may, however, form advisory plan commissions with authority for planning within the city or town.

Exercise: Give reasons why your plan commission might be asked for advice on the items listed to the left. Give reasons why the commission would not be asked. Think of three other topics which the plan commission should consider in your community.

IC 36-7-4-202 &
IC 36-7-4-202.5 et. seq.

IC 36-7-4-207 et. seq.
IC 36-7-4-208 et. seq.
IC 36-7-4-209 et. seq.

Quick Quiz: What type of plan commission does your community have? How many members serve on the commission? Who appoints them? Who appointed you? When does your term expire?

Advisory Plan Commissions serve a county, city, or town. In Indiana, municipalities are legally permitted to plan for an area up to two miles outside the corporate boundaries in what is described as an “extraterritorial planning area.” In counties with no comprehensive plan, municipal plan commissions may simply assume this extraterritorial authority from the county. In a county with a comprehensive plan, the municipal plan commission must request this authority from the county legislative body; however, if municipal services are provided to the extraterritorial area, the municipal plan commission may assume this authority from the county. The county must adopt an ordinance granting this authority to the city or town. When a municipal plan commission assumes extraterritorial jurisdiction, it must file a map and description of the territory involved with the county recorder.

Another option is available to cities and towns in counties with advisory plan commissions: the municipality may designate the county plan commission as the municipal plan commission. The city or town may then contract with the county to pay the county a proportionate share of the costs of planning services. This procedure is most often used by towns which are too small to adequately maintain a planning program. In these cases, residents of the city or town are eligible for appointment to the plan commission.

Membership

The make-up of the plan commission is specified in the Indiana Code. The number of commission members varies with the type of commission (advisory, area, metropolitan, joint district). There are two types of members: citizen members, who do not hold any elected or appointed office in municipal, county, or state government; and members who are appointed to represent certain specific interests. Examples of the second type include the municipal engineer, the county surveyor, the county extension educator, and members of the park board, city council, county commissioners, and board of public works. Citizen members are appointed "because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area."

There also are membership limitations based upon political affiliation. For example, if the mayor appoints five citizen members, no more than three may be of the same political party. This limitation does not preclude appointment of those who are not affiliated with a political party. For example, the mayor could appoint two Democrats, two Republicans, and one independent. In practice, nearly all those appointed do have a party affiliation, but it is not required.

Membership terms are four years, except for a new plan commission, where some initial terms are shorter to provide for staggered expiration dates, or for a member appointed to fill an unexpired term. Terms expire on the first Monday in January, except for those members appointed because of membership in another body (city council, park board, county commissioners, etc.); those members serve for four years or until the expiration of the term of office on that body. Any of these bodies may, at its first meeting in any year, appoint a different person as the representative.



Each member should know the appointing authority and the expiration date of his or her term. The commission should keep careful records regarding appointments. If appointments are not made in accordance with the legal requirements, the commission's decisions could be invalidated. A court could rule that the commission is illegally constituted and vacate every decision that commission has made!

Officers

Each plan commission must elect officers annually. Indiana law requires the commission to elect a president and a vice president. This election must be held at the first regular meeting of each year. The commission also may appoint or elect a secretary. The secretary need not be a member of the commission, and in many cases, the secretary is an employee of the municipality, county, or plan commission.

Attorney

Plan commissions typically retain attorneys. They may be county or municipal attorneys serving various boards and commissions, or they may be specially hired attorneys only serving the plan commission. Plan commission attorneys generally have two areas of responsibility: 1) to attend public meetings and hearings and provide legal advice during these sessions; and 2) to provide advice to staff as legal questions arise during the administration of the zoning and subdivision control ordinances. Plan commission attorneys are not members of the plan commission. Although attorneys advise the plan commission on making legal land use recommendations and decisions, the recommendations and decisions themselves are made by the plan commission alone.

Administration

In order to carry out its functions, Indiana law requires the plan commission to do the following:

- Adopt rules for the operation of the commission;
- Keep a complete record of proceedings;
- Adopt a seal;
- Assume responsibility for maintaining files and records; and
- Certify all official acts.

Quick Quiz: Who are the officers of your commission? When were they elected?

Chapter 1: Plan Commission Basics

Quick Quiz: Who certifies your plan commission's actions? What does your official seal look like?

Rules are discussed in detail in Chapter 5, Rules of Procedure.

If the commission has a staff, the staff will handle many of the administrative functions, such as reviewing petitions and plans, preparing staff reports and meeting minutes, and maintaining files. Many commissions utilize staff from other departments, such as engineering, surveyor's office, or utilities department to provide technical assistance. Sometimes these staff members meet regularly as a committee.

If there is no staff, the commission must find a reliable means of handling its day-to-day operation. There may be a municipal or county office that can keep files and records, accept petitions, prepare agendas, etc. The commission may need to appoint one or more of its own members or hire an outside consultant to perform some of these duties. All of the commission's files and minutes are public records, and they must be available to the public to review. The municipality or county is required to provide "suitable offices for the holding of meetings and for preserving the plans, maps, accounts, and other documents of the commission."

The commission may purchase a seal from an office supply company. There are standard designs to choose from, and the name of the commission will be added. It is a good idea to use the commission's full name on the seal, to make it easy to identify the commission. For example, the seal should say, "Blue County, Indiana, Advisory Plan Commission," or "Blue County, Indiana, Area Plan Commission."

The commission also needs to select someone who will certify official actions of the commission. Some commissions require only one signature, such as the secretary's; others require the president and the secretary. If the commission is concerned that each official act be verified by more than one person, two signatures should be required. For most plan commissions, duplicate verification is not needed, and one signature will suffice. One signature is simpler, especially if plans or final copies of minutes are signed at a time other than during the commission meeting.

Rules of Procedure

Every plan commission must have rules of procedure. Indiana law requires these rules, and a good set of rules will make the commission's job easier. Below is a list of subjects typically covered in the commission rules of procedure:

- Meeting times;
- Membership and terms;
- Duties of officers and staff;
- Establishment of committees;
- Order of business;
- Application procedures;
 - Filing deadlines
 - Eligible applicants
 - Filing fees
 - Amending applications
 - Withdrawing applications
 - Refiling after denial or withdrawal
- Definition of "interested parties;"

- Notice requirements;
- Hearing procedures;
 - Order of testimony
 - Form and admissibility of evidence
 - Time limits on testimony
 - Sign-in requirements
 - Administration of oaths
 - Cross examination of witnesses
 - Orderly conduct
- Continuances;
- Conflicts of interest;
- Communications outside of meetings;
- Decisions;
 - Approvals/favorable recommendations
 - Denials/unfavorable recommendations
 - No recommendation
 - Findings of fact
 - Dismissals
- Commitments and conditions;
- Amendments; and
- Suspension of rules.

Clear rules are enormously helpful to the commission, to applicants, and to the public. While it is common for commissions to adopt Robert's Rules of Order for the conduct of meetings and hearings, this usually is not a good idea. Robert's Rules are extremely complicated, establish highly formal processes which make discussions difficult, and few people know these rules well enough to use them accurately. When plan commission decisions are challenged in courts, the first line of attack is the rule book. Cases can be remanded back to the commission for reconsideration if the rules aren't followed. A trained parliamentarian is needed to properly administer Robert's Rules.

Application Procedures

The commission needs to establish policies and procedures for accepting and processing applications. If the commission has a staff, the rules can delegate some or all of this responsibility to the employees. The commission needs to decide who is eligible to file applications for subdivisions, rezonings, and other matters. At a minimum, the owner of the property should be required to sign all applications. The staff or commission should verify that those who sign an application are actually the owners as listed in the county recorder's office. Often there are multiple owners, and they do not always agree. For example, there may be a husband and wife who both own property and are involved in a divorce or separation agreement. One spouse's signature in such a case is not enough. Many times, property is to be developed by someone other than the owner. The plan commission may want signatures of the developers as well as the owners.

A committee is a group that keeps minutes and loses hours.
- Milton Berle

IC 36-7-4-408 et. seq.

See Chapter 9, Subdivision Control Ordinances, for more information on subdivision review; and Chapter 10, Site/Development Plan Review, for more information on the development plan review process

Plan commissions need to have sufficient information to enable a reasoned decision. The commission should decide what information is necessary and should accept only applications which include that information. Application forms with checklists are useful. Incomplete applications should not be placed on the commission's agenda for hearing or decision. Filing deadlines also should be established. These deadlines need to provide enough time for legal notices and for review.

Committees

Plan commissions are empowered to delegate some authority to an executive committee and to appoint citizen advisory committees. Committees can be extremely helpful to the plan commission. They can expedite business, and they can provide a perspective from the broader community.

Executive Committee. The executive committee, which must have at least three and no more than nine members, may act in the name of the commission. Sometimes it is difficult to achieve a quorum of the entire commission for special meetings. This committee can make decisions on time-sensitive issues, and it can handle administrative matters without involving the larger group. The law requires a two-thirds (2/3) vote of the entire plan commission to establish an executive committee and to adopt the rules governing its operation. As an added protection, the law also provides that a person voting in the minority on any executive committee action may appeal the decision to the full plan commission. The executive committee cannot decide matters requiring a public hearing and a majority vote of all of the members of the commission. Examples of matters the executive committee could handle include personnel matters, recommendations to the legislative body on annexations or right-of-way vacations, and time extensions for applications or projects.

Plat Committee. Indiana law allows the establishment of a plat committee to decide simple subdivisions. This committee is discussed in Chapter 9, Subdivision Control Ordinances.

Citizen Committees. Many plan commissions appoint committees of citizens to study specific issues and make recommendations to the commission. The range of possible topics is nearly unlimited. Common topics for study include economic development, housing, and protection of farmland. Creating a committee with diverse representation can lessen the hostility surrounding controversial topics. The committee can consider a variety of viewpoints and offer a reasoned recommendation to the commission. Many times opponents of an idea will be proponents after they are given an opportunity to participate in formulating recommendations.

Technical Review Committees. These committees can provide advice to the plan commission on issues requiring technical expertise. The most common type of technical review committee is one which evaluates subdivision proposals and development plans before they go to the plan commission. Plan commissions may want to appoint these committees for other types of advice, such as proposals for fill or construction in flood hazard areas, landscaping, drainage, waste disposal, erosion control, traffic impacts, etc. It can be extremely useful for the commission to have access to advice and information from persons who have special expertise.

RUNNING PUBLIC MEETINGS & HEARINGS

It is important that commissions understand the difference between a public meeting and a public hearing. With a few exceptions (see Chapter 3, Avoiding Pitfalls), all plan commission meetings are public meetings, but not every item of business requires a public hearing. A public meeting is simply a meeting which is open to the public; the public may attend and observe, but the audience does not have to be allowed to participate or make comments. A public hearing is a formal proceeding to receive public comment on a particular matter, such as a rezoning or a comprehensive plan.

The law requires public hearings for the following plan commission matters:

- Adoption of comprehensive plan or plan element;
- Amendment of comprehensive plan or plan element;
- Adoption of a zoning ordinance;
- Amendment of zoning ordinance text;
- Amendment of zoning map (rezoning, including PUDs); and
- Subdivision of land.

Some commissions allow public comment on any agenda item at any time during the meeting; others allow such comment only during formal public hearings. There are advantages and disadvantages to both practices. Allowing unrestricted public comment makes the meetings less formal and gives the audience more of an opportunity to participate in the planning process. At the same time, it can unnecessarily drag out the meeting, increase dissension, make meetings less orderly, and diminish the ability of commission members to discuss issues among themselves.

Plan commission meetings and hearings can be productive or non-productive, efficient or a waste of time, orderly or chaotic. The choice is the commission's to make. This section offers some practical advice.



Meeting Time and Place

The meeting time should be as convenient as possible for all involved. There are many factors which enter into this decision. Most commissions hold evening meetings. However, no one time suits everyone. It is recommended that the commission choose a regular meeting time, but the commission should be flexible enough to change the time in a particular situation, or to hold more than one meeting on the same topic to give ample opportunity for all those who want to participate.

A suitable meeting room will be conveniently located, accessible to persons with disabilities, large enough, and will have good acoustics. For some issues, it can be desirable to hold meetings in more than one location or to choose a site in a particular area or neighborhood. A new comprehensive plan or zoning ordinance affects the entire community, and in a jurisdiction with a large geographical area, multiple meetings in various locations afford a better opportunity for participation. If the commission is considering a new neighborhood plan, the public meetings should be held in the affected neighborhood, if possible.

Sometimes the commission may need to change the regular meeting place to accommodate an exceptionally large crowd. The city or town hall may be big enough for routine meetings, but a hearing on a new zoning ordinance or a landfill location may need to be held at the high school auditorium. Some commissions have found a need to make a provision for overflow crowds, because the number of attendees regularly exceeds the capacity of the room. Speakers and television monitors can be used in the hallways or in other rooms, to increase the capacity.



Credit: City of Charlestown

Chairing the Meeting

It is essential that the president, who chairs the meeting, understands how to make meetings run smoothly. The chair needs to fully understand the commission's rules and needs to follow them carefully. The chair should have a gavel and should not be afraid to use it, not only to open and close meetings, but to keep order.

The agenda should be followed, and discussion should not be focused on extraneous issues. Comments on each agenda item should be limited to relevant issues. If the plan commission has no authority over the color of a building, the chair should not entertain questions from commissioners or the public about the color of the building, and any comments about the color should be ruled out of order. Members of the audience frequently want to discuss issues that are not applicable to the plan commission's role. If the chair allows this discussion, the audience is misled into believing the commission does have authority in those matters.

The chair should have a regular method for conducting the meeting. A typical routine would include the following:

- 1) Introduce commission members and staff;
- 2) Explain the role of the commission;
- 3) Explain the hearing purpose;
- 4) Explain the hearing process;
- 5) Read the agenda item;
- 6) Request the name, address, and affiliation (e.g. neighbor, attorney, chamber of commerce) of each person who speaks;
- 7) Thank the speaker for commenting; and
- 8) Call for a motion, second, discussion, and the vote.

Meeting and Hearing Conduct

Common courtesy is the key to a successful meeting. The commission should display and demand good manners. Here are some of the basic principles:

- All comments and questions addressed to the chair;
- Everyone addressed with title of respect (Mr., Ms., etc.);
- Polite, courteous, businesslike tone and manner (no yelling, no smirking, rolling of eyes, no giggling, etc.);
- No side conversations, whispering, or other distractions amongst commission members, staff, or audience;
- No personal attacks;
- No threats; and
- No applause (it's distracting and intimidating).

There are several ways to keep public hearings on track. The public hearing should be formally opened and closed, and no public comment should be taken at any time other than during the hearing. The chair should have the authority to limit the length of time that people speak and to cut off irrelevant or repetitive comments.

"I cannot give you the formula for success, but I can give you the formula for failure—which is, 'Try to please everybody.'"
- Herbert Bayard Swope

For more tips on running meetings and hearings, see Chapter 4, Communications.

Some commissions require those who wish to speak to sign in prior to the hearing. These sign-in sheets eliminate the feeding-frenzy approach to public meetings, where people become agitated by a comment made by someone else and then rise to speak. There usually is less irrelevant and poorly thought-out testimony if speakers sign in. The sign-in sheets also provide the commission with a record of participants.

The rules can limit the length of individual comments, or provide the commission authority to impose time limits when necessary. Representatives of groups, such as attorneys or other spokespersons, can be given a longer time than individuals representing themselves. A range of options is available, but the rules must provide for them, and the time limits must be uniformly enforced.

Uniformed law enforcement personnel can sometimes be necessary. If meetings regularly attract persons who behave in a disorderly manner, uniformed officers should routinely attend. The commission could request a police presence only for meetings that are potentially contentious. Disorderly or threatening behavior should not be tolerated, and the chair should have the authority to order people to be removed from the hearing room if they do not maintain appropriate behavior.

MAKING DECISIONS

Deciding the Case

After a public hearing is concluded, the plan commission must arrive at a decision or recommendation. The issues often are complicated, and decision-making is likewise difficult. These decisions will be much easier if the community has a well-crafted comprehensive plan which the commission consistently uses as a guideline. While it sounds easy to use the plan and follow its guidance, in practice many plan commissions fail to do so. This section discusses the most common reasons why commissions do not act consistently or do not arrive at the decision that best fulfills the public interest.

Peer Pressure. Commission members do not want to offend their colleagues or appear to be unconventional or uncooperative. Commission members should be appointed to represent a variety of views, however, and there is no reason why decisions should always be unanimous.

Public Pressure. It is difficult to make a decision that is unpopular among a room full of people, especially in small towns where the commission members often know the audience members personally. Commission members should remember that the audience isn't always right; those who are present do not necessarily represent the community as a whole. Many times, the audience doesn't even represent its own interests accurately; people may fear consequences that will not occur (e.g., "If you approve this, my property value will drop."). After a project is complete, those who opposed it will sometimes agree that the project benefited, rather than harmed, their neighborhood.

Proposed land use changes generate emotional rather than rational responses from many people. As previously noted, people also tend to focus on issues not within the realm of the commission, such as the proposed design or cost of new houses in a nearby subdivision. It is the plan commission's job to sort through evidence and testimony and make reasoned decisions.

Members of the public frequently circulate petitions throughout the neighborhood and bring them to the commission, overflowing with signatures of people supporting their position. These petitions usually are not useful evidence. The commission has no control over the manner in which the petition is circulated, no way to know what the signature seeker told those who signed it, and no way to verify the signatures. In addition, many people will sign anything their neighbors ask them to sign, in an effort to promote neighborhood harmony. The commission should accept such petitions when they are offered, but the members should not give them a lot of weight.

Developer & Business Pressure. Developers and business people also often represent a particular view, one aimed at reducing their costs and increasing their profits. Sometimes development which offers the highest profit is not in the best interest of the community. All statements must be carefully evaluated. Comments such as, "We must have this many lots in order to make a profit," are not necessarily true. Additionally, even if the statement is true, the community does not have to accept inappropriate development in order to provide profits for a developer. The commission needs to review proposals on their merits.



Political Pressure. Occasionally, elected officials will lobby plan commissioners for votes. Commissioners appointed by elected officials or hired by them may feel obligated to vote as these officials request. Plan commissions are intended to be independent bodies, and commission members are obligated to cast votes that in their judgment promote good planning. These are matters of personal ethics and conscience (See Chapter 6, Ethics, for more information).

Desire for Compromise. Plan commissioners have a natural desire for compromise. They want to find a middle position between developers and opponents. While such compromise might seem desirable, it often has a negative effect. Neither side gets what it wants, so everyone is unhappy. Developers quickly learn that the commission seeks compromise, so they ask for more than they want or expect, in order to end up with the project they initially desired. Compromise is not always bad, and sometimes the commission can broker a win-win solution, but regular and predictable compromise does not lead to good development.

Outside Influences (*Ex Parte* Communication). Commission members tend to be active in the community and interact with developers, business people, and neighborhood residents regularly. These interactions may involve efforts to influence the commission member's opinion or vote on a specific proposal. In most states, plan commissioners are expressly prohibited from engaging in these outside discussions, called *ex parte* communications, with applicants, proponents, or opponents of a matter pending before the commission. In Indiana, there is no statutory prohibition on *ex parte* communication for plan commissioners (There is, however, such a prohibition for BZA members).

Even in the absence of a law prohibiting *ex parte* communication, it is good practice for plan commissioners to refrain from such discussions. They interfere with due process and they are inconsistent with the goals of the open meeting law. In many communities, these communications are difficult or impossible to avoid. The best way to deal with these situations is for the commission member to explain that any information given will be shared with the entire commission at the public meeting. The commission member must then share the information as promised in order to ensure that each commission member is able to vote using the same information.

Voting

Indiana law provides that plan commission actions are official only if taken by a majority of all of the members of the commission, regardless of how many members are present at a meeting. It is important that plan commissioners attend meetings and that they vote on the matters requiring official action. Plan commissioners should consider all sides of each issue and make a decision. In some controversial cases plan commissioners may choose to abstain from voting as an easy way out. This practice is unfair to all, and the commission's rules of procedure should prohibit abstentions for any reason other than a legitimate conflict of interest.

The form of voting is up to the commission, but it should be contained in the rules. Some commissions use voice votes, some use hand votes, some use ballots. If voice votes are used, they must either be by roll call or provide for a roll call when decisions are not unanimous. The votes are a public record. Voice or hand votes are the quickest, but not necessarily the best. Some observers argue that plan commissioners are less likely to be swayed by the votes of their colleagues if they use written ballots. If ballots are used, each should bear the name of the commission member casting the vote, and the ballots should be made part of the file. It is a good idea for the secretary to report the vote of each member, not just the numerical totals, so the public knows how each member voted.

Role of Legislative Body

The legislative body of a county or municipality has a variable role in land use decision making. In the case of subdivision and development plan approvals, the legislative body plays no role as the plan commission's decision in these matters is final. In the case of rezonings, and an amendment to the zoning ordinance, the legislative body makes the final decision. The plan commission's role in this case is to hear the petition and make a recommendation to the legislative body as to its approval or denial.

CONFLICTS OF INTEREST

Plan commissioners in Indiana may not participate as a member of the commission in a hearing or recommendation concerning a matter in which he or she has “a direct or indirect financial interest.” In many parts of the U.S., the conflict of interest standard is stricter than the one used in Indiana, and commissions may want to adopt stronger standards in the rules governing conflict of interest. It is recommended that the standard remain fairly narrow, however, to avoid problems caused by commission members refusing to vote.

Plan commission rules should include a definition of a conflict of interest and a means for determining conflict in cases of uncertainty. Each commission member needs to be responsible for declaring any potential conflicts. It is recommended that in cases of uncertainty, the commission should make the determination. The potential conflict is publicly announced, and the commission members deliberate among themselves. The public should not be permitted to participate in this determination.

The rules also should specify the conduct expected from a member with a declared conflict of interest. The law says the member cannot “participate;” this language prohibits the member with a conflict from taking part in the discussion as well as voting. At minimum, the member should leave the commission table and join the audience.

Plan commissioners may not represent another person in a hearing before the commission. Commission members may represent themselves, but they cannot appear on behalf of another applicant.

Beyond the issue of conflict of interest is the broader topic of planning ethics. In recent years, the American Planning Association has conducted a dialogue on planning ethics and has sponsored research in this area. Planning ethics are discussed in more detail in Chapter 6, Ethics.

SUGGESTED RESOURCES

Indiana Code, 36-7-4, 200 Series, 300 Series, 400 Series. <https://iga.in.gov>

APA Information for Plan Commissions and Boards: <http://planning.org/education/commissions>

C. Gregory Dale, Benjamin A. Herman, Anne F. McBride. *The Planning Commissioners Guide*, New Edition. Published by APA Planners Press, 2013

Christopher J. Duerksen, C. Gregory Dale, Donald L. Elliott, FAICP. *The Citizen’s Guide to Planning*, Fourth Edition. Published by APA Planners Press, 2009

IC 36-7-4-223 et. seq.